

Vehicle Tracking and Monitoring System (VTMS) & Passenger Information System (PIS) Part 3: Operational & Legal Requirements



Karnataka State Road Transport Corporation

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The document is part 3 of the set of specifications covering 3 parts as under:

Part – 1: Functional & Technical Requirements specifications

Part – 2: General Instructions and Commercial Specifications

Part – 3: Operational requirements and Legal specifications. (This Document)



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OPERATIONAL REQUIREMENTS & AGREEMENT

1. Section : VTMS & PIS Solution Operational Requirements

This section sets out the operational requirements of the VTMS & PIS Project including project management requirements, acceptance testing & certification, VTMS & PIS solution operation, maintenance & support including Service centre requirements, human resource deployment and MIS reporting requirements etc. Service Level Metrics are provided in Section II of this document which shall be used for measuring and monitoring the quality of the services provided by the SI.

Following is the summary of VTMS & PIS solution operational requirements which are elaborated in the following sections.

1.1 Summary of Operational Requirements of VTMS & PIS Solution

- 1) Successful bidder shall implement and operate & manage the VTMS & PIS solution in accordance with the service level metrics defined for the project.
- 2) Successful bidder shall coordinate and provide complete support to the VTMS & PIS Project Manager of KSRTC or the nominated agency in conducting the solution acceptance testing and certification.
- 3) The SI shall provide operational support and maintenance services for a period of **3 Years** from the Date of Commercial Deployment for overall system stabilization, software and IT infrastructure solution maintenance, system administration, security administration, database administration, network administration and end-user problem resolution. The operational support will have to ensure that the VTMS & PIS solution is functioning as intended and attending to all problems associated in operation of the application system.
- 4) The SI is required to train the VTMS & PIS staff nominated by VTMS & PIS Project Manager, designated Department's technical and end-user staff, franchisees of KSRTC and other identified partner organizations of KSRTC to enable them to effectively operate the VTMS & PIS system. And SI shall also be responsible for re-training the VTMS & PIS and department staff whenever changes are made in the software.
- 5) Preparation of documents including User Manuals, Operational Manual, Maintenance Manuals, etc as per acceptable standards will be part of the requirements.
- 6) Supply the consumables and any other goods or articles required from time to time for continued functional operations of VTMS & PIS systems and service centers.
- 7) In this document reference to System Integrator (SI) / Implementation Vendor (SI) shall mean the successful bidder of the VTMS & PIS project.

Following outlines the detailed specifications for VTMS & PIS solution operational requirements:

1.2 Requirement to comply with Service Level Metrics

- 1.2.1. To ensure that all the stakeholders discharge their roles and responsibilities in an agreed manner to achieve the common goal, a set of Service Level Metric's as defined for VTMS & PIS solution. These technical, functional and operational requirements are specified in the RFP to enable all the bidders to understand the dimensions of the VTMS & PIS project and propose appropriate solutions and proposals. In case of an ambiguity or conflict, the relevant component of the Service Level Metrics will be used as the touchstone and will prevail. Refer to Section II for the Service Level Metrics expected to be maintained and achieved by the SI for VTMS & PIS Solution.

1.3 System study

- 1.3.1. As part of the VTMS & PIS implementation, it is proposed that the System Integrator (SI) undertakes a study of the existing operations before implementation of VTMS & PIS project clearly the objectives and goals to be achieved through VTMS & PIS, and follow through with



an evaluation on VTMS & PIS post-implementation. This study will focus on key measurable and achievable parameters.

- 1.3.2. The System Integrator will be expected to undertake the activities as detailed in part 1 of the RFP

1.4 Project Management

1.4.1. The VTMS & PIS project is a multi-user, multi-location initiative. Its implementation is complex involving a number of stake holders; especially the SI is required to design and implement a comprehensive and effective project management methodology.

1.4.2. As the project involves multi-dimensional coordination, KSRTC has set up an internal unit – Project Implementation Committee (PIC) headed by the Director(Operation) with the Chief Mechanical Engineer (P), Chief Traffic Manager (Opn) , Chief Systems Manager, Dy COSP, Dy CAO and DTO (Awatar) as members. In addition, KSRTC plans to select independent agencies for effective VTMS & PIS Project Management Consultancy (PMC) for monitoring the project implementation on behalf of KSRTC, and another agency Project monitoring and evaluation (M & E). The system integrator (SI), in addition is expected to set up its own project management team (SIPM) and deploy a project management information system (PMIS). SIPM will need to coordinate with PIC, PMC, and M&E effectively in ensuring the successful completion of the project.

1.4.3. The SIPM solution must provide for viewing access to the PMC and the PIC. The SI shall address at the minimum the following using SIPM:

- Create an organized set of activities for the project
- Establish and measure resource assignments and responsibilities
- Construct a project plan schedule including milestones
- Measure project deadlines, budget figures, and performance objectives
- Help communicate the project plan to stakeholders with meaningful reports
- Help to detect problems and inconsistencies in the plan

1.4.4. During the project implementation the SI will be required to submit to the PMC the following reports:

- a. results accomplished during the period
- b. cumulative deviations to date from schedule of progress on milestones as specified in Part I of RFP read with the agreed and finalized Project Plan;
- c. corrective actions to be taken to return to planned schedule of progress;
- d. proposed revision to planned schedule provided such revision is necessitated by reasons beyond the control of SI;
- e. other issues and outstanding problems, and actions proposed to be taken;
- f. Progress reports on a fortnight basis
- g. Interventions which the SI expects to be made by the Project Manager, VTMS & PIS Project and/or actions to be taken by the Project Manager, VTMS & PIS before the next reporting period;
- h. Project quality assurance reports etc

1.4.5. During the project implementation and operation the SI shall provide all the information required by M&E as specified by Project Manager, VTMS & PIS.

1.5 Acceptance Testing & Certification

1.5.1. SIPM will undertake an exercise of Testing, Acceptance and Certification of VTMS & PIS systems through a third party, as soon as the SI declares the VTMS & PIS system to be ready for deployment.

1.5.2. Successful bidder shall coordinate with PIC for performing the acceptance testing and certification. The following methodology will be adopted for acceptance testing to be carried out for VTMS & PIS solution:



- 1.5.3. The Project Manager of SIPM will nominate a suitable neutral and technically competent agency or agencies for conducting acceptance testing and certification, simultaneous with the award of the project to the SI.
- 1.5.4. The agency will lay down a set of guidelines following internationally accepted norms and standards for the testing and certification in all aspects of project development and implementation covering software, hardware and networking including the processes relating to the design of solution architecture, design of systems and subsystems, coding, testing, business process description, documentation, version control, change management, security, service oriented architecture, performance in relation to compliance with Service Level metrics, interoperability, scalability, availability and compliance with all the technical and functional requirements of the RFP and the agreement.
- 1.5.5. The agency will be involved with project early in the development stage to ensure that the guidelines are being followed and to avoid large-scale modifications pursuant to testing done after the application is fully developed.
- 1.5.6. The agencies nominated by Project Manager, SIPM will establish appropriate processes for notifying the SI of any deviations from the norms, standards or guidelines at the earliest instance after noticing the same to enable the SI to take corrective action.
- 1.5.7. Such an involvement of and guidance by the agencies will not, however, absolve the SI of the fundamental responsibility of designing, developing, installing, testing and commissioning the various components of the project to deliver the services in perfect conformity with the Service Level Metrics.
- 1.5.8. Should acceptance tests not be concluded to the satisfaction of the PIC, KSRTC shall have the right to reject the solution/ or identified faulty components in respect of which the acceptance tests are not satisfactorily concluded as provided in **Schedule VII** and to terminate the contract and in that event the SI shall refund and repay all amounts received by him from KSRTC and all incidental and connected expenses paid by KSRTC, within 7 days from the receipt of a written claim from KSRTC.
- 1.5.9. Acceptance Criteria and Certification: The primary goal of Acceptance Testing & Certification is to ensure that the project meets requirements, standards, specifications and performance prescribed by the RFP and shall include the following acceptance tests which shall be conducted by the nominated agency:
- 1.5.10. Performance: Performance is a key requirement for the Project. The deployed solution is supposed to be a highly scalable solution, which is designed in a scale up/out model at each layer. This will provide the model for future growth. This test process will include the following activities.
 - a. Determination of performance metrics
 - b. Designing performance tests
 - c. Development of workload
 - d. Performance testing and sizing study
 - e. Identification of bottlenecks and providing solutions.
 - f. Determining final performance figures.
 - g. Communication of final results to all stakeholders
 - h. Final output of this process would be a sizing guide for the solution tested. The sizing guide will document the details of the performance tests, test data, bottlenecks identified, alternate solutions provided, and the final performance data. This document will provide the scalability data of the solution for various loads. This will become the authentic guide for future scale up/out plans of the Project.
- 1.5.11. Availability: The VTMS & PIS solution should be designed to remove all single points of failure. The solution should provide the ability to recover from failures, thus protecting against many multiple component failures. This test process will include the following activities.
 - a. Designing tests for high availability testing



- b. Execution of high-availability tests
 - c. Assessment of transaction/data losses in relation to Disaster Recovery system
 - d. Communication of final results to all stakeholders
 - e. High Available clustering at all Web, App and DB server levels will be targeted at 99.90% availability.
- 1.5.12. Security: Security certification process will include
- a. Audit of Network, Server and Application security mechanisms.
 - b. Assessment of authentication mechanism provided in the application /components /modules
 - c. Assessment of data encryption mechanism.
 - d. Assessment of data access privileges, retention periods and archival mechanisms.
 - e. Final output of this process would be a comprehensive audit report including all the Network, Server and Application security features incorporated in VTMS & PIS Project.
- 1.5.13. Manageability: Manageability Requirements of VTMS & PIS will be tested and certified for the following:
- a. Remote Monitoring of Status and Statistics of all high-level components
 - b. Management capability to start/ stop/ restart services & systems.
 - c. Auto discovery of all components manageable through SNMP
 - d. Auto discovery of all other system components
 - e. Ability to track changes in configurations of the system components to help track Service
 - f. System disruptions.
- Final output of this process would be a manageability compliance document for the VTMS & PIS system deployed.

1.6 VTMS & PIS Solution Maintenance and Support

- 1.6.1. The SI shall be responsible for the overall management of the VTMS & PIS solution including the software and related IT Infrastructure. The SI shall be responsible for the operation and maintenance of VTMS & PIS solution, which includes application solution management and IT Infrastructure management including security management, network management, server management, storage management etc. Following includes but not limited to the various activities to be performed by the SI during the maintenance of the VTMS & PIS solution.

1.7 Application Solution Management

- 1.7.1. The SI provides warranty for VTMS & PIS application solution software for the duration of thirty six months, commencing from the date when the system is accepted and ready for commercial deployment. The warranty should include that the solution supplied under this Contract shall have no defect arising from design or workmanship or from any act or omission of the SI that may develop under normal use of the supplied solution.
- 1.7.2. During the warranty period, SI shall be completely responsible for defect free functionality of VTMS & PIS application software and shall resolve any VTMS & PIS solution related issues including bug fixing etc with in duration agreed between VTMS & PIS Project Manager and the SI.
- 1.7.3. Successful bidder shall provide the latest updates, patches/ fixes, version upgrades relevant for the VTMS & PIS solution components periodically.
- 1.7.4. Successful bidder shall be responsible for software version management, software documentation management reflecting current features and functionality of the solution. The Successful Bidder shall also be responsible in securing appropriate number of licenses and annual maintenance contracts with software vendors in case of bought-out software. Training of KSRTC personnel on latest version of software as applicable in their operations is also the responsibility of the Successful Bidder.



1.8 Infrastructure Management

1.8.1. This includes the design of an appropriate System Administration policy with precise definition of duties and adequate segregation of responsibilities and obtaining the approval for the same from the Project Manager, VTMS & PIS. System Administration includes the following activities:

- a. Overall management and administration of infrastructure solution including servers, networking & security components, storage solution etc.
- b. Performance tuning of the system as may be needed to comply with Service Level Metrics requirements on a continuous basis.
- c. Security management including monitoring security and intrusions into the solution.
- d. Monitor and track server and network performance and take corrective actions to optimize the performance on a daily basis.
- e. Escalation and co-ordination with other vendors for problem resolution wherever required.
- f. System administration tasks such as managing the access control system, creating and managing users, etc
- g. Data storage management activities including backup, restore and archival etc
- h. Attend to department's user request for assistance related to usage and management of VTMS & PIS solution.

The SI undertakes to ensure that daily back-up copies of VTMS & PIS and related data are created and maintained safely.

1.8.2. The SI shall maintain the adequate stocks of spares to meet the requirements.

1.8.3. The Project Manager, VTMS & PIS reserves the right to verify the stocks at any time whenever a component has to be replaced because of technical, functional, manufacturing or any other problem, it shall be replaced with a component of the same make and configuration.

1.8.4. In case the component of same make and configuration is not available, the replacement shall conform to open standards and shall be of a higher configuration specifically approved by Project Manager, VTMS & PIS.

1.8.5. Other important activities shall include but not limited to:

- a. Daily maintenance of system configuration
- b. Implementation of system security features
- c. Overall security of the network
- d. Day-to-day disk space management
- e. Tracking the servers performance and take the remedial and preventive actions in case of problems
- f. Proper upkeep of storage media for taking backups

1.9 Network Management Services

1.9.1. Design of Network Administration Policy and getting it approved from the Project Manager, VTMS & PIS for effective and efficient management of Network resources. Network Administration, consists broadly of the following activities:

- a. Network devices configuration, management and tuning for optimum performance
- b. Tracking the network status, Availability and taking the remedial and preventive actions in case of problems.
- c. Network fault isolation and resolution
- d. Monitoring of network performance and escalation of performance deterioration to concerned authorities and take remedial actions to resolve such issues.



- e. Implementation/modification of network routing policies, IP addressing policy as required
- f. Real time monitoring and deployment of network security measures 24*7*365
- g. Documentation related to network configuration, routing policies, IP addressing schema etc.
- h. Bandwidth monitoring and trending for the network

1.10 **Information Security Services**

- 1.10.1. The SI is responsible for implementing measures to ensure the overall security of VTMS & PIS solution and confidentiality of the VTMS & PIS data is maintained. The SI shall monitor production systems for events or activities, which might compromise (fraudulently or accidentally) the confidentiality, integrity or availability of the VTMS & PIS Services. This monitoring shall be through the security controls including:
 - a. Real-time intrusion detection tools
 - b. Audit review tools
 - c. Manual processes.
- 1.10.2. Successful bidder shall develop a detailed security policy for VTMS & PIS solution implementation & maintenance. The security policy developed by the SI shall be updated to keep the security recommendations current and the same shall be implemented for the VTMS & PIS solution.
- 1.10.3. The SI, with the co-operation of appropriate, appointed representatives of VTMS & PIS organization and the participating departments will manage the response process to security incidents. The incident response process will seek to limit damage and may include the investigation of the incident and notification of the appropriate authorities. A summary of all security incidents shall be made available to VTMS & PIS Project Manager on a weekly basis. Significant security incidents will be reported on a more immediate basis.
- 1.10.4. The SI shall produce and maintain system audit logs on the system for a period agreed by the SI and the VTMS & PIS director, at which point they will be archived and stored at off-site or as desired by VTMS & PIS director. The SI will regularly review the audit logs for relevant security exceptions.

1.11 **Project and MIS Reporting Requirements**

- 1.11.1. VTMS & PIS shall provide a system for generating and viewing online, real-time project and MIS reports for service-wise, department-wise, centre-wise transactions handled during a specified period and transaction density trends during any specified periodicity (hourly, daily, weekly, monthly). The online MIS reporting system shall be an integrated system which shall provide web-based reporting for points of access like VTMS & PIS organization, data centre and departments
- 1.11.2. The system shall provide MIS reporting with multiple "Slice & Dice" options to generate reports in flexible formats based on user specific needs. The online MIS reporting requirements can be stated from the following perspectives:
 - From the VTMS & PIS portal perspective, the reports should present historical, statistical and predictive views in addition to the daily/weekly/monthly views.
 - Portal usage statistics related to registered users, business entities, online transactions etc.
 - Trend analysis reports detailing the user behavior patterns providing forward-looking predictions of business user interests in VTMS & PIS portal
 - A few indicative reports which the SI should take into account are:
 - Date Wise transactions
 - Transactions since inception
 - User wise transactions



- Quality of Service Report outlining the performance of the individual front end service providers in processing the user requests in comparison with Service Level Metrics requirements
- Total page views per category
- For online events: peak simultaneous users, total users logged in, average stay per user)
- The online MIS reporting requirements for VTMS & PIS Service Centre activities include providing graphical views for information such as: collections for each center, statistical/trend view (rate of growth of transactions for particular department and predictive growth of transactions), historical view (collections till date).
- The following are indicative reporting requirements that the SI should take into account while designing an appropriate solution: Hourly/Daily/Weekly/Monthly transactions centre
- Day wise and Shift wise summary reports
- User wise summary for the day reports
- Transaction based alerts
- All Users and All centers reports

The SI shall meet all the requirement given in RFP part-1, Functional & Technical Specifications, regarding reporting tool and reporting service.

1.12 Requirements of participating users

- 1.12.1. VTMS & PIS being a multi-location, multi-user initiative, it is imperative to provide online MIS reporting capabilities tailor-made to the requirements of the various participating departments.
- 1.12.2. The SI should gather the requirements for online MIS reporting from the individual participating users and design the solution accordingly.

1.13 Training Requirements

- 1.13.1. Training is an important activity for the successful implementation of VTMS & PIS project. To make VTMS & PIS project a success, the following training programs are to be arranged by the SI from time to time depending on the requirement and understanding of the VTMS & PIS service center operators, participating department's users etc. For all these training programs the SI has to provide necessary course material, user manuals, troubleshooting manuals, system admin manuals and refreshments to the trainees etc. The following are the trainings to be imparted by the SI at his own cost:
 - The SI must impart training to all the VTMS & PIS nominated staff, so that they are aware of all the operations of the VTMS & PIS solution ensuring smooth running of VTMS & PIS Software implementation at the selected sites.
 - The Successful bidder shall also be responsible for retraining the VTMS & PIS nominated staff whenever changes are made in the software and it is the responsibility of the SI to ensure that the operators are familiar with new versions of VTMS & PIS solution Software and its allied services.

1.14 Training of the Participating Users' Employees

- 1.14.1. The SI must impart training to the department personnel in IT Awareness and basic IT skills training, usage of applicable VTMS & PIS solution components and operation of their MIS reports, maintenance of user logins and operations of the backend server policies and procedures. The SI shall train 10 employees of each participating department in each location and shall provide the relevant training material on a 1:1 basis which should contain the detailed procedures for operating the applicable modules in the solution.

The duration of training for department users shall be for a period of **1 week** prior to deployment and training shall be conducted at the respective Divisional head-quarters of KSRTC. Presently, KSRTC has 13 Divisions.



1.15 Supply of Consumables

- a. Consumables Requirement for VTMS & PIS: Making available all the consumables and any other goods or articles required from time to time for continued functional operations of VTMS & PIS systems and service centres, which include but are not limited to Data Storage peripherals such as tape cartridges, CD/DVD's etc.
- 1.15.1. If any doubt arises, whether any item or article can be categorized as required for functional operations or not, or with regard to the quantities used, the decision of the Project Manager, VTMS & PIS shall be final.
- 1.15.2. The SI shall maintain an inventory of all consumables adequate for one month's operations at each Service Centre.



2. Service Level Metrics & Penalties in non-compliance for the VTMS & PIS

The bidder is expected to maintain the minimal service level metrics detailed in Table 3 below

Service Level Metrics

VTMS & PIS Reliability & Availability	
VTMS & PIS Application Availability	99.90 % (measured on monthly basis)
Functional requirements upgrade	< 30 days
Client access upgrades	<60 days
Computing accuracy	100%
Customer/ user Satisfaction level	>80%
Availability of Vehicle Mountable Units	99.90% (measured on daily basis)
Availability of Display units	99.90% (measured on daily basis)
Hosting Centre	
Minimum concurrent connects to the VTMS & PIS	3,000
Availability of systems at Data Centre	99.90%
Resumption of online VTMS & PIS services	<45 min
Update of portal contents from decision to implementation	< 2 hrs
Billing accuracy	100%
Data availability	100%
Data accuracy	100%
Capacity of the Data Centre	Handle 3000 concurrent user queries/transactions scalable easily to 5000 concurrent user queries, with 2000 Buses (queries/transactions implies: enquiry of vehicle location/ status/ETA /Time table, etc)
Availability of agreed services over the internet	100%
Local Area Network	
Network availability	99.9%
Network Latency	Average of > 75 milliseconds per month
Uptime of Back Office Servers	> 99.9%
Client Access	
Average time for completing any query regarding vehicle status	< 45 seconds
Average VTMS & PIS portal loading	< 10 sec
Grievance and Complaints settlement/Resolving application issues /fixing bugs	< 7 days
support response	< 5 min
KSRTC Client access availability	99.9%
Time for Report generation	
Medium reports	<2 min
Complex reports	<5 min
Average time for service at the customer premises (VMU or Display units)	<12 hrs
The Vehicle related online information availability for a schedule (one complete journey of a schedule);	
a) All the way point information shall be available at central server without delay at the frequency mentioned (real time).	a) >90%
b) The total way point information available at central server at the end of the schedule (offline).	b) >95%



Penalties for non-compliance

Service parameters	Threshold levels	Condition	Penalty to be deducted from quarterly payments (in Rs)
VTMS & PIS Application Availability	99.90 % (measured on monthly basis)	If the downtime exceeds 60 min in a month for every 30 min	1000
Fixing a bug or issue	< 7 days	For every week delay	100
Functional requirements upgrade		For every week delay beyond agreed period	100
Rate of Vehicle Mountable Units failure/non-operation The VMU is non-operational when the unit is not able to provide necessary data at predefined intervals	<0.5% per day	Over and above 0.5% for every failed VMU per day (rounded off to next whole number)	100
Rate of Display units failure/non-operation The display unit is non-operational when the unit is not able to provide necessary data	<0.5% per day	Over and above % for every failed display unit per day (rounded off to next whole number)	100
Capacity of the application to handle concurrent user queries / transactions (enquiry of schedule location/ status/ETA /Time table, etc) with 2000 buses;	3000	For every week delay in meeting the requirement	100
Vehicle Location accuracy	should not vary more than +/- 3 meters.	For every week delay in meeting the requirement	200
The accuracy of the prediction time (ETA)	should not vary more than +/- 10 minutes.	For every week delay in meeting the requirement	100
Average time for completing any query regarding vehicle status	< 30 seconds	For every week delay in meeting the requirement	100
Grievance and Complaints settlement	< 7 days	For every week delay in resolving	100
Giving wrong /erroneous information to user/passenger due to technical problem	< 5 days	For every week delay in correcting the problem	100
Time for Medium reports generation	< 2 min	For every week delay in meeting the requirement	100
Time for Complex reports generation	< 5 min	For every week delay in meeting the requirement	100
Providing archive data/information and content update	< 7 days	For every week delay	100

If the vendor/service integrator gets penalized repeatedly for the same Service parameter it will be considered as very serious and severe action will be taken.



3. Section – VTMS & PIS Services Agreement

THIS AGREEMENT is made this ___ day of [], 2011, by and between:

- a. Project Manager, Vehicle Tracking & Monitoring System and Passenger Information System [VTMS & PIS] (To be nominated by KSRTC at time of signing the contract, hereinafter referred to as "**Project Manager, VTMS & PIS Project**") (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

- b. _____, a company registered under the Indian Companies Act, 1956 having its registered office at _____ and place of business at _____ represented by _____ (hereinafter referred to as "**System Integrator – (SI), in short**") which term or expression shall, unless excluded by or repugnant to the subject or context shall mean and include its successors in office and assigns of the SECOND PART.

WHEREAS

KSRTC intends to enable the Design, Development, Implementation & Operation of VTMS & PIS Project involving the development of Software, Supply & Installation of System Software, Hardware Networks, establishment of VTMS & PIS Service Centers and Operation & Maintenance of VTMS & PIS Solution to provide convenient and speedy services to its Customers through its own network, franchisees and other partners.

KSRTC undertook selection of a suitable vendor, adopting an open tender route, through competitive bidding for implementing the VTMS & PIS Project and issued a Request for Proposal (RFP) dated [.../.../2011];

SI has been selected to undertake the VTMS & PIS Project involving the development of the total solution, roll out and operations and provide the services;

KSRTC intends to accord to SI the right to undertake and implement the VTMS & PIS Project on the terms and conditions set forth below for a period of Thirty six months from the Project Implementation Completion Date.

SI in pursuance of its proposal undertakes to implement the VTMS & PIS Project during the aforesaid period stated herein above.

NOW THEREFORE, IN VIEW OF THE MUTUAL PROMISES AND CONSIDERATION SET OUT HEREIN,

KSRTC and SI (each individually a "Party" hereto and collectively the "Parties") have agreed to enter into this VTMS & PIS Services Agreement ("VSA") to govern the way in which SI will design, develop, implement & manage the solution and facilities and deliver the services specified under this Agreement and the Service Level Metrics in accordance with roles and responsibilities of KSRTC, Project Manager VTMS & PIS Project and its nominated agencies and SI as set forth in the RFP:

3.1 **ARTICLE 1 - DEFINITIONS & INTERPRETATION**

3.1.1. DEFINITIONS

In this Agreement, unless the context requires otherwise:

- a. "**Agreement**" means this Agreement together with all Schedules and the contents and specifications of the Parts I and II of the RFP. In the event of a conflict between this Agreement and the Schedules, the terms of the Agreement shall prevail;
- b. "**Bespoke Software**" means the software designed, developed, tested and deployed by the SI for the purposes of rendering the Services to the Customers of the VTMS & PIS Project and includes the source code along with associated documentation, which is the work product of the development efforts involved in the VTMS & PIS Project and the improvements and enhancements effected during the term of the VTMS & PIS Project, but does not include the third party software products (except



for the customization components on such products), proprietary software components and tools deployed by SI and which shall be solely owned by the Project Manager, VTMS & PIS Project;

- c. **"Confidential Information"** means all information including VTMS & PIS Project Data (whether in written, oral, electronic or other format) which relates to the technical, financial and business affairs, customers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this Agreement (including without limitation such information received during negotiations, location visits and meetings in connection with this Agreement);
- d. **"VTMS & PIS project data"** means all proprietary data of VTMS & PIS project generated out of VTMS & PIS project operations and transactions, documents and related information including but not restricted to user data which SI obtains, possesses or processes in the context of providing the Services to the users pursuant to this Agreement and the Service Level Metrics;
- e. **"Deliverables"** means the products, infrastructure and services agreed to be delivered by the SI in pursuance of the agreement as defined more elaborately in Part I of the RFP in relation to the Implementation Phase and the Operations and Maintenance Phase and includes all documents related to the solution, user manual, technical manual, design, process and operating manuals, service mechanisms, policies and guidelines and source code (in respect of code developed for use in VTMS & PIS project) and all its modifications;
- f. **"Effective Date"** means the date on which this VSA is executed.
- g. **"Intellectual Property Rights"** means and includes all rights in the Bespoke Software, its improvements, up gradations enhancements, modified versions that may be made from time to time, database generated, compilations made, source code and object code of the software, the said rights including designs, copyrights, trademarks, patents, trade secrets, moral and other rights therein;
- h. **"Performance Bank Guarantee"** shall mean the guarantee provided by a Bank in India in favor of SI for an amount specified in the Part 2 of the RFP;
- i. **"Project/VTMS & PIS project"** means Project Implementation comprising design, development, acceptance testing, pilot run, deployment of the solution and Operation and Maintenance of VTMS & PIS Project, and includes the expansion of the project to establish more locations, to integrate more Users and agencies, and to provide more services to the customers of KSRTC;
- j. **"Project Implementation"** means Project Implementation as per the testing standards and acceptance criteria prescribed in the Part 1 & 2 of the RFP;
- k. **"Project Implementation Completion date"** means the date on which the acceptance testing of the Project has been successfully completed, pilot run successfully completed and training of Users' personnel and KSRTC personnel on all identified locations.
- l. **"Proprietary Information"** means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned by, or granted by third parties to a Party hereto prior to its being made available under this Agreement;
- m. **"RFP" or "Request for Proposal"** means the documents containing the Technical, Functional, Commercial, operational and Legal Specifications for the implementation of the VTMS & PIS Project issued in 3 parts (referred to as Part I, Part II, and Part III) and includes the clarifications, explanations and amendments issued from time to time.
- n. **"Replacement SI"** means any third party that the Project Manager, VTMS & PIS project may appoint to replace SI upon expiry of the Term or other termination of this Agreement to undertake the Services or part thereof;
- o. **"Service Level"** means the level of service and other performance criteria which will apply to the Services as set out in Section II – Service Level Metrics;
- p. **"Services"** means the services relating to passenger information delivered to the Customers of VTMS & PIS project, and includes but is not limited to the list of services specified in Part 1 of the RFP;
- q. **"Customers"** means the Citizens, Franchisees, Tour Operators, Partners, Agencies of KSRTC and their employees;



- r. **"Third Party Systems"** means Systems (or any part thereof) in which the Intellectual Property Rights are owned by a third party and to which SI has been granted a license to use and which are used in the provision of Services;
- s. 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.
- t. Words denoting the singular shall include the plural and vice versa and words denoting persons shall include firms and corporations and vice versa.
- u. Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this Agreement as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this Agreement. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. Where, because of a difference in time zone, the calendar day or calendar month in one Country differs from another Country, then the calendar day or calendar month shall be deemed to be the calendar day or calendar month applicable to India. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated.
- v. Any reference to attorneys' fees shall include fees of the professional assistants of such attorneys.
- w. 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.

3.1.2. STRUCTURE

This Agreement shall operate as a legally binding services agreement specifying the master terms which apply to the Parties under this Agreement and to the provision of the Services by SI to VTMS & PIS project as specified in the Service Level Metrics.

In the event of a change of Control of SI during the currency of the VSA , SI shall promptly notify the Project Manager, VTMS & PIS Project of the same and in the event that the net worth of the surviving entity is less than that of SI prior to the change of Control, the Project Manager, VTMS & PIS Project may within 30 days of his/ her becoming aware of the change in Control, require a replacement of existing Performance Bank Guarantee furnished by SI from a guarantor acceptable to the Project Manager, VTMS & PIS Project (which shall not be SI or any of its associated entities). If such a guarantee cannot be obtained within 30 days of the Project Manager, VTMS & PIS Project becoming aware of the change in Control, he/ she may exercise its right to terminate the Service Level Metrics within a further 30 days by written notice, to become effective when specified in such notice. Pursuant to termination, the consequences of termination as set out in Article 5.2 will become effective. The internal reorganization of SI shall not be deemed an event of a change of Control for purposes of this Article unless the surviving entity is of less net worth than the predecessor entity.

In case of any disputes regarding interpretation/addition/deletion of terms & conditions or penalty clauses, decision of Managing Director, KSRTC, is final.

3.1.3. CONDITIONS PRECEDENT

Subject to express terms to the contrary, the rights and obligations under this Agreement shall be effective (at any point of time during the course of the Agreement) only upon fulfillment of all the Conditions Precedent set out in Articles 1.3.1 and 1.3.2. However, the Project Manager, VTMS & PIS Project, may at any time at its sole discretion waive fully or partially any of the Conditions Precedent for SI.

Conditions Precedent for SI

SI shall have to fulfill Conditions Precedent, which are as follows:

- 1) Provide Performance Security/ Guarantee and other guarantees/ payments [EMD and other warranties] to the Project Manager, VTMS & PIS Project as specified in Part 2;



- 2) Provide the Project Manager, VTMS & PIS Project certified true copies of its constitutional documents and board resolutions authorizing the execution, delivery and performance of this Agreement with the Project Manager, VTMS & PIS project;

Non-fulfilment of Conditions Precedent

- 3) In the event that any of the Conditions Precedent relating to SI has not been fulfilled and the same has not been waived by the Project Manager, VTMS & PIS Project fully or partially, this
- 4) Agreement shall cease to have any effect as of that date.
- 5) In the event that the Agreement fails to come into effect on account of non-fulfillment of SI's Conditions Precedent, the Project Manager, VTMS & PIS project shall not be liable in any manner whatsoever to SI and the Project Manager, VTMS & PIS Project shall forthwith forfeit the Performance Bank Guarantee.
- 6) In the event that vacant possession of any of the VTMS & PIS project, facilities and/or VTMS & PIS project Data has been delivered to SI prior to the fulfillment in full of the Conditions Precedent, upon the termination of this Agreement such shall immediately revert to the Project Manager, VTMS & PIS Project, free and clear from any encumbrances or claims.
- 7) Instead of terminating this Agreement as provided in paragraph 1.3.2(a) above, the Parties may extend the time for fulfilling the Conditions Precedent and the Term of this Agreement by mutual agreement. It is clarified that any extension of time shall be subject to imposition of penalties on SI linked to the delay in fulfilling the Conditions Precedent.

3.2 ARTICLE II - Construction PHASE

3.2.1. SCOPE OF CONTRACT

This Agreement shall govern the provision of the contracted professional services under the VSA to the Project Manager, VTMS & PIS Project.

3.2.2. COMMENCEMENT AND DURATION OF THIS AGREEMENT

This agreement shall come into effect on ____-2011 (hereinafter called the "Effective Date") and shall continue till the completion of the Operations and Maintenance phase, subject to fulfillment of the rights and obligations of the parties under the Agreement.

3.2.3. SCOPE AND PROVISION OF THE SERVICES

The provision of Services to the Customers with certainty and speed is the essence of the Agreement between the Parties.

SI represents that it is a competent provider of a variety of information technology and business process management services. SI will keep abreast of the relevant technical, managerial and operational requirements applicable to the provision of the Services and best practices in this area and will share their knowledge with the Project Manager, VTMS & PIS Project, regarding matters which would assist the Project Manager, VTMS & PIS Project, in its use of the Services, provided that SI shall not be obligated to share other client information or Confidential Information of SI not relevant to this Agreement.

The Services shall be performed by SI pursuant to project engagements under the Service Level Metrics entered into in accordance with this Agreement.

SI shall perform the Services (a) in a good professional manner commensurate with professional industry and technical standards which are generally in effect for international projects and innovations pursuant thereon similar to those contemplated by this Agreement, (b) so as to comply with the applicable Service Levels, if any, in accordance with the terms of the applicable Service Level Metrics.



No Party to this Agreement will at any time perform, or omit to perform, any act which they are aware, at the time of performance, will place the other Party in default under any insurance policy, mortgage or lease, governing activities at any location provided by the Project Manager, VTMS & PIS Project.

3.2.4. APPROVALS AND REQUIRED CONSENTS

The Parties shall cooperate to procure, maintain and observe all relevant and customary regulatory and governmental licenses, clearances and applicable approvals (hereinafter the "Approvals") necessary for SI 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.

Both parties will give each other all co-operation and information reasonably required to meet their respective obligations under this Agreement.

The Project Manager, VTMS & PIS Project shall use reasonable endeavors to assist SI obtain the Required Consents. In the event that any Required Consent is not obtained, SI and the Project Manager, VTMS & PIS Project will co-operate with each other in achieving a reasonable alternative arrangement as soon as reasonably practicable for the Project Manager, VTMS & PIS Project to continue to process its work with as minimal interruption to its business operations as is commercially reasonable until such Required Consent is obtained, provided that SI 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 SI's obligations are dependent upon such Required Consents.

3.2.5. USE AND ACQUISITION OF ASSETS

During the Term SI shall:

- (a) take all reasonable and proper care of the entire hardware and software, network or any other information technology infrastructure components used for the Project and other facilities leased / owned by SI exclusively in terms of the delivery of the Services as per this Agreement (hereinafter the "Assets") in proportion to their use and control of such Assets which will include all up gradation/ enhancements and improvements to meet the current needs of the Project; and
- (b) keep all the tangible Assets in as good and serviceable condition (reasonable wear and tear excepted) and/or the intangible Assets suitably upgraded subject to the relevant standards as stated in Part 1 of the RFP as at the date SI takes control of and/ or first uses the Assets and during the entire Term of the Agreement.
- (c) ensure that any instructions or manuals supplied by the manufacturer of the Assets for use of the Assets and which are provided to SI will be followed by SI and any person who will be responsible for the use of the Assets; and
- (d) take such steps as may be properly recommended by the manufacturer of the Assets and notified to SI or as may, in the reasonable opinion of SI, be necessary to use the Assets in a safe manner; and
- (e) to the extent that the Assets are under the control of SI, keep the Assets suitably housed and in conformity with any statutory requirements from time to time applicable to them; and
- (f) provide permission to the Project Manager, VTMS & PIS Project and any persons duly authorized by him/ her to enter any land or premises on which the Assets are for the time being sited so as to inspect the same, subject to any reasonable third party requirements; and
- (g) not knowingly or negligently use or permit any of the Assets to be used in contravention of any statutory provisions or regulation or in any way contrary to law; and
- (h) use the Assets exclusively for the purpose of providing the Services as appropriate; and
- (i) not sell, offer for sale, assign, mortgage, encumbrance, pledge, sub-let or lend out any of the Assets; and
- (j) use the Assets only in accordance with the terms hereof; and



- (k) maintain standard forms of comprehensive insurance including liability insurance, system and facility insurance and any other insurance for the personnel, Assets, data, software, etc.; and
- (l) transfer the ownership of the Assets (not already with the Project Manager, VTMS & PIS Project which shall include the solution and Bespoke Software including the source code and associated documentation which is the work product of the development efforts involved in the Project.) to the Project Manager, VTMS & PIS Project at the appropriate time (in sync with the submission of deliverables there of by SI) or in accordance with the terms of this agreement; and
- (m) to ensure the integration of the software with hardware to be installed and the current Assets in order to ensure the smooth operations of the entire solution architecture to provide efficient services to all the Customers of VTMS & PIS project in an efficient and speedy manner; and
- (n) a sign off from the Project Manager, VTMS & PIS Project at each stage is essential to close each of the above considerations.

3.2.6. ACCESS TO VTMS & PIS project OR VTMS & PIS NOMINATED AGENCIES LOCATION

For so long as SI provides Services from any VTMS & PIS project location on a non-permanent basis and to the extent necessary for SI to provide the Services and at no cost to SI, the Project Manager, VTMS & PIS Project, shall, subject to compliance by SI with any safety and security guidelines which may be provided by the Project Manager, VTMS & PIS Project and notified to SI in writing, provide SI with:

- (a) Reasonable access, in the same manner granted to VTMS & PIS project employees, to VTMS & PIS project locations twenty-four hours a day, seven days a week; and
- (b) Access to office equipment as mutually agreed and other related support services in such location and at such other VTMS & PIS project location, if any, as may be reasonably necessary for SI to perform its obligations hereunder.
- (c) Locations and items shall be made available to SI on an "as is, where is" basis by the Project Manager, VTMS & PIS Project. SI agrees to ensure that its employees, agents and contractors do not use the location, services and items:
- (d) for the transmission of any material which is defamatory, offensive or abusive or of an obscene or menacing character;
- (e) in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to rights of copyright or confidentiality).

3.2.7. Completion of Construction

The Successful Bidder shall ensure completion of the construction phase within the time schedule agreed. Any delay in the implementation of the solution and certification by KSRTC after Acceptance Testing beyond a period of 60 days from the scheduled date shall result in forfeiture of the Performance Bank Guarantee and termination of the VTMS & PIS Services Agreement. The Successful Bidder shall keep the VTMS & PIS Project Manager informed through written progress reports and likelihood of completion of the construction and the Date of Commercial Deployment. The Successful Bidder shall also be responsible for coordinating with KSRTC and its nominated agencies

3.3 ARTICLE III – Operation & Management Phase

3.3.1. GOVERNANCE

The review and management process of this Agreement shall be carried out in accordance with the Governance Schedule attached hereto as Schedule SI and shall cover all the management aspects as set out in Part I of RFP.

3.3.2. USE OF SERVICES

The Project Manager, VTMS & PIS Project, or its nominated agencies will undertake and use the Services in accordance with any instructions or procedures as per the acceptance criteria as set out in the Service Level Metrics that may be agreed by the Parties from time to time.



3.3.3. CHANGES

Unless expressly dealt with elsewhere in this Agreement, any changes under or to this Agreement shall be dealt with in accordance with the Change Control Schedule attached hereto as Schedule I.

3.3.4. SECURITY AND SAFETY

SI will comply with the directions issued from time to time by the Project Manager, VTMS & PIS

Project and the standards related to the security and safety as stated in the RFP Parts I, insofar as it applies to the provision of the Services.

Each Party shall comply with VTMS & PIS Project's information technology security and standards policies in force from time to time at each location of which the Project Manager, VTMS & PIS Project makes SI aware in writing insofar as the same apply to the provision of the Services.

The Parties shall use reasonable endeavors to report forthwith in writing to each other all identified attempts (whether successful or not) by unauthorized persons (including unauthorized persons who are employees of any Party) either to gain access to or interfere with the VTMS & PIS Project's data, facilities or Confidential Information.

SI shall upon reasonable request by the Project Manager, VTMS & PIS Project or its nominee(s) participate in regular meetings when safety and information technology security matters are reviewed.

The Parties shall promptly report in writing to each other any act or omission which they are aware that could have an adverse effect on the proper conduct of safety and information technology security at VTMS & PIS Project's Facilities.

3.3.5. CO-OPERATION

Except as otherwise provided elsewhere in this Agreement, each Party ("Providing Party") to this Agreement 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:

- a. does not require material expenditure by the Providing Party to provide; and
- b. is reasonably required by the Receiving Party in order for it to comply with its obligations under this Agreement ; and
- c. is not Confidential Information; and
- d. is capable of being provided by the Providing Party.

Each Party agrees to co-operate with the contractors and sub-contractors of the other Party as reasonably requested in order to accomplish the purposes of this Agreement.

3.4 **ARTICLE IV – Commercial Issues**

3.4.1. TERMS OF PAYMENT AND SERVICE CREDITS AND DEBITS

In consideration of the Services and subject to the provisions of this Agreement, the Project Manager, VTMS & PIS Project shall pay SI for the Services rendered in pursuance of this agreement, in accordance with the Terms of Payment Schedule attached hereto as **Schedule VI**.

All payments are subject to the application of service credits and debits as may be provided for in any applicable Service Level Metrics. It is clarified here that the Project Manager, VTMS & PIS Project will pay for the service credits as stated in accordance with the Terms of Payment Schedule and the Project Manager, VTMS & PIS Project can also calculate a financial sum and debit the same against the terms of payment as defined in the Terms of Payment Schedule as a result of the failure of SI to meet the Service Level under the affected Service Level Metrics, such sum being determined in accordance with the terms of the Agreement.

Except as otherwise provided for herein or as agreed between the Parties in writing, the



Project Manager, VTMS & PIS Project shall not be required to make any payments in respect of the Services other than those covered by the terms of payment as stated in the Terms of Payment Schedule.

3.4.2. INVOICING AND SETTLEMENT

The provisions of the Invoicing Schedule attached hereto as Schedule V shall apply. Invoicing shall be done in accordance with the Terms of Payment Schedule with necessary adjustments for penalties arising out of non-compliance of Service Level Metrics.

3.4.3. TAX

The Project Manager, VTMS & PIS Project shall be responsible for withholding taxes from the amounts due and payable to SI wherever applicable. SI shall pay for all other taxes in connection with this Agreement and any other Service Level Metrics including, but not limited to, property, sales, use, excise duty, value-added, goods and services, consumption and other similar taxes or duties. The Project Manager, VTMS & PIS Project shall provide SI with the original tax receipt of any withholding taxes paid by VTMS & PIS project on payments under this Agreement. SI agrees to reimburse and hold the Project Manager, VTMS & PIS Project harmless from any deficiency (including penalties and interest) relating to taxes that are its responsibility under this Agreement. For purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the Project Manager, VTMS & PIS Project, SI its consortium members and third party subcontractors.

In the event of any increase or decrease of the rate of taxes due to any statutory notification/s during the Term of the Agreement the consequential effect shall be to the account of SI.

The Parties shall cooperate to enable each Party to accurately determine its own tax liability and to minimize such liability to the extent legally permissible. In connection therewith, the Parties shall provide each other with (i) any resale certificates, (ii) any relevant information regarding use of out-of-state materials, equipment or services and (iii) any exemption certificates or information reasonably requested by the other Party.

3.5 **ARTICLE V - BREACH AND RECTIFICATION**

In the event that either Party believes that the other is in Material Breach of its obligations under this Agreement or Service Level Metrics under this Agreement, such aggrieved Party may terminate this Agreement upon reasonable notice to the other Party. Any notice served pursuant to this Article shall give reasonable details of the Material Breach, which could include the following events and the termination will become effective:

- a. If there is Breach which translates into default in providing Services by SI as per the Service Level Metrics, and this Agreement, continuously for more than one week, then the Project Manager, VTMS & PIS Project, will serve a seven days notice for curing this Material Breach. In case the Material Breach continues after the notice period, the Project Manager, VTMS & PIS Project will have the option to terminate the Agreement.
- b. In the case of a breach on items of Service Level Metrics listed in Section II SI shall be given a period of 7 days to rectify this breach, failing which the notice to terminate would be issued to SI.
- c. Because time is the essence of the contract, in case, for reasons prima facie attributable to SI, there is a delay of more than 4 weeks in the Project Implementation Phase by SI prior to the acceptance testing and certification stage, the Project Manager, VTMS & PIS Project may terminate this VSA after affording a reasonable opportunity to SI to explain the circumstances leading to such a delay. Further, the Project Manager, VTMS & PIS Project may also invoke the Performance Bank Guarantee of SI.
- d. If there is a Breach by the Project Manager, VTMS & PIS Project which results in terms of not handing over the location in time, not providing support for integration of VTMS & PIS system with the IT systems of the participating Departments and agencies of KSRTC and other participating government departments, or not providing the certification of the Implementation



Phase, then SI may give a one month's notice for curing the Material Breach. In the event the Breach continues, SI will have the option to terminate the Agreement.

Where a change of management of SI has occurred whereby SI-company has merged, amalgamated or been taken over, due to which the majority shareholding of SI has been transferred to another entity, the Project Manager, VTMS & PIS Project can by a 7 days written notice, terminate this Agreement and such notice shall become effective at the end of the notice period.

3.5.1. TERMINATION

The Project Manager, VTMS & PIS Project may serve written notice on SI at any time to terminate this Agreement with immediate effect in the event of a reasonable apprehension of bankruptcy of SI:

- a. SI shall in the event of an apprehension of bankruptcy immediately inform the Project Manager, VTMS & PIS Project well in advance (at least 3 months) about such a development;
- b. Conversely if the Project Manager, VTMS & PIS Project apprehends a similar event regarding SI, he/ she can exercise the right of termination in the manner stated hereinabove.

3.5.2. EFFECT OF TERMINATION

In the event that the Project Manager, VTMS & PIS Project, or SI, terminates this Agreement pursuant to Article 5.1 and depending on the event of default, compensation will be decided in accordance with the Terms of Payment Schedule.

Upon termination of this Agreement, the Parties will comply with the Exit Management Schedule attached hereto as Schedule II.

3.6 ARTICLE VI - PROTECTION AND LIMITATIONS

3.6.1. WARRANTIES

SI warrants and represents to the Project Manager, VTMS & PIS Project that:

- a. it has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this Agreement;
- b. this Agreement is executed by a duly authorized representative of SI;
- c. it shall discharge its obligations under this Agreement with due skill, care and diligence so as to comply with Article 2.3.

In the case of the Service Level Metrics, SI warrants and represents to the Project Manager, VTMS & PIS Project, that:

- a. SI has full capacity and authority and all necessary approvals to enter into and perform its obligations under the Service Level Metrics and to provide the Services;
- b. the Service Level Metrics has been executed by a duly authorized representative of SI;
- c. SI is experienced in managing and providing works similar to the Services and that it will perform the Services with all due skill, care and diligence so as to comply with Article 2.3;
- d. the Services will be provided and rendered by appropriately qualified, trained and experienced personnel;
- e. SI has and will have all necessary licenses, approvals, consents of third parties and all necessary technology, hardware and software to enable it to provide the Services;
- f. the Services will be supplied in conformance with all applicable laws, enactments, orders and regulations;
- g. SI will use its reasonable endeavors to ensure that the equipment, software and hardware supplied and/or used in the course of the provision of the Services, are operational and functional; and
- h. If SI uses in the course of the provision of the Services components, equipment, software and hardware manufactured by any third party which are embedded in the Deliverables or are essential for the successful use of the Deliverables, it will pass through third party manufacturer's



warranties relating to those components, equipment, software and hardware to the extent required. In the event that such warranties cannot be enforced by the Project Manager, VTMS & PIS Project, SI will enforce such warranties on behalf of the Project Manager, VTMS & PIS Project and pass on to the Project Manager, VTMS & PIS Project, the benefit of any other remedy received in relation to such warranties.

Notwithstanding what has been stated elsewhere in this Agreement and the Schedules attached herein, in the event SI is unable to meet the obligations pursuant to the implementation of the Project implementation, Operations and Maintenance Services and any related scope of work as stated in this Agreement and the Schedules attached herein, the Project Manager, VTMS & PIS Project will have the option to invoke the Performance Bank Guarantee after serving a written notice of fifteen days on SI.

3.6.2. THIRD PARTY CLAIMS

Subject to Article 6.2b below, SI (the "Indemnifying Party") undertakes to indemnify the Project Manager, VTMS & PIS Project (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 Agreement

The indemnities set out in Articles 6.2a shall be subject to the following conditions:

- a. the Indemnified Party, as promptly as practicable, informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;
- b. the Indemnified Party shall, at the cost of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the Defence 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 Defence;
- c. if the Indemnifying Party does not assume full control over the Defence 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;
- d. 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;
- e. all settlements of claims subject to indemnification under this Article 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 for all liability in respect of such claim; and (b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;
- f. 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;
- g. 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
- h. in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights and defences of the Indemnified Party with respect to the claims to which such indemnification relates;

3.6.3. LIMITATION OF LIABILITY

There shall be no limitation of liability in case of any damages for bodily injury (including death) and damage to real property and tangible personal property.

This Agreement does not grant or create any rights, benefits, claims, obligations or causes of action in, to or on behalf of any person or entity (including any third party) other than between the respective Parties to this Agreement, as the case may be.



Any claim or series of claims arising out or in connection with this Agreement shall be time barred and invalid if legal proceedings are not commenced by the relevant Party against the other Party within a period of 12 months 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.

The Project Manager, VTMS & PIS Project shall be entitled to claim the remedy of specific performance under this Agreement.

3.6.4. FORCE MAJEURE

Neither Party to this Agreement 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 Article.

The Party seeking to rely on Force Majeure shall promptly, within 4 working 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.

In the event the Force Majeure substantially prevents, hinders or delays SI's performance of Services necessary for the operation of VTMS & PIS project's critical functions for a period in excess of 5 days, the Project Manager, VTMS & PIS Project may declare that an emergency exists. The Project Manager, VTMS & PIS Project will issue a notice to SI to resume normal services at all affected sites and for all operations within a period of seven days. In the event that SI is not able to resume services within the next 7 days, the Project Manager, VTMS & PIS Project may terminate the Agreement and/or obtain substitute performance from an alternate supplier. However, the event of force Majeure is to be reviewed under two categories i.e. prior to commencement of operations and post commencement of operations respectively.

Prior to commencement of operations: If the event of Force Majeure occurs prior to commencement of operations and continues for a period in excess of ten days, then the Project Manager, VTMS & PIS Project will grant a period of 7 days to SI to resume normal activities under this Agreement. In case the default continues, then the Project Manager, VTMS & PIS Project may discuss the issue with SI and revise the existing timelines for the Project. If SI does not complete the Project Implementation in accordance with the revised timelessness, the Project Manager, VTMS & PIS Project will have the option to invoke the Performance Bank Guarantee and/or terminate this Agreement.

Post commencement of operations: If the event of Force Majeure occurs post-commencement of commercial deployment and continues for a period in excess of five days, then the Project Manager, VTMS & PIS Project will grant a period of 7 days to SI to resume normal services under this Agreement. In case the default continues, the Project Manager, VTMS & PIS Project may grant an extension of time to SI for rectifying the situation. However, the Project Manager, VTMS & PIS Project will deduct for each day of the extension period a percentage proportionate to the number of days and the affected areas/s from the next payable amount as per Payment Schedule. If there is any further delay despite the extended period, the Project Manager, VTMS & PIS Project will have the option to invoke the Performance Bank Guarantee and/or terminate the Agreement.

All payments pursuant to termination due to Force Majeure event shall be in accordance with the Terms of Payment Schedule.

Notwithstanding the terms of this Article, the failure on the part of SI under Service Level Metrics to implement any disaster contingency planning and back-up and other data safeguards in accordance with the terms of the Service Level Metrics against natural disaster, fire, sabotage or other similar occurrence shall not be an event of force Majeure.



3.6.5. DATA PROTECTION

In the course of providing the Services SI may be compiling, processing and storing proprietary VTMS & PIS project Data relating to the users.

SI and each user are responsible for complying with its respective obligations under the applicable data protection laws and regulations governing the VTMS & PIS project Data.

SI is required to perform or adhere to only those security measures concerning the VTMS & PIS

Project Data which were in place (i) as of the Effective Date; and (ii) those made available to it in writing from time to time in accordance with the Service Level Metrics.

As a processor of VTMS & PIS project Data, SI will process VTMS & PIS project Data in accordance with the Service Level Metrics.

SI shall not transfer any VTMS & PIS project, Data unless otherwise authorized by the Project Manager, VTMS & PIS Project in this regard.

Upon reasonable written request from a Party to the Agreement, the other Party to the Agreement will provide the requesting Party with such information that it has regarding the VTMS & PIS project, Data and its processing which is necessary to enable the requesting party to comply with its obligations under the applicable data protection law or regulation.

3.6.6. CONFIDENTIALITY

The Project Manager, VTMS & PIS Project may permit SI to come into possession of confidential public records as per the needs of the project and SI shall maintain the highest level of secrecy, confidentiality and privacy with regard thereto.

Additionally, SI shall keep confidential all the details and information with regard to the Project, including systems, facilities, operations, management and maintenance of the systems/ facilities.

The Project Manager, VTMS & PIS Project shall retain all rights to prevent, stop and if required take the necessary punitive action against SI regarding any forbidden disclosure.

SI shall ensure that all its employees, agents and sub-contractors execute individual nondisclosure agreements, which have been duly approved by the Project Manager, VTMS & PIS Project, with respect to this Project.

The aforesaid provisions shall not apply to the information:

- a. already in the public domain; and
- b. which has been received from a third party who had the right to disclose the aforesaid information; and
- c. Disclosed to the public due to a court order.

3.6.7. AUDIT, ACCESS AND REPORTING

- a. The Parties shall comply with the Audit, Access and Reporting Schedule provided in Schedule III.
- b. SI shall, on request, allow access to the Project Manager, VTMS & PIS Project and its nominees to all information which is in the possession or control of SI, which relates to the provision of the Services as set out in the Audit, Access and Reporting Schedule and is reasonably required to comply with the terms of the Audit, Access and Reporting Schedule.

3.7 **ARTICLE VII - INTELLECTUAL PROPERTY**

3.7.1. INTELLECTUAL PROPERTY

Except to the extent otherwise expressly provided in this Agreement, the Project Manager, VTMS & PIS Project shall retain exclusive intellectual property rights to the bespoke software, forms and the compilations of the VTMS & PIS project to which the Project Manager, VTMS & PIS Project has sovereign rights and nothing herein shall or will be construed or deemed to grant to SI any right, title,



license, sub-license, proprietary right or other claim against or interest in, to or under (whether by estoppel, by implication or otherwise) to the aforesaid rights.

Without limiting the generality of this clause and except to the extent otherwise expressly agreed by the Parties to this Agreement or the Service Level Metrics in writing, nothing contained in this Agreement or the Service Level Metrics shall or will be construed or deemed to grant to SI any right, title, license or other interest in, to or under (whether by estoppel, by implication or otherwise) any logo, trademark, trade name, service mark or similar designations of VTMS & PIS project or its respective affiliates/nominees or any confusingly similar designations of VTMS & PIS project .

Subject to any sole or exclusive rights granted by the Project Manager, VTMS & PIS Project to a third party prior to the Effective Date, the Project Manager, VTMS & PIS Project grants to SI and any sub-contractors to SI solely in their performance of Services for VTMS & PIS project or its nominated agencies, nonexclusive, paid-up, royalty-free right and license during the Term of this Agreement, but not the right to sub-license, to use the VTMS & PIS project Data including the right to copy, perform, display, execute, reproduce, modify, enhance and improve the VTMS & PIS project Data to the extent reasonably necessary or useful for the provision of Services hereunder.

SI shall not use the VTMS & PIS project Data to provide services for the benefit of any third party, as a service bureau.

SI shall indemnify, defend and hold harmless VTMS & PIS project and their respective officers, employees, successors and assigns, from and against any and all losses arising from claims by third parties that any Deliverable (or the access, use or other rights thereto) created by SI pursuant to this Agreement, and/or any Service Level Metrics or any equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) provided by SI or sub-contractors to SI pursuant to this Agreement or a Service Level Metrics (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) VTMS & PIS project ; (B) third parties (i.e., other than SI or SI's sub-contractors) at the direction of VTMS & PIS project .

The Project Manager, VTMS & PIS Project shall have no liability or obligation to SI or any other Party under Article 7.1e above to the extent the Infringement Claim is based upon any use of the equipment, software, information, methods of operation or other intellectual property (or the access, use or other rights thereto) for the benefit of any Party (including any use by SI or its nominees outside the scope of the Services) other than for VTMS & PIS project.

Notwithstanding any provisions of this Agreement to the contrary, the foregoing remedies constitute the parties' sole and exclusive remedies and each Party's entire liability, with respect to Infringement Claims.

If SI uses in the course of the provision of the Services any Third Party System it will use all commercially reasonable endeavors to pass through to the Project Manager, VTMS & PIS Project such third party's warranties relating to such Third Party Systems. In the event that such warranties cannot be passed through to or enforced by the Project Manager, VTMS & PIS Project, SI will enforce such warranties on the Project Manager's behalf and account to the Project Manager, VTMS & PIS Project for so doing.

All right, title and interest in and to, and ownership in, Proprietary Information of VTMS & PIS project which is provided to SI, and all modifications, enhancements and other derivative works of such VTMS & PIS project Proprietary Information ("VTMS & PIS Project Proprietary Information"), as a result of Services rendered by SI hereunder shall remain solely with the Project Manager, VTMS & PIS Project. SI shall be entitled to use such VTMS & PIS Project Proprietary Information only during the Agreement Term and only for the purposes of providing the Services or to the extent necessary for SI's normal operational, repair and maintenance purposes related to the Services. The Project Manager, VTMS & PIS Project shall retain ownership of all Intellectual Property Rights related to VTMS & PIS Project Proprietary Information.



All right, title and interest in and to, and ownership in, Proprietary Information of SI, which is provided to the Project Manager, VTMS & PIS Project, and all modifications, enhancements and other derivative works of such SI Proprietary Information ("SI Proprietary Information"), shall remain solely with SI. SI will upon the award of the Project in its favor, declare the status of all SI Proprietary Information along with documentary support sufficient to establish its sole legal rights in the aforesaid Proprietary Information to the Project Manager, VTMS & PIS Project. This Proprietary Information shall refer to that which has been owned by SI prior to commencement of the VSA. Additionally, any software that may be acquired from third parties during the term of the VSA and that which may be developed by SI during the course of the Agreement specifically for VTMS & PIS project shall also not be considered as SI Proprietary Information by the VTMS & PIS project. The Project Manager, VTMS & PIS Project shall be entitled to use such SI Proprietary Information only in connection with the Services or to the extent necessary for VTMS & PIS Project's normal operational, repair and maintenance purposes related to the Services. To the extent that SI Proprietary Information is incorporated within the Deliverables, SI and its employees engaged hereby grant to the Project Manager, VTMS & PIS Project a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to VTMS & PIS project facilities, and prepare from them, use and copy derivative works for the benefit of and internal use of VTMS & PIS project such SI Proprietary Information. The Project Manager, VTMS & PIS Project's rights pursuant to the preceding sentence include the right to disclose such SI Proprietary Information to third party contractors solely for use on VTMS & PIS project provided that all such third party contractors execute, deliver and comply with any customary confidentiality and nondisclosure agreements reasonably required by the Project Manager, VTMS & PIS Project.

With respect to ownership of the Deliverables, the Parties agree that the following shall apply:

- a. The Deliverables shall be identified as being either: Category 'A' Deliverables or Category 'B' Deliverables. If not so identified, the Deliverables shall be considered Category 'A' Deliverables for the purposes of this Agreement.
- b. **Category A Deliverables** are those Deliverables provided to VTMS & PIS project by SI during the course of its performance under this Agreement, and/or a Service Level Metrics which includes but is not limited to Bespoke Software as defined in this Agreement, in which, subject to the foregoing provisions of this Article, all right, title and interest in and to such Deliverables, shall, as between SI and the Project Manager, VTMS & PIS Project, immediately upon creation vest in the Project Manager, VTMS & PIS project. To the extent that SI Proprietary Information is incorporated within the Deliverables, SI and its employees engaged hereby grant to the Project Manager, VTMS & PIS Project a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to use, copy, modify (or have modified), transport to VTMS & PIS project facilities, and prepare from them, use and copy derivative works for the benefit of and internal use of VTMS & PIS project, of such SI Proprietary Information.
- c. **Category B Deliverables** are those Deliverables provided to the Project Manager, VTMS & PIS Project by SI during the course of its performance under this Agreement, in which the SI retains the rights to but grants to the Project Manager, VTMS & PIS Project, subject to the foregoing provisions of this Article a worldwide, perpetual, irrevocable, non-exclusive, transferable, paid-up right and license to the Deliverables including the right to use, copy, modify (or have modified), transport to VTMS & PIS project at the locations provided by VTMS & PIS project, and prepare from them, use and copy derivative works for the benefit of and internal use of VTMS & PIS project. If SI proceeds to apply for, or assign to any third party, any patent rights relating to such Category B Deliverables, SI will ensure that the Project Manager, VTMS & PIS Project's rights as provided herein are preserved.

The Project Manager, VTMS & PIS Project hereby grants to SI a non-exclusive right and license to access and use the VTMS & PIS project Proprietary Information solely for the purpose of providing Services to VTMS & PIS project. Such right and license shall terminate upon the expiration or termination of this Agreement.



Upon the expiration or any termination of this Agreement, SI shall undertake the actions set forth below in this Article to assist the Project Manager, VTMS & PIS Project to procure replacement services equivalent to Services provided hereunder.

- a. Further SI undertakes to negotiate in good faith with the Project Manager, VTMS & PIS Project and any relevant Replacement SI in respect of commercial terms applying to all SI Intellectual Property Rights and which the Project Manager, VTMS & PIS Project and any relevant Replacement SI require to enable them to provide or receive services substantially equivalent to the Services hereunder.
- b. In respect of SI third party Intellectual Property Rights, SI undertakes to assist the Project Manager, VTMS & PIS Project to secure such consents or licenses from such third parties as are necessary to enable VTMS & PIS project to receive services substantially equivalent to the Services hereunder. The obligations of SI under this Article shall be considered part of the services performed by SI under the Exit Management Services.

3.8 **ARTICLE VIII - MISCELLANEOUS**

3.8.1. CONFIDENTIALITY

SI recognizes that during the term of this Agreement sensitive data will be procured and made available to it, its Sub contractors and agents and others working for or under SI. Disclosure or usage of the data by any such recipient may constitute a breach of applicable laws causing harm not only to the company whose data is used but also to its shareholders, directors and other officers. The function of the Project Manager, VTMS & PIS Project requires the SI, its Subcontractors and agents to demonstrate utmost care, sensitivity and strict confidentiality. Any breach of this Article will result in the Project Manager, VTMS & PIS Project and its nominees receiving a right to seek injunctive relief and damages without any limit, from SI.

Each Party agrees as to any Confidential Information disclosed by a Party to this Agreement (the "Discloser") to the other Party to this Agreement (the "Recipient"):

- a. to take such steps necessary to protect the Discloser's Confidential Information from unauthorized use, reproduction and disclosure as the Recipient takes in relation to its own Confidential Information of the same type, but in no event less than reasonable care; and
- b. to use such Confidential Information only for the purposes of this Agreement or as otherwise expressly permitted or expressly required by this Agreement or as otherwise permitted by the Discloser in writing; and
- c. not, without the Discloser's prior written consent, to copy the Confidential Information or cause or allow it to be copied, directly or indirectly, in whole or in part, except as otherwise expressly provided in this Agreement, or as required in connection with Recipient's use as permitted under this Article, or as needed for the purposes of this Agreement, provided that any proprietary legends and notices (whether of the Discloser or of a Third Party) are not removed or obscured; and
- d. Not, without the Discloser's prior written consent, to disclose, transfer, publish or communicate the Confidential Information in any manner to any person except as permitted under this Agreement.

The restrictions of this Article shall not apply to Confidential Information that:

- a. is or becomes generally available to the public through no breach of this Article by the Recipient; and
- b. was in the Recipient's possession free of any obligation of confidence prior to the time of receipt of it by the Recipient hereunder; and
- c. is developed by the Recipient independently of any of Discloser's Confidential Information; and
- d. is rightfully obtained by the Recipient from third parties authorized at that time to make such disclosure without restriction; and
- e. is identified in writing by the Discloser as no longer proprietary or confidential; or



- f. is required to be disclosed by law, regulation or Court Order, provided that the Recipient gives prompt written notice to the Discloser of such legal and regulatory requirement to disclose so as to allow the Discloser reasonable opportunity to contest such disclosure.

To the extent that such disclosure is required for the purposes of this Agreement, either Party may disclose Confidential Information to:

- a. its employees, agents and independent contractors and to any of its affiliates and their respective independent contractors or employees; and
- b. its professional advisors and auditors, who require access for the purposes of this Agreement, whom the relevant Party has informed of its obligations under this Article and in respect of whom the relevant Party has used commercially reasonable efforts to ensure that they are contractually obliged to keep such Confidential Information confidential on terms substantially the same as set forth in this Article. Either Party may also disclose Confidential Information to any entity with the other Party's prior written consent.

The provisions of this Article shall survive the expiration or any earlier termination of this Agreement.

Confidential Information shall be and remain the property of the Discloser and nothing in this Article shall be construed to grant either Party any right or licence with respect to the other Party's Confidential Information otherwise than as is expressly set out in this Agreement.

Subject as otherwise expressly provided in this Agreement all Confidential Information in tangible or electronic form under the control of the Recipient shall be destroyed, erased or returned to the Discloser promptly upon the earlier of: (i) the written request of the Discloser, or, (ii) termination or expiry of this Agreement.

Notwithstanding the forgoing, both Parties may retain, subject to the terms of this Article, a reasonable number of copies of the other Party's Confidential Information solely for confirmation of compliance with the confidentiality obligations of this Agreement.

Neither Party is restricted by the provisions of Article 8.1 from using (including using to provide products or perform services on behalf of third parties) any ideas, concepts, know how and techniques that are related to the Recipient's business activities and which are retained in unaided memories of the Recipient's employees or agents (and not intentionally memorized for the purpose of later recording or use) (collectively, the "Residuals"). This Article shall not permit the disclosure or use by either Party of any financial (including business plans), statistical, product, personnel or customer data of the other Party. Each Party agrees not to disclose the source of the Residuals.

Both Parties agree that monetary damages would not be a sufficient remedy for any breach of this Article by the other Party and that the Project Manager, VTMS & PIS Project and SI, as appropriate, shall be entitled to equitable relief, including injunction and specific performance as a remedy for any such breach. Such remedies shall not be deemed to be the exclusive remedies for a breach by a Party of this Article, but shall be in addition to all other remedies available at law or equity to the damaged Party.

In connection with the Services, SI may from time to time undertake one or more quality assessment reviews for the purpose of improving VTMS & PIS project. In order for such reviews to be frank and candid, for the greatest benefit to both the Project Manager, VTMS & PIS project and SI, they shall be kept confidential to the greatest extent possible. The Parties agree that any documentation created in connection with such quality assessment reviews shall be Confidential Information of SI which is licensed to VTMS & PIS project for any internal use except that in no event shall such documentation or the results of such reviews be discoverable or admissible (or used for any purpose) in any arbitration or legal proceedings against SI related to this Agreement or the Services.

3.8.2. PERSONNEL

Personnel assigned by SI to perform the Services shall be employees of SI, and under no circumstances will such personnel be considered employees of VTMS & PIS project. SI shall have the sole responsibility for supervision and control of its personnel and for payment of such personnel's entire compensation, including salary, withholding of income taxes and social security taxes, worker's



compensation, employee and disability benefits and the like and shall be responsible for all employer obligations under all applicable laws.

SI shall use its best efforts to ensure that sufficient SI personnel are employed to perform the Services and that such personnel have appropriate qualifications to perform the Services. The Project Manager, VTMS & PIS Project shall have the right to require the removal or replacement of any SI personnel performing work under this Agreement. In the event that the Project Manager, VTMS & PIS Project requests that any SI personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule but not later than 15 working days.

SI shall also be responsible to train certain employees of VTMS & PIS project with regard to the Services being provided by SI as and when required by VTMS & PIS project during the Term of this Project. The parameters of the training required for these employees of VTMS & PIS project shall be communicated by the Project Manager, VTMS & PIS Project to SI periodically and shall be in accordance with the latest procedures and processes available in the relevant areas of work.

In the event the Project Manager, VTMS & PIS Project identifies any personnel of SI as "Key Personnel", then SI shall not remove such personnel without the prior written consent of the Project Manager, VTMS & PIS Project under the applicable Service Level Metrics.

Except as stated in this Article, nothing in this Agreement will limit the ability of SI or any SI freely to assign or reassign its employees; provided that SI shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. The Project Manager, VTMS & PIS Project shall have the right to review and approve SI's plan for any such knowledge transfer. SI shall maintain the same standards for skills and professionalism among replacement personnel as in personnel being replaced.

Each Party shall be responsible for the performance of all its obligations under this Agreement and shall be liable for the acts and omissions of its employees and agents in connection therewith.

3.8.3. INDEPENDENT CONTRACTOR

Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture between the Parties to this Agreement, except as expressly stated in this Agreement, nothing in this Agreement 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 (SI) to commit the other Party in any way whatsoever without in each case obtaining the other Party's prior written consent.

3.8.4. SUB-CONTRACTORS

SI shall not subcontract (to other parties not forming part of proposed consortium, if any) any work related to the following works related to the implementation of VTMS & PIS project to be performed under this Agreement without the Project Manager, VTMS & PIS Project's prior written consent.

- a. Design, development and Installation of VTMS & PIS Application Software.
- b. Installation and Management of VTMS & PIS Infrastructures
- c. However, any other sub-contractors may be hired by SI without the Project Manager, VTMS & PIS Project's prior written consent in respect of other works. It is clarified that SI shall be the principal employer for all claims arising from the liabilities statutory or otherwise, concerning the subcontractors.

SI undertakes to indemnify the Project Manager, VTMS & PIS Project or its nominated agencies from any claims on the grounds stated hereinabove.

3.8.5. ASSIGNMENT

All terms and provisions of this Agreement shall be binding on and shall inure to the benefit of the Project Manager, VTMS & PIS Project, SI and any assignment or transfer of this Agreement or any rights hereunder by either Party shall be strictly prohibited.



3.8.6. TRADEMARKS, PUBLICITY

Neither Party may use the trademarks of the other Party without the prior written consent of the other Party. Except as required by law or the rules and regulations of each stock exchange upon which the securities of one of the Parties is listed, neither Party shall publish or permit to be published either along or in conjunction with any other person any press release, information, article, photograph, illustration or any other material of whatever kind relating to this Agreement, 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.

3.8.7. NOTICES

Any notice or other document, which may be given by either Party under this Agreement, shall be given in writing in person or by pre-paid recorded delivery post or by facsimile transmission.

In relation to a notice given under this Agreement, any such notice or other document shall be addressed to the other Party's principal or registered office address as set out below **VTMS & PIS project: KSRTC**

Tel:

Fax:

Contact:

Sl:

Tel:

Fax:

Contact:

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).

Either Party to this Agreement 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.

3.8.8. VARIATIONS AND FURTHER ASSURANCE

No amendment, variation or other change to this Agreement shall be valid unless authorized in accordance with the change control procedure as set out in the Change Control Schedule and made in writing and signed by the duly authorized representatives of the Parties to this Agreement.

Each Party to this Agreement agrees to enter into or execute, without limitation, whatever other agreement, document, consent and waiver and to do all other things which shall or may be reasonably required to complete and deliver the obligations set out in this Agreement.

3.8.9. SEVERABILITY AND WAIVER

If any provision of this Agreement, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the remainder of the provisions in question which shall remain in full force and effect. The relevant Parties shall negotiate in good faith in order to agree to substitute for any illegal, invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the illegal, invalid or unenforceable provision or part provision.

No failure to exercise or enforce and no delay in exercising or enforcing on the part of either Party to this Agreement of any right, remedy or provision of this Agreement shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or



enforcement of any right, remedy or provision preclude any other or further such right, remedy or provision or the exercise or enforcement of any other right, remedy or provision.

3.8.10. COMPLIANCE WITH LAWS AND REGULATIONS

Each Party to this Agreement accepts that its individual conduct shall (to the extent applicable to it) at all times comply with all applicable laws, rules and regulations. For the avoidance of doubt the obligations of the Parties to this Agreement are subject to their respective compliance with all applicable laws and regulations.

3.8.11. ETHICS

SI 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 VTMS & PIS project, or its nominated agencies in connection with this agreement and acknowledges that the giving of any such payment, gifts, entertainment, or other things of value is strictly in violation of VTMS & PIS project 's standard policies and may result in cancellation of this Agreement and the Service Level Metrics.

3.8.12. ENTIRE AGREEMENT

This Agreement and the Service Level Metrics, all schedules appended thereto and the contents and specifications of the Parts I and II of the RFP 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.

3.8.13. SURVIVABILITY

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

3.9 **ARTICLE IX - DISPUTES AND LAW**

3.9.1. DISPUTE RESOLUTION

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

3.9.2. AMENDMENT

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

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

WITNESSES:

Signed by:



(Name and designation)
For and on behalf of
Project Manager, VTMS & PIS project

(FIRST PARTY)

Signed by:

(Name and designation)

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

(SI)

4. SCHEDULE I - CHANGE CONTROL SCHEDULE

This Schedule describes the procedure to be followed in the event of any proposed change to the VTMS & PIS Service Agreement (“VSA”), Project Implementation Phase, and Operation and Management. Such change shall include, but shall not be limited to, changes in the scope of services provided by SI and changes to the terms of payment as stated in the Terms of Payment Schedule. The Project Manager, VTMS & PIS Project and SI recognize that frequent change is an inevitable part of delivering services and that a significant element of this change can be accomplished by re-organizing processes and responsibilities without a material effect on the cost. SI will endeavour, wherever reasonably practicable, to effect change without an increase in the terms of payment as stated in the Terms of Payment Schedule and the Project Manager, VTMS & PIS Project will work with SI to ensure that all changes are discussed and managed in a constructive manner.

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

4.1 CHANGE CONTROL NOTE (“CCN”)

- 4.1.1. Change requests in respect of the VSA, the Project Implementation, or the Operation and Management will emanate from the Parties' respective Project Manager who will be responsible for obtaining approval for the change and who will act as its sponsor throughout the Change Control Process and will complete Part A of the CCN attached as Schedule I hereto. CCNs will be presented to the other Party's Project Manager who will acknowledge receipt by signature of the CCN.
- 4.1.2. SI and the Project Manager, VTMS & PIS Project, while preparing the CCN, shall consider the change in the context of the following parameter, namely whether the change is beyond the scope of Services including ancillary and concomitant services required and as detailed in Part I of the RFP and is suggested and applicable only after the testing, commissioning and certification of the Pilot Phase and the Project Implementation Phase as set out in this Agreement.
- 4.1.3. It is hereby also clarified that the payment for the change of scope as stated will be calculated as per the estimated man-month effort quoted by SI in its bid and stated in a man-month effort to be submitted by SI prior to taking up the change of control event and accepted by the Project Manager, VTMS & PIS project.

4.2 QUOTATION

- 4.2.1. SI shall assess the CCN and complete Part B of the CCN. In completing Part B of the CCN SI shall provide as a minimum:
 - a. a description of the change;
 - b. a list of deliverables required for implementing the change;
 - c. a timetable for implementation;
 - d. an estimate of any proposed change;
 - e. any relevant acceptance criteria;
 - f. an assessment of the value of the proposed change;



g. material evidence to prove that the proposed change is not already covered within the scope of the project, or VSA

- 4.2.2. Prior to submission of the completed CCN to the Project Manager, VTMS & PIS Project, or its nominated agencies, SI will undertake its own internal review of the proposal and obtain all necessary internal approvals. As a part of this internal review process, SI shall consider the materiality of the proposed change in the context of the VSA, the Project Implementation, Operation and Management affected by the change and the total effect that may arise from implementation of the change.
- 4.2.3. Materiality criteria will be established by the Project Manager, VTMS & PIS Project and SI's Project Manager. Changes requiring no escalation of authority can be implemented. Discussion and agreement as to materiality will be held in accordance with the Governance Schedule.

4.3 COSTS

- 4.3.1. Each Party shall be responsible for its own costs incurred in the quotation, preparation of CCNs and in the completion of its obligations described in this process provided SI meets the obligations as set in the CCN. In the event SI is unable to meet the obligations as defined in the CCN then the cost of getting it done by third party will be borne by SI.

4.4 REPORTING

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

4.5 OBLIGATIONS

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

5. SCHEDULE II – Exit Management

5.1 PURPOSE

- 5.1.1. This Schedule sets out the provisions, which will apply on expiry or termination of the VSA, the Project Implementation, Operation and Management.
- 5.1.2. In the case of termination of the Project Implementation and/or Operation and Management due to illegality, the Parties shall agree at that time whether, and if so during what period, the provisions of this Schedule shall apply.
- 5.1.3. The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Schedule.

5.2 TRANSFER of ASSETS

- 5.2.1. the Project Manager, VTMS & PIS Project shall be entitled to serve notice in writing on SI at any time during the exit management period as detailed herein above requiring SI and/or its sub contractors to provide the Project Manager, VTMS & PIS Project with a complete and up to date list of the Assets within 30 days of such notice. The Project Manager, VTMS & PIS Project shall then be entitled to serve notice in writing on SI at any time prior to the date that is 30 days prior to the end of the exit management period requiring SI to sell any of the Assets to be transferred to VTMS & PIS project at market value (as determined as of the date of such notice).
- 5.2.2. Upon service of a notice under Article the following provisions shall apply:
- in the event, the Assets to be transferred are mortgaged to any financial institutions by SI, SI shall ensure that all such liens and liabilities have been fully cleared, prior to such transfer. All documents regarding the discharge of such lien and liabilities shall be furnished to the Project Manager, VTMS & PIS Project.
 - All risk in and title to the Assets to be transferred to be purchased by the Project Manager, VTMS & PIS Project pursuant to Article shall be transferred to VTMS & PIS project, on the last day of the exit management period.



- c. The Project Manager, VTMS & PIS Project shall pay to SI on the last day of the exit management period such sum representing the Net Block (procurement price less depreciation as per provisions of Companies Act) of the Assets to be transferred as stated in the Terms of Payment Schedule.

5.3 COOPERATION AND PROVISION OF INFORMATION

During the exit management period:

- 5.3.1. SI will allow the Project Manager, VTMS & PIS Project access to information reasonably required to define the then current mode of operation associated with the provision of the services to enable the Project Manager, VTMS & PIS Project to assess the existing services being delivered;
- 5.3.2. promptly on reasonable request by the Project Manager, VTMS & PIS Project, SI shall provide access to and copies of all information held or controlled by them which they have prepared or maintained in accordance with the VSA, the Project Implementation, and the Operation and Management relating to any material aspect of the services (whether provided by the SI or sub contractors appointed by SI). The Project Manager, VTMS & PIS Project shall be entitled to copy all such information. Such information shall include details pertaining to the services rendered and other performance data. SI shall permit the Project Manager, VTMS & PIS Project and/or any Replacement SI to have reasonable access to its employees and facilities as reasonably required by the Project Manager, VTMS & PIS Project to understand the methods of delivery of the services employed by SI and to assist appropriate knowledge transfer.

5.4 CONFIDENTIAL INFORMATION, SECURITY AND DATA

- 5.4.1. SI will promptly on the commencement of the exit management period supply to the Project Manager, VTMS & PIS Project the following:
 - a. information relating to the current services rendered and customer satisfaction surveys and performance data relating to the performance of sub contractors in relation to the services;
 - b. documentation relating to VTMS & PIS Project's Intellectual Property Rights;
 - c. VTMS & PIS project data and confidential information;
 - d. documentation relating to sub-contractors;
 - e. all current and updated VTMS & PIS project data as is reasonably required for purposes of VTMS & PIS project or its nominated agencies transitioning the services to its Replacement SI in a readily available format nominated by the Project Manager, VTMS & PIS Project;
 - f. all other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable VTMS & PIS project or its nominated agencies, or its Replacement SI to carry out due diligence in order to transition the provision of the Services to VTMS & PIS project or its nominated agencies, or its Replacement SI (as the case may be).
- 5.4.2. Before the expiry of the exit management period, SI shall deliver to the Project Manager, VTMS & PIS Project all new or up-dated materials from the categories set out in Article ... above and shall not retain any copies thereof, except that SI shall be permitted to retain one copy of such materials for archival purposes only.
- 5.4.3. Before the expiry of the exit management period, unless otherwise provided under the VSA, the Project Manager, VTMS & PIS Project shall deliver to SI all forms of SI confidential information, which is in the possession or control of VTMS & PIS project or its users.

5.5 EMPLOYEES

- 5.5.1. Promptly on reasonable request at any time during the exit management period, SI shall, subject to applicable laws, restraints and regulations (including in particular those relating to privacy) provide to the Project Manager, VTMS & PIS Project a list of all employees (with job titles) of the SI dedicated to providing the services at the commencement of the exit



management period;

- 5.5.2. Where any national, regional law or regulation relating to the mandatory or automatic transfer of the contracts of employment from SI to the Project Manager, VTMS & PIS Project or its nominees, or a Replacement SI ("Transfer Regulation") applies to any or all of the employees of the SI, then the Parties shall comply with their respective obligations under such Transfer Regulations.
- 5.5.3. To the extent that any Transfer Regulation does not apply to any employee of SI, VTMS & PIS project, or its Replacement SI may make an offer of employment or contract for services to such employees of SI and SI shall not enforce or impose any contractual provision that would prevent any such employee from being hired by the Project Manager, VTMS & PIS Project or any Replacement SI.

5.6 TRANSFER OF CERTAIN AGREEMENTS

- 5.6.1. On request by the Project Manager, VTMS & PIS Project, SI shall effect such assignments, transfers, licenses and sub-licenses as the Project Manager, VTMS & PIS Project may require in favour of the Project Manager, VTMS & PIS Project, or its Replacement SI in relation to any equipment lease, maintenance or service provision agreement between SI and third party lessors, vendors, and which are related to the services and reasonably necessary for the carrying out of replacement services by the Project Manager, VTMS & PIS Project or its Replacement SI.

5.7 RIGHTS OF ACCESS TO PREMISES

- 5.7.1. At any time during the exit management period, where Assets are located at SI's premises, SI 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 Project Manager, VTMS & PIS Project, and/or any Replacement SI in order to make an inventory of the Assets.
- 5.7.2. SI shall also give the Project Manager, VTMS & PIS Project or its nominated agencies, or any Replacement SI right of reasonable access to SI's premises and shall procure the Project Manager, VTMS & PIS Project or its nominated agencies and any Replacement SI 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 VSA as is reasonably necessary to migrate the services to the Project Manager, VTMS & PIS Project or its nominated agencies, or a Replacement SI.

5.8 GENERAL OBLIGATIONS OF SI

- 5.8.1. SI shall provide all such information as may reasonably be necessary to effect as seamless a handover as practicable in the circumstances to the Project Manager, VTMS & PIS Project or its nominated agencies or its Replacement SI and which SI has in its possession or control at any time during the exit management period.
- 5.8.2. For the purposes of this Schedule, anything in the possession or control of any SI, associated entity, or sub contractor is deemed to be in the possession or control of SI.
- 5.8.3. SI shall commit adequate resources to comply with its obligations under this Exit Management Schedule.

5.9 EXIT MANAGEMENT PLAN

- 5.9.1. SI shall provide the Project Manager, VTMS & PIS Project with a recommended exit management plan ("Exit Management Plan") which shall deal with at least the following aspects of exit management in relation to the VSA as a whole and in relation to the Project Implementation, and the Operation and Management.
- a. A detailed program of the transfer process that could be used in conjunction with a Replacement SI including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;



- b. plans for the communication with such of SI's sub contractors, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on VTMS & PIS Project's operations as a result of undertaking the transfer;
 - c. (if applicable) proposed arrangements for the segregation of SI's networks from the networks employed by VTMS & PIS project and identification of specific security tasks necessary at termination;
 - d. plans for provision of contingent support to VTMS & PIS project, and Replacement SI for a reasonable period after transfer.
- 5.9.2. SI shall re-draft the Exit Management Plan annually thereafter to ensure that it is kept relevant and up to date.
- 5.9.3. Each Exit Management Plan shall be presented by SI to and approved by the Project Manager, VTMS & PIS Project or its nominated agencies.
- 5.9.4. The terms of payment as stated in the Terms of Payment Schedule include the costs of the SI complying with its obligations under this Schedule.
- 5.9.5. In the event of termination or expiry of VSA, Project Implementation, or Operation and Management, each Party shall comply with the Exit Management Plan.
- 5.9.6. During the exit management period, SI shall use its best efforts to deliver the services.
- 5.9.7. Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.
- 5.9.8. This Exit Management plan shall be furnished in writing to the Project Manager, VTMS & PIS Project or its nominated agencies within 90 days from the Effective Date of this Agreement.

6. SCHEDULE III – Audit, Access & Reporting

6.1 PURPOSE

This Schedule details the audit, access and reporting rights and obligations of the Project Manager, VTMS & PIS Project and SI under the VSA, Project Implementation, Operation and Management.

6.2 AUDIT NOTICE AND TIMING

- 6.2.1. As soon as reasonably practicable after the Effective Date, the Parties shall use their best endeavours to agree to a timetable for routine audits during the Project Implementation Phase and the Operation and Management Phase. Such timetable During the Implementation Phase, the Project Manager, VTMS & PIS Project and thereafter during the Operation Management Phase, the Project Manager, VTMS & PIS Project shall conduct routine audits in accordance with such agreed timetable and shall not be required to give SI any further notice of carrying out such audits.
- 6.2.2. The Project Manager, VTMS & PIS Project may conduct non-timetabled audits at his/ her own discretion if he/ she reasonably believes that such non-timetabled audits are necessary as a result of an act of fraud by a SI, a security violation, or breach of confidentiality obligations by SI, provided that the requirement for such an audit is notified in writing to SI a reasonable period time prior to the audit (taking into account the circumstances giving rise to the reasonable belief) stating in a reasonable level of detail the reasons for the requirement and the alleged facts on which the requirement is based. If SI considers that the non-time-tabled audit was not appropriate, the matter shall be referred to the escalation procedure as set out in the Governance Schedule.
- 6.2.3. The frequency of audits shall be 6 monthly, provided always that the Project Manager, VTMS & PIS Project shall endeavour to conduct such audits with the lowest levels of inconvenience and disturbance practicable being caused to SI.

6.3 ACCESS

- 6.3.1. SI shall provide to the Project Manager, VTMS & PIS Project reasonable access to employees, subcontractors, suppliers, agents, third party facilities, including leased premises as detailed in Parts I of the RFP, 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 Project Manager, VTMS & PIS Project shall have the right to copy and retain copies of any relevant records. SI shall make every reasonable effort to co-operate with them.

6.4 AUDIT RIGHTS

- 6.4.1. The Project Manager, VTMS & PIS Project shall have the right to audit and inspect suppliers, agents, third party facilities, including leased premises used for VTMS & PIS Service Centres (as detailed in Part I of the RFP), data centres, documents, records, procedures and systems relating to the provision of the services, but only to the extent that they relate to the provision of the services, as shall be reasonably necessary to verify:
- a. The security, integrity and availability of all VTMS & PIS project data processed, held or conveyed by SI on behalf of VTMS & PIS project and documentation related thereto;
 - b. That the actual level of performance of the services is the same as specified in the Service Level Metrics;
 - c. That SI has complied with the relevant technical standards, and has adequate internal controls in place; and
 - d. The compliance of SI with any other obligation under the VSA.
- 6.4.2. For the avoidance of doubt the audit rights under this Schedule shall not include access to SI's profit margins or overheads associated with any obligation under the VSA.

6.5 AUDIT RIGHTS OF SUB-CONTRACTORS, SUPPLIERS AND AGENTS

- 6.5.1. SI shall use reasonable endeavours to achieve the same audit and access provisions as defined in this Schedule with sub-contractors, suppliers and agents who supply labour, services, equipment or materials in respect of the services. SI shall inform the Project Manager, VTMS & PIS Project prior to concluding any sub-contract or supply agreement of any failure to achieve the same rights of audit or access.
- 6.5.2. **REPORTING:** SI will provide quarterly reports to the Project Manager, VTMS & PIS Project regarding any specific aspects of the Project and in context of the audit and access information as required by the Project Manager, VTMS & PIS Project.

6.6 ACTION AND REVIEW

- 6.6.1. Any change or amendment to the systems and procedures of SI, or sub-contractors, where applicable arising from the audit report shall be agreed within thirty (30) calendar days from the submission of the said report.
- 6.6.2. Any discrepancies identified by any audit pursuant to this Schedule shall be immediately notified to the Project Manager, VTMS & PIS Project or the appropriate VTMS & PIS project Manager and SI Project Manager who shall determine what action should be taken in respect of such discrepancies in accordance with the terms of the VSA.

6.7 TERMS OF PAYMENT

- 6.7.1. The Project Manager, VTMS & PIS Project and SI and its sub-contractors, if any, shall bear their own costs of any audits and inspections. The terms of payment are inclusive of any costs of SI and the sub-contractor, for all reasonable assistance and information provided under the VSA, the Project Implementation, Operation and Management by SI pursuant to this Schedule.

6.8 RECORDS AND INFORMATION

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



7. SCHEDULE IV – Governance Schedule

7.1 PURPOSE

7.1.1. The purpose of this Schedule is to (i) establish and maintain the formal and informal processes for managing the relationship between the Project Manager, VTMS & PIS project and SI (including the outputs from other Schedules to this Agreement; (ii) define the principles that both Parties wish to follow to ensure the delivery of the Services; (iii) ensure the continued alignment of the interests of the Parties; (SI) ensure that the relationship is maintained at the correct level within each Party; (v) create the flexibility to revise and maintain the relationship and this Agreement during the Term; (vi) set out the procedure for escalating disagreements; and (vii) enable contract administration and performance management.

7.2 GOVERNANCE STRUCTURE

- 7.2.1. **Project Managers:** The relationship under this Agreement will be managed by the Project Managers appointed by each Party, who will provide the interface between the executive management of the respective Parties.
- 7.2.2. **Project Management Committee:** Within one month following the Effective Date, the
- 7.2.3. Project Manager, VTMS & PIS Project or its nominated agencies and SI shall each appoint a Project
- 7.2.4. Manager and one representative from the VTMS & PIS Project's nominated agencies (hereinafter the Project Manager.). In the case of VTMS & PIS project, the Project Manager will be an individual who is appointed by VTMS & PIS project. In the case of SI, the Project Manager will be an individual who is an organizational peer of VTMS & PIS project Manager. In the event that either Party wishes to substitute its Project Manager it will do so in manner in which the original appointment is made and notify the other Party of such substitution as soon as reasonably practicable but at the latest within fourteen days of the substitution.
- 7.2.5. The Project Managers shall have responsibility for maintaining the interface and communication between the Parties.
- 7.2.6. KSRTC will appoint a Project Management Committee within 2 weeks of the Effective Date.
- 7.2.7. The Management Committee will meet formally on a quarterly basis at a time and location to be agreed between them. These meetings will cover, as a minimum, the following agenda items: (i) consideration of Quarterly Performance Reports; (ii) consideration of matters arising out of the Change Control Schedule; (iii) issues escalated in accordance with the escalation procedure as set out in the Governance Schedule; (SI) matters to be brought before the Management Committee in accordance with the VSA and the Schedules; (v) any matter brought before the Management Committee by SI under this Article; and (vi) any other issue which either Party wishes to add to the agenda.
- 7.2.8. In the event that there is any material factor which affects the delivery of the Services or the terms of payment as stated in the Terms of Payment Schedule, the Parties agree to discuss in the Management Committee any appropriate amendment to the Agreement or any Service Level Agreements or Statement of Works including any variation to the terms of payment as stated in the Terms of Payment Schedule. Any variation so agreed shall be implemented through the change control procedure as set out in the Change Control Schedule.

7.3 GOVERNANCE PROCEDURES

- 7.3.1. SI shall document the agreed structures in a procedures manual.
- 7.3.2. The agenda for each meeting of the Management Committee shall be set to reflect the discussion items referred to above and extraordinary items may be added either with the agreement of the Parties or at the request of either Party. Copies of the agenda for meetings of the Management Committee, along with relevant pre-reading material, shall be distributed at least one week in advance of the relevant meeting.
- 7.3.3. All meetings and proceedings will be documented; such documents to be distributed to both Parties and copies shall be kept as a record. All actions, responsibilities and accountabilities



arising out of any meeting shall be tracked and managed.

- 7.3.4. The Parties shall ensure as far as reasonably practicable that the Management Committee shall resolve the issues and resolve the objectives placed before them and that members representing that Party are empowered to make relevant decisions or have easy access to empowered individuals for decisions to be made to achieve this.

7.4 LIAISON BETWEEN THE SUB CONTRACTORS

- 7.4.1. SI shall participate in the meetings with other sub-contractors, approved by the Project Manager, VTMS & PIS Project and coordinate the receipt and delivery of the Services in a regular program of liaison between the Project Manager or any other representative of VTMS & PIS project and each of the sub-contractors.
- 7.4.2. **Arbitration:** The Parties shall first submit any dispute or disagreement between the Parties arising out of or relating to and/or in connection with this Agreement or any Service Level Agreement or Statement of Work which is not a Material Breach as stated in Article V of this Agreement (a "Disputed Matter") to the Secretary, e-Governance. In case the Disputed Matter remains unresolved, the same shall be then submitted to Management Committee.
- 7.4.3. Agreement or Statement of Work which is not a Material Breach as stated in Article V of this Agreement (a "Disputed Matter") to the Secretary, e-Governance. In case the Disputed Matter remains unresolved, the same shall be then submitted to Management Committee.
- a. In order formally to submit a Disputed Matter to the aforesaid forum, one Party ("Claimant") shall give a written notice ("Dispute Notice") to the other Party. The Dispute Notice shall be accompanied by (a) a statement by the Claimant describing the Disputed Matter in reasonable detail and (b) documentation, if any, supporting the Claimant's position on the Disputed Matter.
- b. The other Party ("Respondent") shall have the right to respond to the Dispute Notice within 7 days after receipt of the Dispute Notice. In the event that the forum is unable to resolve the Disputed Matter within a further period of 7 days, it shall refer the Disputed Matter to next level of the dispute resolution for action.
- c. All negotiations, statements and/or documentation pursuant to these Articles shall be without prejudice and confidential (unless mutually agreed otherwise).
- d. If the Disputed Matter is having a material effect on the operation of the Services (or any of them or part of them) the Parties will use all their respective reasonable endeavors to reduce the elapsed time in reaching a resolution of the Disputed Matter.

8. SCHEDULE V – Invoicing & Payment Schedule

8.1 Invoice submission

- 8.1.1. In respect of its remuneration for the Services SI shall be eligible to receive in accordance with the Terms of Payments Schedule. Subject to the specific terms, SI shall submit its invoices in accordance with the following principles:
- a. The Project Manager, VTMS & PIS Project shall be invoiced by SI for the Services. Generally and unless otherwise agreed in writing between the Parties or expressly set out in the Service Level Agreement, SI shall raise an invoice as per the terms of payment as stated in the Terms of Payment Schedule.
- b. Any invoice presented in accordance with this Article shall be in a form agreed with the Project Manager, VTMS & PIS Project.
- c. SI shall invoice all payments upon successful completion of services as outlined in Schedule VII and as per the Terms of Payment Schedule. Invoices shall be accurate and all adjustments to or changes in the terms of payment as stated in the Terms of Payment Schedule shall be applied to the next payment to SI.
- d. Payment for invoices shall be made within 14 working days of the receipt of Invoice by the Project Manager, VTMS & PIS project upon completion of the said activities as mentioned in Schedule VII, upon obtaining the signoff from Project Manager VTMS & PIS for the required deliverables and is subject to adjustments based on SI's performance.
- e. The Project Manager, VTMS & PIS Project shall be entitled to delay or withhold payment of any invoice or part of it delivered by SI under this Schedule where the Project Manager,



VTMS & PIS Project disputes such invoice or part of it provided that such dispute is bona fide. The withheld amount shall be limited to that which is in dispute. The disputed amount shall be settled in accordance with the escalation procedure as set out in the Governance Schedule. Any exercise by the Project Manager, VTMS & PIS Project under this Article shall not entitle SI to delay or withhold provision of the Services.

- f. The Project Manager, VTMS & PIS Project shall be entitled to delay or withhold payment of any invoice or part of it delivered by SI under this Schedule where VTMS & PIS project disputes any previous invoice or part of it that it had not previously disputed under Article 4 provided that such dispute is bona fide. The withheld amount shall be limited to that which is in dispute. The disputed amount shall be referred to the escalation procedure as set out in the Governance Schedule. Any exercise by the Project Manager, VTMS & PIS Project under this Article shall not entitle SI to delay or withhold provision of the Services.
- g. SI shall pay all their sub-contractors in a timely manner in accordance with a mechanism, which will not prejudice the objective of VTMS & PIS project and the delivery of Services to customers of KSRTC.

9. SCHEDULE VI – Terms of Payment Schedule

9.1 TERMS OF PAYMENT SCHEDULE

- 9.1.1. 90% of the invoice amount would be paid to SI within 30 working days of the receipt of the invoice, by the Project Manager, VTMS & PIS, provided the Project Manager VTMS & PIS does not dispute the invoice in terms of performance. The balance 10% of the invoice amount would be subjected to certification of achievement of the particular milestone and or the evaluation of performance against the Service Level Metrics. The net amount payable will be arrived at after deducting the penalties for lower performance.
- 9.1.2. In the event of premature termination of the agreement prior to the launch of VTMS & PIS Project, SI shall not be eligible to receive any compensation or payment.

9.2 Payment Schedule:

- 9.2.1. Section 2 of Annexure C - schedule A provides for capital expenditure in terms of hardware, software including licenses, networks, training of KSRTC nominate personnel and associated costs expended during the construction period of the project. Section 2 of Annexure C Schedule B provides for operation and maintenance expenses to be incurred for a period of 36 months from the Date of Commercial Operation. Any delay in achieving the Date of Commercial Operation shall be assigned to the successful Bidder for reasons other than Force Majeure and non-performance of KSRTC as specified in the Contract.
- 9.2.2. Amounts relating to Annexure C - Schedule A services will be payable as per the following terms:
 - a. 100% of the contract value will be linked to the deliverables during the construction phase of VTMS & PIS Project and performance of the successful Bidder during 30 days commercial operation against the Service Level Agreement.
 - b. The 100% of the Annexure C - Schedule A contract value will be paid in installments as specified in the payment schedule described herein.

9.3 Schedule A Payment

Payment Milestone	% of Annexure C - Schedule A contract value
On supply of Hardware and Delivery of all System Requirement Specifications	50
On Pilot Project completion Sign off from KSRTC	10
Upon deployment of the systems, completion of training and issue of Acceptance Certificate from KSRTC	20
30 days from the Date of Commercial Operation and operational acceptance	20



9.4 Schedule B payment for the balance

9.4.1. Amounts relating to Annexure C - schedule B services will be payable as per the following terms:

- a. 100% of the contract price relating to Schedule B services will be paid in 12 equated quarterly installments (EQI) during the Operation and Maintenance period, linked to the performance against the Service Level Metrics.

10. SCHEDULE VII – Project implementation Schedule

10.1 Project completion

- 10.1.1. The planned implementation schedule for the complete procurement, installation, and commissioning is detailed in Part 1 with a sample project plan document attached. The SI may however, submit a detailed project plan for implementation for review, consideration and acceptance by the PIC. Once approved, the schedule needs to be adhered to which otherwise could invoke liquidated damages. Expected date to start the implementation is 10-10-2011; the project should go live on 25-03-2012 in **5½ months**.

