PROVISION OF

FACILITIES MANAGEMENT

AT

MANAGEMENT DEVELPOMENT CENTRE (MDC),IIMC JOKA

MASTER SERVICES

AGREEMENT

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**MASTER SERVICES AGREEMENT**

This SERVICE LEVEL AGREEMENT (“**Agreement**”) is entered into as of the Effective Date by and between, INDIAN INSTITUTE OF MANAGEMENT CALCUTTA, (IIMC), a national Institute for Post-Graduate studies and Research in Management, under the Government of India. with its registered office at Diamond Harbour Road, Joka, Kolkata – 700104, West Bengal, India, **AND** the SERVICE PROVIDER, M/s. ……………………………..(which expression unless repugnant to the context or the meaning thereof shall be deemed to include its successors and assigns) which is a Company, registered under the provisions of the Companies Act 1956 as amended/ Partnership registered under the Indian Partnership Act, 1932/Proprietorship and consists of this signature page and the attached Terms and Conditions, Schedules, Annexures and all other documents attached hereto, which are incorporated in full by this reference. This Agreement forms a framework, under which statement of works can be agreed from time to time for IIMC’s requirement for Facilities Management in the Management Development Centre and any other related sundry activities that may be required from time to time.  Once the Service Provider has agreed to offer his service and signed a statement of work for specific services it will have a binding contract in respect of those services.

**AGENCY NAME** (“**SERVICE PROVIDER**”)  **THE INDIAN INSTITUTE OF MANAGEMENT, CALCUTTA**

By: By:

Name: Name:

Title: Title:

(Authorized Signatory) (Authorized Signatory)

Date: Date:

Address for Notices (SERVICE PROVIDER): Address for Notices (IIMC):

**ATTN: ATTN:**

Telephone: Telephone:

Facsimile: Facsimile:

E-mail: Email:

WHEREAS IIM Calcutta (IIM C) is in the field of Management Education and other allied and connected services is desirous of appointing an external agency as an independent contractor to perform services more particularly described hereinafter in Statement of Works as in Exhibit A.

Whereas the Service Provider, M/S………. more particularly described herein above is in the business of providing FACILITY MANAGEMENT SERVICES (HOUSEKEEPING, FOOD & BEVERAGES, UPKEEP & MAINTENANCE AND RECEPTION MANAGEMENT to various customers and has offered to provide IIM (IIM C) the services described hereinafter in Exhibit A. Whereas the Service Provider has represented to IIM C that it has the necessary expertise, infrastructure, resources and relevant experience in performing and providing the services to the complete satisfaction of IIM C and is currently engaged in the provision of the said services to a large number of persons corporates and institutions.

3) Whereas IIM C, on the request of the Service Provider and the representations made by the Service Provider after the survey of the campus and due diligence conducted by him has agreed to avail of the Service on the terms and conditions appearing hereinafter in the Exhibits which are a part of this agreement.

NOW THEREFORE, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. SERVICE: The Service Provider agrees and undertakes to provide the Services ("Service") to IIM C as detailed in the Scope of Service ("Exhibit A") attached herewith which Exhibit A forms part and parcel of this Agreement. IIM C will be free to amend the Scope of Service stated in Exhibit A as and when it deems fit and the Service Provider shall henceforth be liable to provide the Service as per such amended Scope of Service. The terms and conditions covering various clauses and exhibits hereto shall form an integral part hereof to this agreement.

**TERMS AND CONDITIONS**

**1. DEFINITIONS**

 As used in this Agreement, the following terms have the meanings indicated below:

**1.1 "Accounting Year"** means the financial year commencing from 1st April of any calendar year and ending on 31st March of the next calendar year.

1.2 "**Agreement**" means this agreement including Schedules 'A' through ‘D’ hereto, and any amendments thereto made in accordance with the provisions of this Agreement duly executed.

1.3 "**Applicable Laws"** means all laws, promulgated or brought into force and effect by the State Government or the Government of India or any statutory or regulatory body affiliated directly or indirectly to these governments including regulations and rules made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

1.4 "**Applicable Permits**" means all clearances, permits, authorisations, consents and approvals under or pursuant to Applicable Laws, required to be obtained and maintained by the SERVICE PROVIDER Agency, in order to implement the FACILITIES MANAGEMENT and to provide FACILITIES MANAGEMENT Services in accordance with this Agreement to IIMC.

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

1.6 **“Business Day”** means operations in relation to scope of work.

1.7 **“Change in Law”** means the occurrence of any of the following after the date of this Agreement:

a. the enactment of any new Indian law;

b. the repeal, modification or re-enactment of any existing Indian law;

c. the commencement of any Indian law which has not entered into effect until the date of this Agreement;

d. a change in the interpretation or application of any Indian law by a court of record as compared to such interpretation or application by a court of record prior to the date of this Agreement; or

e. any change in the rates of any of the Taxes.

1.8 **"Cure Period"** means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default.

1.9 **“Deliverable”** means the work output and results that the SERVICE PROVIDER is retained to deliver, develop, and/or provide for as further described and identified in a SOW. In addition, Deliverable includes all output resulting from performance of the Services and including, but not limited to, all assigned Intellectual Property Rights and Work Product and all Documentation.

1.10 **“Documentation”** means all information, documents, materials, instructions, user guides, manuals, files, notebooks, registers, logs, data, and other descriptive Deliverable information or materials, whether in electronic, paper or other equivalent form, including any updates, excerpts and summaries thereof.

1.11 **"Emergency"** means a condition or situation that is likely to endanger the security of the individuals on or about the FACILITIES MANAGEMENT Services including users thereof or which poses an immediate threat of material damage to any of the FACILITIES MANAGEMENT Services/ Site.

1.12 **"Encumbrance"** means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances and encroachments on the FACILTIES MANAGEMENT Site.

1.13 **"Force Majeure Event**" shall have meaning ascribed thereto in Exhibit E.

1.14 **"Good Industry Practice"** means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced FACILITIES MANAGEMENT agency engaged in the same type of undertaking as envisaged under this Agreement and acting generally in accordance with the provisions of the guidelines issued from time to time by Ministry of Tourism, Government of India.

1.15 **“IIMC**” means The Indian Institute of Management Calcutta, Joka (hereinafter referred to as IIMC).

1.16 **“IIMC AUTHORIZED PERSON “,** means an officer or executive of IIMC, duly assigned by IIMC to act as their Authorized Person in terms of this Agreement.

1.17 “**IIMC Materials**” means the materials and / or documentation provided by IIMC to the Service Provider in executing the work/ provide service under this presents.

1.18 **“Laws”** means all applicable international, supranational, national, state, local, or other industry or governmental authority laws, regulations, ordinances, orders, statutes standards, rules, and other requirements that may govern and/or apply to SERVICE PROVIDER’s performance of Services.

1.19 “**Materials**” means all materials (including documentation, reports, and software) provided by the Service Provider to the Client as part of the provision of the Services, excluding such materials which are marked or otherwise identified as owned or licensed by any third party.

1.20 “**Material Adverse Effect"** means material adverse effect on (a) the ability of the FACILTIES MANAGEMENT Agency to observe and perform any of its rights and obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

1.21**“Material Breach”** means a breach by either Party of any of its obligations under this Agreement which has/ likely to have a Material Adverse Effect on the FACILTIES MANAGEMENT Services and which such Party shall have failed to cure within the Cure Period.

1.22 **“Order”** - Statement of Work, purchase order, work order or other written instrument executed, or electronic transmissions originated by, an authorized officer of IIMC Management directing SERVICE PROVIDER in the provision of Services substantially conforming to a form provided to SERVICE PROVIDER by IIMC. Unless otherwise provided in writing, the business terms in each Order relating to description of Services, pricing, and performance standards shall apply only to such Order.

1.23 **“Party”** - IIMC or SERVICE PROVIDER.

1.24 **“Pre-Existing Materials”** means any materials, processes, techniques, and know-how, including Intellectual Property Rights, (i) made, created, and/or reduced to practice prior to the Effective Date of this Agreement or (ii) made, created, and/or reduced to practice solely by either party from activities which are independent from or outside the performance or framework of this Agreement without the use of the other Party’s Confidential Information.

1.25 **“SERVICE PROVIDER” means** the successful bidder who has agreed to provide FACILTIES MANAGEMENT Services in adherence to the terms and conditions of this Agreement.

**1.26“Services”** means, Facility Management Services pertaining to Housekeeping, Food and Beverages, Upkeep and Maintenance and reception Management collectively, any & all services that SERVICE PROVIDER, may perform for IIMC pursuant to this Agreement. Services are as generally described in EXHIBIT A (SOW) to this Agreement and as more specifically described in each Order, including without limitation all professional, management, labour and general services, together with any materials, supplies, products, tangible items or other goods SERVICE PROVIDER furnishes in connection with such services.

**1.27** “**Statement of Work**” means a contract for Services that is made in accordance with Clause 2.

**1.28“Standard Operating Procedure” or “SOP”** means a written statement of the mode of delivery of Services under this Agreement, signed by both Parties and attached as Exhibit B.

**1.29“Term”** means the period from the Effective Date of this Agreement until this Agreement is terminated pursuant to the Termination Clause under this Agreement.

**1.30“Work Product”** has the same meaning as defined under the Heading

**“**Ownership” of this presents.

**1.31 INTERPRETATION**

In this Agreement, unless the context otherwise requires:

(a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;

(b) references to Indian law shall include the laws, acts, ordinances, rules, regulations, guidelines or byelaws which have the force of law in any State or Union Territory forming part of the Union of India;

(c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organization’s or other entities (whether or not having a separate legal entity);

(d) the headings are for convenience of reference only and shall not be used in, and shall not affect, the/construction or interpretation of this Agreement;

(e) terms and words beginning with capital letters and defined in this Agreement including the Exhibits;

(f) the words "include" and "including" are to be construed without limitation;

(g) references to "construction" include, unless the context otherwise requires investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;

**2. SERVICES**

2.1 **SERVICES**

SERVICE PROVIDER shall perform the Services described in EXHIBIT A (SCOPE OF WORK) and/or each applicable Order in accordance with this Agreement and the specifications and timeframes set forth therein, and in accordance with the performance measurements as provided in EXHIBIT A (SOW). This Agreement along with any Statement(s) & Exhibits shall collectively form a part of this ‘Agreement’.

2.2 **STANDARDS**

SERVICE PROVIDER shall provide the Services to IIMC in accordance with highest professional and ethical standards of practice in the industry and in accordance with Laws and any service levels set forth in any SOW. SERVICE PROVIDER shall diligently devote the time, skill and efforts necessary to timely provide the Services and Deliverables to IIMC’s satisfaction.

2.3 **SPECIFIC RESPONSIBILITIES OF THE SERVICE PROVIDER**

 (A) DEPLOYMENT OF PERSONNEL

1. During the term of this agreement, the Service Provider shall provide agreed Services from time to time by deputing trained, experienced and honest work force to cater to the requirements of IIM C in accordance with terms of this agreement.

2. The Service Provider shall depute its personnel for rendering the Service by issuing appropriate letters of assignment.

3. The Service Provider at his discretion will decide the modus operandi as to deputing the number of workers required by him after intimating to IIM C, for rendering proper and efficient services and to confirm to the prescribed standard of the Service as set out in this Agreement. IIM C will not have any concern with workers engaged by the Service Provider nor will any of its officials supervise, dictate to the workers the manner of execution or completion of the job. However, IIM C reserves the right to decide the standards and efficiency of services from time to time and the same shall be binding upon the Service Provider

4. The Service Provider shall also depute trained supervisor/s to supervise, control and guide the personnel deployed by the Service Provider for providing the Service. IIM C will have privity of contract with the Service Provider only and will give instructions to the Service Provider alone and will have nothing to do or be concerned with the conditions of employment of the workers working for the Service Provider.

5. IIM C shall have right to ask the Service Provider to replace an employee/workman of the Service Provider and provide alternate employee/workman at no extra cost to IIM C. Service Provider will retain control and supervision of its personnel and the manner it will handle the discharge, dismissal or retrenchment or re-employment of the workers engaged or employed by Service Provider. The Service Provider shall ensure that employees’ deputed are within the age of superannuation as per applicable rules and no extension of whatsoever nature shall be provided.

6. The Service Provider shall ensure that the said Service is provided uninterrupted for such periods as may be required by IIM C from time to time. The Service Provider shall reduce or increase, according to the requirements of IIM C, the workforce deputed as and when exigencies of the work require.

7. Service provider shall be responsible for the scope of work as defined and agreed to be performed by them. Any failure in providing required services as specifically mentioned in the Exhibit "A" or in other Exhibits to this agreement will constitute violation of this contract and IIM C shall be entitled to make such deductions/impose penalties as stipulated under this Agreement.

 All payments shall be subject to submission of proper and correct invoice and also deduction of Tax at Source as per prevailing laws. If the Service rendered by the Service Provider is not up to the desired standards then IIM C shall be entitled to make such deductions/impose such penalties as stipulated under this Agreement.

8. Service Provider shall alone determine the service conditions of the persons deputed by the Service Provider and it shall be solely responsible and liable for hiring, contracting, transferring to other establishments, replacing the persons arising out of transfers/separations, and directly terminating their services and for payment of salaries, wages and other legal dues of the employees who are deputed by the Service Provider for the purpose of rendering the service under this Agreement. The Service Provider shall maintain proper books of accounts, records and documents.

9. Service Provider shall depute sufficient supervisory personnel to supervise the work of the Service Provider's workforce as to ensure the Service rendered under this Agreement is carried out to the satisfaction of IIM C.

10. Service Provider shall ensure that no employees of the Service Provider will enter or remain on IIM C premises unless necessary for fulfilling the Service Provider's obligation.

5.4. Service Provider shall forthwith remove from the premises any servant or other person or persons deputed by the Service Provider or any other outsider / person connected with it if they do not comply with the terms and conditions as set out in this Agreement.

11. Service Provider shall on monthly basis produce the documents for verification to the Human Resource Department of IIM C or of any agency appointed by IIM C to ensure the statutory compliances are fulfilled and are up to date.

To mention some requirements, some of these would be

•PF and ESI numbers of every employee deputed

•Wages Register •Muster Roll

•Certified true copies of Challan for monthly contributions to PF & ESI authorities

•Periodic Returns such as Form 6 for E.S.I, Form 3A and 6A in respect of PF etc.

•The Details of Payments to the employees made by Cheques.

•Bonus paid by Service Provider

Apart from these mentioned, whatsoever documents deemed necessary, appropriate and required under the various legislations of the country

12. With the monthly bill service provider will submit the ESIC challan, PF challan, Form 12 A along with form 5 & form 10. Service provider will also give declaration in letter head that he has paid the PF and ESIC for his employee. The format for the same will be provided by IIM C to the Service Provider and Service Provider will adhere to the same. If the challan of ESIC, PF and its returns which are to be submitted as per the stipulated date and time given by appropriate authorities, are not submitted within the said period, then Service Provider shall indemnify and keep indemnifying IIM C for non-adherence of stipulated time lines and deposit all the fines, penalties, interest payments, damages etc. that are levied.

IIM C reserves right to withhold, adjust the payments to the Service Provider to an appropriate amount to cover liability arising out of detected and continued noncompliance of any statutory obligations.

13. The Human Resources Department of IIM C will communicate to the Service Provider, the date and time for making the above documents available for audit.

14. Service Provider shall ensure that all personnel deployed/deputed in performance of the Service abide by the environment, health and safety guidelines of IIM C as contained in the exhibits attached herewith in whose premises the Service are performed under this Agreement. IIM C shall not be responsible for death, injury or accidents to the Service Provider's deputed employees which may arise out of or in the course of their duties on or about IIM C's property and premises and/or in the event that IIM C is made liable to pay any damages or compensation in respect of such employees, the Service Provider hereby agrees to indemnify/pay to IIM C such damages or compensation upon demand.

15. Service Provider shall not use the name of IIM C and/or its affiliates in any manner either for credit assignments or otherwise. It is agreed that IIM C shall not in any way be responsible for the debts, liabilities or obligations of the Service Provider and/or its deputed employees.

16. Service Provider shall liable for and make good any damage caused to IIM C's property or premises or any part thereof, to any fixtures or fittings thereof or therein by any act, omission, default or negligence of the Service Provider or its deputed employees or associates.

17. Service Provider shall indemnify and keep indemnified IIM C, its Directors, Officers and employees from and against all claims, demands, actions, suits and proceedings, whatsoever that may be brought or made against IIM C by or on behalf any persons, body, authority, whomsoever and whatsoever and all duties, penalties, levies, taxes, losses, damages, costs, charges and expenses and all other liabilities of whatsoever nature which IIM C may now or hereafter be liable to pay, incurs or sustain by virtue of or as a result of the performance or non-performance or observance or non-observance by the Service Provider of any of the terms and conditions of this Agreement.

18. Service Provider shall give Leave / Holidays to its deputed personnel as per the provision of labour laws applicable in the Centre/State, after consulting with IIM Cs representatives.

19. Service Provider is prohibited from deputing child labour or workers and shall ensure that all workers deputed to perform Service under this Agreement are above any applicable minimum Age requirements and shall provide necessary proof of Age of personnel deputed. Smoking / Drinking/Usage of drugs/narcotics or similar intoxicating substances / Spitting inside the plant are strictly prohibited inside the premises where the Service is to be provided by the Service Provider. Further, the Service Provider shall ensure that personnel deputed to providing for the service adhere to this condition in toto and any deviation to these conditions shall entail strict disciplinary action including termination of services, and proceedings under the different laws of the land.

20. Service Provider shall ensure that the work assigned is performed diligently, promptly and with utmost thoroughness as directed by the Company or its Representatives. It is expressly agreed that the deputed employees by the Contractor shall not perform the same kind of work as the employees or class of workmen directly employed by Company are performing.

21. The Service Provider undertakes to ensure that the personnel deputed by it are, at all times, medically fit to carry out the work/job entrusted to them. It shall also be the responsibility of the Service Provider to carry out medical examination of the deputed personnel at least once in a year thru certified medical officer to ensure that the personnel deputed are free from any chronic or contagious diseases and the medical records thereof are submitted to the Company. In case, the medical examination is carried out by the Company, the necessary cost shall be debited to Service Provider.

**STATUTORY COMPLIANCE**

22. The Service Provider shall be required to comply with all the applicable statutory rules and regulations. The Service Provider shall furnish to IIM C copies of appropriate registrations and compliance of all relevant laws, rules and regulations and shall maintain such registrations, compliance in good order during the term hereof. IIM C shall have the rights to inspect all records maintain by the Service Provider in this regard. In addition, the Service Provider shall at all times, during the term of this Agreement and thereafter, indemnify and keep indemnified IIM C from all costs, expenses, damages and losses arising out of any and all claims made or actions taken or directions , orders issued by any statutory/government authorities whether in regard this Agreement or otherwise.

23.The Service Provider will be solely responsible for the terms and conditions of service of their employees and shall comply with all laws and statutory notifications, rules, regulations etc., governing their employees as may be in force from time to time, such as the Contract Labour (Regulations and Abolition) Act, 1970, Employee State Insurance Act, 1948, the Employees Provident Fund and Miscellaneous Provisions Act, 1952, Minimum Wages Act, 1948, Workmen’s Compensation Act,1923 and similar such labour acts and also extend to them all other statutory benefits, whatsoever, to which they are entitled and IIM C will not be responsible or liable for such payments. The Service Provider will ascertain and display all notices and extracts under all applicable statutes. In the event of failure to comply with any of the statutory obligations by the Service Provider as aforesaid and if the IIM C is held responsible for the same, the Service Provider undertakes to make good the loss to IIM C. The employees of the Service Provider or any of Service Provider’s representative will have no claims, whatsoever, to employment with the IIM C either during the tenure of this Agreement or after its termination and the Service Provider will depute its employees on this express understanding. There will be no privity of contract between the IIM C and any employee of the Service Provider. The Service Provider agrees to indemnify the IIM C against all claims from their deputed employees and pay all expenses which the IIM C may incur defending any proceedings pursuant to such claims and also shall keep the IIM C indemnified at all times thereafter for any acts, matters or things done or omitted or neglected to be done by the Service Provider or any contraventions of any provisions of any Acts, Rules, Regulations, Notifications issued by the Central or State Governments or local authorities and thereby the Service Provider absolves IIM C from all liabilities arising out of or in connection with the aforesaid contravention or acts, matters or things done omitted or neglected to be done by the Service Provider or on its behalf.

24.Service Provider shall carry and maintain Workman's Compensation and Insurance covering liabilities under common law that shall be applicable to and cover all Service Provider's deputed employees engaged in accomplishing the scope of Service of this Agreement. In addition, Service Provider shall also be required to carry insurance required by Law.

25. The Service Provider will also display all notices and extracts under the applicable statutes.

1. It is specifically made clear that this Agreement is executed on
the relationship of Principal to Principal basis. It is expressly agreed
and understood between the parties hereto that if for any reason the
deputed employees of the Service Provider or any of the Service Provider's representative are/is required to be treated as the IIM C's employees pursuant to any statutes, rules and regulations enacted in that behalf, or pursuant to
any award or decision of the court or otherwise, this Agreement will
automatically stand terminated forthwith without any notice. Further, in case of any claims/compensation/costs are to be incurred by IIM C in this regard, the Service Provider shall be fully accountable.
2. The Service Provider will remain/and shall be liable to comply with all requirements and actions required under any local laws and/or control orders and/or State/ Central Government Rules, applicable under any and all laws and statutes pertaining to all aspects of the operations of the Service Provider, including but not restricted to storage, maintenance and safe-keeping, handling (including safe handling) of Products , stocks , records or any items as may be applicable, and including sale of the Company’s Products, and will take all necessary steps for obtaining the required registrations, licenses, and undertake the renewal of these thereof, maintain proper registers and also submit all necessary returns to the authorities in this regard. In the event of any contravention of the provisions of the Acts, Rules, Regulations, Notifications issued by the Central or State Governments or local authorities as a result of failure of the Service Provider to comply with the requirements, or any acts thereto the Service Provider will remain fully liable and will also keep the IIM C indemnified against any risk and/or costs arising thereof.
3. The Service Provider confirms and declares that it will obtain all requisite licenses, permits, permissions, approvals as required and applicable from any authorities whatsoever which are necessary under any law such as Shops and Establishment, Central & State Sales Tax Acts & Rules etc. For the purposes aforesaid, the Service Provider further agrees and undertakes that all such licenses, permits, permissions, approvals shall be kept in force throughout the term of this Agreement and that it shall obtain such further other licenses, permits, permissions, approvals as may be required from time to time. It is expressly agreed and understood by the parties hereto that the Service Provider shall be exclusively liable and responsible for obtaining, complying with and renewing such licenses and submitting such returns or reports as required. The IIM C will bear the costs required to be borne by it under the rules, and sign such applications as are required to be signed by it under the rules for this purpose, and the Service Provider shall obtain such licenses and permissions as are required.
4. The Service Provider shall indemnify and keep indemnified the IIM C during the term of this Agreement and for all times thereafter for any acts, matters or things done or omitted or neglected to be done by the Service Provider or done or omitted or neglected to be done on its behalf or any contraventions of any provisions of any Acts, Rules, Regulations, Notifications issued by the Central or State Governments or local authorities in respect of any of the Products or services either in connection with the storing or delivery of the Products or for any reason whatsoever and the Service Provider absolves the IIM C from all liabilities arising out of or in connection with the aforesaid contravention or acts, matters or things done or omitted or neglected to be done by the Service Provider or on its behalf.
5. Service Provider hereby undertakes that it shall not, without IIM C's prior written consent, use, display or quote, for commercial purposes or otherwise IIM C's Logo and / or Trade mark, copyright or any other intellectual property right during the continuance of this Agreement or after termination.
6. In case employees of the Service Provider indulge in work stoppage in any form amounting to an illegal and unjustified strike, the Service Provider agrees that it shall make good the losses/indemnify losses, and ensure that the employees indulging in such work stoppage are replaced by other employees to discharge the due performance of the agreed contract.

The parties hereto agree and confirm that the above clauses need to be read in context with any other clauses that may form a part of this agreement/ exhibits and hence not severable from each other.

2.4 **DOCUMENTATION**

To the extent available, all documentation will be provided in printed and electronic formats. IIMC may use and reproduce for internal purposes all documentation furnished by SERVICE PROVIDER, including displaying the documentation on IIMC’s internet or other internal electronic distribution system, in part or in whole, as long as the agreement is on.

2.5 **LIASONING**

Each Party shall designate an employee Relationship Manager(s) to act on its behalf with regard to matters arising under this Agreement and shall notify the other Party in writing of the name of its Relationship Manager; however, the Relationship Manager shall have no authority to alter or amend any term, condition, or provision of this Agreement. Either Party may change its Relationship Manager(s) by providing the other Party prior written notice. The Relationship Manager must be identified in writing delivered to the other Party at least one (1) week prior to the commencement of any work under this Agreement. The Relationship Manager(s) shall meet via conference call with such frequency as IIMC’s Relationship Manager(s) shall reasonably request. IIMC may require meetings in person at a site designated by IIMC.

2.6 **TERM**

This Agreement shall be in effect for 2 years, subject to an annual review & upon satisfaction of IIMC.

This Agreement shall be in effect from the Effective Date through the Expiration Date indicated on the signature page unless terminated earlier or extended under the terms of this Agreement. IIMC shall have the right to extend this Agreement for an additional 12 (Twelve) month(s) by giving SERVICE PROVIDER written notice of its intent at least ninety (90) calendar days prior to the end of the Initial Term or any Renewal Term. If IIMC does not notify SERVICE PROVIDER of its intent to renew the Agreement, shall stand terminated on expiry of the last day of the period agreed.

2.7 **REPORTS & RECORDS**

The SERVICE PROVIDER shall, from time to time, maintain at each job site (in addition to any records or registers required to be maintained by the SERVICE PROVIDER under any law, rule or regulation having the force of law) such records and registers as the IIMC Authorized Person may require the SERVICE PROVIDER to keep and / or maintain from time to time. The SERVICE PROVIDER shall daily or otherwise as may be prescribed by the IIMC Authorized Person, submit to the IIMC Authorized Person, a Progress Report of all work done and / or progress achieved by the SERVICE PROVIDER at the job site.

2.8 **AUDIT**

During the Term and for two (2) years after the expiration or termination of the Agreement, IIMC may audit SERVICE PROVIDER's records relating to SERVICE PROVIDER's performance under this Agreement. IIMC and its auditors (including internal audit staff and external auditors) and governmental authorities shall have the right to review such records, to verify the following:

a. the accuracy and integrity of SERVICE PROVIDER’s invoices and IIMC’s payment obligations hereunder;

b. that the Services and Deliverables have been and are being provided by SERVICE PROVIDER in accordance with this Agreement; and

c. that SERVICE PROVIDER is complying with Laws.

2.9 **OWNERSHIP**

All property provided by IIMC, (if any) to SERVICE PROVIDER in connection with this Agreement, including without limitation all materials, equipment, samples, third party licenses, software, hardware, servers, and confidential information, (collectively, “IIMC Property”) shall remain the exclusive property of IIMC. SERVICE PROVIDER shall not remove IIMC Property from IIMC’s premises without IIMC’s prior written permission. If authorized to remove any IIMC Property, SERVICE PROVIDER shall keep and maintain IIMC Property in SERVICE PROVIDER’s custody and subject to SERVICE PROVIDER’s control. SERVICE PROVIDER shall use IIMC Property only for the performance of the Services and promptly return or surrender to IIMC, or deactivate all access to, all IIMC Property upon termination of this Agreement or the applicable SOW or upon request by IIMC, whichever is earlier.

**3.0 FEES.**

(i) The following fees apply to the Services to be performed under this SOW:

|  |
| --- |
| The Service Provider shall be paid a fixed job contract fee. The SERVICE PROVIDER's fee shall be inclusive of following components:1. all statutory dues under Minimum wages, PF, ESI, Bonus, Labour Welfare Fund, and such other applicable statutory laws in force in currency,
2. all type of material required to do effective job performance as laid down in the Standard Operating Procedure
3. All type of consumables required to do effective job performance as laid down in the Standard Operating Procedure
4. All type of equipment, structures, scaffolding, etc required to do effective job performance as laid down in the Standard Operating Procedure
5. All other resources such as Personal Protective Equipment, tools, tackles, etc required to do effective job performance as laid down in the Standard Operating Procedure
6. Taxes as applicable
7. Services Charges
8. Cost of travel, transport of resources, equipment etc to Owner’s locations including local transportation of equipment/spares/consumables ( if any).
9. Cost of lodging, boarding and insurance of Service Provider’s employees/ resources as required.
10. Supervision and other administration overheads
11. Any other expenses necessary for the satisfactory performance of the work

(ii) It is explicitly agreed that the SERVICE PROVIDER has factored in all expected movements and trends in statutory payments while quoting the professional job contract fee. The SERVICE PROVIDER’S job contract fee shall be fixed during the tenure of contract and shall not be revised for any reason whatsoever during the period of contract. (iii) It is agreed by and between the parties that all rates (on job work basis, as well as food & beverages charges at MDC) are inclusive of manpower and material/consumables components. (iv) It is explicitly agreed that the SERVICE PROVIDER has factored in all expected movements and trends in statutory payments while quoting the professional job contract fee.  |

IIMC will pay SERVICE PROVIDER the fees as set forth in the SOW (Exhibit A) upon production of accurate monthly bills supported by attendance reports and all relevant legal compliance documentation. IIMC shall not be required to pay for Services that are: (a) not requested by IIMC and documented in an Order, or (b) not meeting the requirements of this Agreement. Fees for additional Services not listed in the SOW (Exhibit A) or an applicable Order shall be as mutually agreed in writing between IIMC and SERVICE PROVIDER prior to performance. No fees for additional Services shall be due unless such Services and fees are agreed to in writing by IIMC prior to SERVICE PROVIDER’s performance thereof. IIMC will reimburse SERVICE PROVIDER for expenses incurred by SERVICE PROVIDER only if (a) the expenses are pre-approved in writing by IIMC, (b) the expenses are reasonable and invoiced at actual costs, and (c) SERVICE PROVIDER provides an accurate written record of such expenses with the invoice. IIMC will not reimburse expenses submitted for reimbursement more than forty-five (45) days after such expenses are incurred.

**3.1Timing of Invoices & Payment**

SERVICE PROVIDER shall submit invoices to IIMC in accordance with the schedule set forth in the SOW. IIMC will pay SERVICE PROVIDER’s invoices within forty-five (45) days after receipt of a valid invoice. IIMC’s payment of SERVICE PROVIDER’s invoices does not constitute and shall not be construed as IIMC’s acceptance of the Services or Deliverables. All invoice payments are made without prejudice to IIMC’s rights under this Agreement, which rights are expressly reserved.

**4. BUSINESS ARRANGEMENT**

4.1 **NON-EXCLUSIVE NATURE OF AGREEMENT**

SERVICE PROVIDER agrees that it shall not be considered IIMC’s exclusive provider of any goods or Services provided hereunder. IIMC retains the unconditional right to utilize other SERVICE PROVIDERs in the provision of similar services.

4.2 **Independent Business Relationship**

The SERVICE PROVIDER agrees that they are an independent SERVICE PROVIDER. Nothing in this Agreement or in the activities contemplated by the Parties hereunder shall be deemed to create an agency, partnership, employment or joint venture relationship between the Parties or Representatives.

4.3 **No Right to IIMC Benefits**

Neither SERVICE PROVIDER nor SERVICE PROVIDER’s employees, Agents, or their employees and Agents shall have and claim the status of an employee of IIMC and shall not have or claim any benefits accruing to or policies covering the employees of IIMC and or claim any legal right of absorption/appointment in service of IIMC.

4.4 **TAXES**

4.4.1 To enable IIMC to avail GST Input tax credit, SERVICE PROVIDER shall submit GST compliant Tax invoice containing all the particulars as stipulated under Invoice Rules of GST Law. Such invoice shall be submitted within prescribed time limit in the name of IIMC and must contain the address and GSTIN of IIMC.

4.4.2 In case GST credit is delayed/denied to IIMC or subsequently recovered from IIMC due to non/delay in filing of GSTR-1 Return or delay in/non-payment of tax to Govt, by SERVICE PROVIDER or for any other reasons not attributable to IIMC, in such case any financial implication on IIMC on account of delay/loss/recovery from IIMC of such GST Credit along with interest levied/leviable on IIMC till the time GST credit is available to IIMC, shall be recovered from the SERVICE PROVIDER’s running bill/ security deposit and/or adjusted against GST amount not paid as indicated under (2.61.2) above.

4.4.3 Irrespective of refund of GST Credit and interest thereon to IIMC by GST portal upon subsequent declaration of such invoice by SERVICE PROVIDER in his GSTR-1 for any period after due date of such return and/or payment of GST thereon by SERVICE PROVIDER on GST portal, the notional interest for delayed period of GST credit (i.e. delay for the period when GST credit is actually allowed and the period when GST credit should have been allowed had SERVICE PROVIDER declared such invoice in his GSTR-1 and paid tax thereon in the relevant month as per GST law) shall be recovered from SERVICE PROVIDER.

4.4.4 GSTIN of IIMC will be provided to the SERVICE PROVIDER along with the work order.

4.4.5 Any statutory changes as and when made applicable by the Government shall become applicable against documentary evidence.

4.4.6 Payment to the SERVICE PROVIDER will be subjected to TDS as per rules in force from time to time. The Tax Deduction at Source (TDS) shall be done as per the provisions of Income Tax Act & GST, as amended from time to time and a certificate to this effect shall be provided to the SERVICE PROVIDER by IIMC.

4.4.7 Applicable GST shall also be recoverable from the SERVICE PROVIDER in case of LD recovery/penalty on account of breach of terms of contract.

4.5 **INSURANCE**. SERVICE PROVIDER hereby ensures to maintain insurance requirements at all times during the term of the Agreement as specifically set forth Exhibit C.

**4.6SERVICE PROVIDER’S EMPLOYEES & AGENTS** - SERVICE PROVIDER shall comply with the existing laws of the country and adhere to the Safety Code as exhibited under Exhibit B failing which IIMC shall have the right to reject or remove any employee or Agent from providing the Services or to refuse any such employee or Agent access to IIMC premises.

 (a) SERVICE PROVIDER shall conduct, to the extent permitted under applicable law, a background check as envisaged under Exhibit A

 (b) SERVICE PROVIDER warrants and shall ensure that any employee or Agent who performs any Services or deputation has executed a form of confidentiality/non-disclosure and invention assignment agreement, and which allow SERVICE PROVIDER to grant the assignments in Section 6.

**4.7 REPLACEMENT OF SERVICE PROVIDER PERSONNEL**

a. SERVICE PROVIDER shall notify IIMC immediately in writing if SERVICE PROVIDER suspects that any SERVICE PROVIDER personnel may no longer be available to perform Services hereunder.

b. Removal & Replacement of SERVICE PROVIDER, consultant(s) or employee(s) shall be made as per Exhibit A.

**5. CONFIDENTIAL INFORMATION**

5.1 SERVICE PROVIDER hereby agrees that it will not, and will cause its Representatives, consultants, Affiliates and independent SERVICE PROVIDERs not to disclose Confidential Information of the other Party, including Associate Information & Administrative Information, during or after the Term of this Agreement.

**6. OWNERSHIP**

6.1 IIMC will own exclusively all Work Product and SERVICE PROVIDER hereby assigns to IIMC all right, title and interest (including all Intellectual Property Rights) in the Work Product. Work Product, to the extent permitted by law, shall be deemed “works made for hire” (as that term is defined under applicable law).

**7. REPRESENTATIONS & WARRANTIES -**

**7.1MUTUAL REPRESENTATIONS & WARRANTIES** –

Each Party represents and warrants the following:

(a) the Party’s execution, delivery and performance of this Agreement:

(i) have been authorized by all necessary corporate action,

(ii) do not violate the terms of any law, regulation, or court order to which such Party is subject or the terms of any material agreement to which the Party or any of its assets may be subject and

(iii) are not subject to the consent or approval of any third party;

(b) this Agreement is the valid and binding obligation of the representing Party, enforceable against such Party in accordance with its terms; and

(c) such Party is not subject to any pending or threatened litigation or governmental action which could interfere with such Party's performance of its obligations hereunder.

**7.2 REPRESENTATIONS AND WARRANTIES OF SERVICE PROVIDER**

7.2.1 In rendering its obligations under this Agreement, without limiting other applicable performance warranties, SERVICE PROVIDER represents and warrants to IIMC as follows:

(a) SERVICE PROVIDER is in good standing in the State of its incorporation and is qualified to do business in which it is providing Services hereunder;

(b) SERVICE PROVIDER shall procure and use all materials and equipment as described in Exhibit A (SOW), and

(c) SERVICE PROVIDER shall secure or has secured all permits, licenses, regulatory approvals and registrations, statutorily mandated under the law of the land and an indispensable requirement to render Services set forth herein, including without limitation, registration with the appropriate taxing authorities for remittance of taxes.

(d) SERVICE PROVIDER shall adhere to the Safety Code of IIMC and do all such acts as is required under the said rules, as enumerated in Exhibit B (SOP) of this Agreement,

(e) SERVICE PROVIDER shall adhere to the Safety, Health and Environment Policy of IIMC, as elaborated in the Exhibit D of this Agreement.

**7.2.2 LEGAL COMPLIANCE & COMPLIANCE WITH IIMC RULES**

SERVICE PROVIDER represents, warrants, certifies, and covenants that its performance under this Agreement, including the Services provided hereunder shall comply with the existing statutory laws of the country and the internal rules and regulations of IIMC

The SERVICE PROVIDER shall be independently registered with EPFO, ESIC, Labour and other statutory authorities and shall be directly liable to ensure compliance with Minimum Wages, Provident Fund, ESI and other laws in currency as part of their all-encompassing Statutory obligations under the contract.

**8. INDEMNITY**

8.1 SERVICE PROVIDER shall indemnify IIMC for, defend, and hold harmless IIMC and its Representatives, successors and permitted assigns from and against any and all claims or legal actions of whatever kind or nature that are made or threatened by any third party and all related losses, expenses, damages, costs and liabilities, including reasonable attorneys’ fees and expenses incurred in investigation, defence or settlement (“Damages”), which arise out of, are alleged to arise out of, or relate to the any of the following points: (a) any negligent act or omission or wilful misconduct by SERVICE PROVIDER, its Representatives engaged by SERVICE PROVIDER in the performance of SERVICE PROVIDER’s obligations under this Agreement; or (b) any breach in a representation, covenant or obligation of SERVICE PROVIDER contained in this Agreement.

8.2 SERVICE PROVIDER shall defend or settle at its expense any threat, claim, suit or proceeding arising from or alleging infringement, misappropriation or other violation of any Intellectual Property Rights or any other rights of any third party by Work Product or Services furnished under this Agreement. SERVICE PROVIDER shall indemnify and hold IIMC, its Affiliates and each of their Officers/Representatives harmless from and against and pay any Damages, including royalties and license fees attributable to such threat, claim, suit or proceeding.

8.3 If any Work Product or Services furnished under this Agreement, becomes, or in IIMC’s or SERVICE PROVIDER's reasonable opinion is likely to become, the subject of any claim, suit, or proceeding arising from or alleging facts that if true would constitute infringement, misappropriation or other violation of, or in the event of any adjudication that such Work Product or Service infringes, misappropriates or otherwise violates, any Intellectual Property Rights or any other rights of a third party, SERVICE PROVIDER, at its own expense, shall take the following actions in the listed order of preference: (a) secure for IIMC the right to continue using the Work Product or Service; or if commercially reasonable efforts are unavailing, (b) replace or modify the Work Product or Service to make it non-infringing; provided, however, that such modification or replacement shall not degrade the operation or performance of the Work Product or Service.

8.4 The indemnity in the preceding provision shall not extend to any claim of infringement resulting solely from IIMC's unauthorized modification or use of the Work Product or Service.

8.5 IIMC shall give SERVICE PROVIDER notice of, and the Parties shall cooperate in, the defence of any such claim, suit or proceeding, including appeals, negotiations and any settlement or compromise thereof, provided that IIMC must approve the terms of any settlement or compromise that may impose any un-indemnified or non-monetary liability on IIMC.

9. **METRICS FOR COMMUNICATION**

|  |
| --- |
| 9.1 SERVICE PROVIDER shall reply to requests/communications and correspondences from IIMC not later than 2 days from the date receiving such requests/communications. |
| * 1. SERVICE PROVIDER shall submit compliance report to IIMC not later than 5 days from the last day of completion of the audit
 |
| * 1. SERVICE PROVIDER will share the Labor law related Government Orders / Ordinances / Notices/ Act, if any, in case of any amendment or change in the applicable compliances within 15 working days post release by the government authority.
 |
| * 1. Any statutory certificates/registrations/ renewals: Originals to be provided to IIMC within 7 days of receipt from concerned government authority.
 |
| * 1. In the event of inaccuracy in the reports, revised report to be provided within 2 days of intimation by IIMC
 |

**10. TERMINATION**

10.1 The contract may be terminated by serving ONE month’s notice, in case the SERVICE PROVIDER only in the below cases:

• assigns or sub contracts any of the service

• violation/ contravention of any of the terms and condition mentioned herein.

• performance of services is not found satisfactory and does not improve the performance of the services in spite of instruction

• any violation of instruction / agreement or suppression of fact

• SERVICE PROVIDER being declared insolvent by competent court of law.

10.2 If SERVICE PROVIDER intends to exit this contract, a three months’ notice, in advance should be produced by the SERVICE PROVIDER in all other cases.

10.3 On termination of the contract, it shall be the responsibility of the service provider to remove his persons immediately. IIMC shall not indemnify any loss caused by the SERVICE PROVIDER by such termination, whatsoever it may be. During the notice period of the termination of the contract in the situation contemplated above, the SERVICE PROVIDER shall keep on discharging his duties till the expiry of the notice period.

10.4 In the event of premature closure of the contract for the aforesaid reason, the security deposit money shall be absolutely forfeited by IIMC.

10.5 At the end of contract period / termination of the contract, the agency shall hand over the charge to the new SERVICE PROVIDER (appointed by IIMC) without any hindrance. In case of non-compliance, the security deposit shall be forfeited.

**11. Performance Evaluation Scorecard**

11.1 The performance of the service provider shall be tracked under the User Feedback and IIMC Evaluation illustrated in Exhibit C (SLA).

**12. PENALTIES**

**12.1 PENALTY CLAUSES:**

The penalties imposed for violation of service agreement clauses shall be notified by IIMC as per the terms indicated. The SERVICE PROVIDER shall be given 5 business working days to respond to the levying of penalties and submit representations if any. The representations shall be suitably considered by IIMC and decision taken shall be final and binding. The penalties imposed shall be deductible from payments due to service provider and/or from the Security Deposit. In the event the payments due to the SERVICE PROVIDER and the security deposit available with IIMC falls short of the total penalty recoverable from the SERVICE PROVIDER whether on account of the quantum of loss caused by the workmen of the SERVICE PROVIDER or otherwise, the SERVICE PROVIDER shall, on first written demand by IIMC pay to IIMC without demur or dispute the said sum as per IIMC’s demand notwithstanding the pendency of any investigation/inquiry/legal proceedings whatsoever before any Court/ Tribunal/Authority etc. The amount of loss determined by IIMC shall be final and binding on the SERVICE PROVIDER.

|  |  |
| --- | --- |
| Sl. No. | Incident |
| A. | In the event of cancellation of any of the licenses or statutory permissions required for carrying out the service |
| B. | In case, the personnel deployed by the SERVICE PROVIDER is found to have indulged in any criminal activity in IIMC premises. |
| C. | In case of any misrepresentation while claiming payments |
| D. | Non-compliance of any statutory obligations (as stated in this tender document) by the SERVICE PROVIDER during the execution of Contract, may result into termination of Contract. In addition to the above, the SERVICE PROVIDER shall also be liable for the penalties provided under the respective statute. |
| E. | In case of repeated violation of any of the terms of the agreement despite giving warnings on different occasions. |

**12.2 Incidents resulting in termination of Contract:** Following incidents will be considered as reason for both; major penalties and may also attract termination of contract as the case may be.

**12.3** The grounds mentioned hereinabove are not exhaustive but merely illustrative. IIMC reserves its rights to terminate the Contract at any time in the event the SERVICE PROVIDER has contravened any provision of the Contract or any other legal requirement or due to repeated/habitual non-adherence to the qualitative, quantitative and time requirements stipulated in the Contract after giving a notice of 30 days. If the SERVICE PROVIDER is found not to have remedied the deficiencies noticed in the written notice issued by IIMC within the period of 30 days as aforesaid, the Contract may be terminated by IIMC by giving a written communication to the SERVICE PROVIDER.

12.4 In the event of the termination of the Contract for any reason whatsoever, IIMC’s liability shall only extend to making payment to the SERVICE PROVIDER of the Contract Price accruing (prorated, if necessary) up to the date of termination for actual services rendered by the SERVICE PROVIDER after making all deductions that IIMC is entitled to make pursuant to provisions of this Contract. IIMC shall not have any liability to pay to the SERVICE PROVIDER any compensation or reimburse any costs incurred by the SERVICE PROVIDER and the SERVICE PROVIDER hereby waives any claim for compensation for losses/damages and/or reimbursement of costs.

**13. DATA SECURITY AND PRIVACY**

13.1 SERVICE PROVIDER acknowledges the importance of Data Security and agrees to adhere to the Terms and Conditions of the Data Security Policy of IIMC.

13.2 IIMC shall provide the SERVICE PROVIDER with a copy of the IIMC Data Security Policy, within a reasonable time upon signing of the Agreement.

13.3 SERVICE PROVIDER agrees that in case of breach of any of the terms of the Data Security Policy of IIMC by any its employees, the SERVICE PROVIDER shall be held liable and penalised by IIMC.

13.4 The IIMC Authorised Person shall have the sole and final powers in determining what constitutes a Breach of the Data Security policy of IIMC.

13.5 Contractor further ensures to comply with the terms and conditions and all such requirements of the Security Policies, as may be changed from time-to-time.

**14. SPECIAL TERMS AND CONDITIONS**

14.1 All materials procured by SERVICE PROVIDER will be of standard quality as mentioned in the scope of services and that will be verified by IIMC Authorized Person.

14.2 The workforce deployed by the SERVICE PROVIDER shall be hail and healthy and should not be suffering from any communicable diseases. The SERVICE PROVIDER shall get his employees medically examine on regular intervals.

14.3 Continuation of the contract shall be based on the performance of the SERVICE PROVIDER & meeting the parameters as envisaged under Exhibit F.

14.4 The contractor shall give vacant possession of the premises and return all furniture, fixtures, equipment, linen and blankets and make good all the inventory items etc. in good condition after the contractual period is over or if the contract is terminated mid-course. Handing over the vacant possession of the premises and equipment etc., shall be effected within 04 days of the completion of the period of the contract or termination of the contract whichever is earlier. If the contractor fails to do so, the Owner will be free to take possession of the premises by opening lock(s), if necessary, and made an inventory of all the furniture material and equipment and will be free to deduct from the contractor's pending bills(s), security deposit, any amount which falls short of the replacement cost of the material/equipment, furniture, linen, blanket etc. given to the contactor by the Owner.

**15. MSME ACT**

SERVICE PROVIDER hereby agrees to take the full responsibility of notifying IIMC if SERVICE PROVIDER is qualified or gets qualified during the Term of this Agreement as a micro, small or medium enterprise as defined under the Micro, Small and Medium Enterprises Development Act, 2006 (“MSME Act”). To comply with the above requirement, SERVICE PROVIDER is required to notify IIMC in writing within fifteen (15) days of applying or getting covered under the ambit of the MSME Act as mentioned above.

15.1 SERVICE PROVIDER further acknowledges that in the event it fails to comply with the aforementioned requirement, IIMC shall assume that the SERVICE PROVIDER does not fall under the ambit of the MSME Act to the extent provided above.

**16. GENERAL PROVISIONS**

16.1 No Conflicting Obligations

SERVICE PROVIDER certifies that it has no pre-existing agreements or obligations that conflict with any of the provisions of this Agreement, or that would preclude SERVICE PROVIDER from complying with the provisions hereof, and further certifies that SERVICE PROVIDER will not enter into any such conflicting agreement during the Term.

16.2 Publicity

No press release, advertising, sales literature, other publicity or statements relating to the other Party’s name and/or logo, or the existence or substance of this Agreement or the relationship between the Parties, shall be made by either Party without the review and prior written approval of the other Party, except for disclosures required by applicable law or regulation.

16.3 Severability. If any provision of this Agreement is deemed unenforceable, illegal or invalid, then such provision will be severed from this Agreement and the Parties shall substitute a valid provision with the same intent and economic effect. The remaining provisions will remain in full force and effect.

16.4 Amendment

This Agreement or any Statement(s) of Work hereunder may be amended only in a writing signed by the authorized representatives of both Parties which writing expressly identifies the provision being amended.

16.5 Counterpart Signatures

This Agreement, and all Statement(s) of Work, may be executed in multiple counterparts, all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart signature page of this Agreement by facsimile, email, or other electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

**17 NON-ASSIGNMENT**

Neither party may assign this Agreement or any of the rights hereunder or delegate any of its obligations hereunder, and any such attempted assignment shall be void.

**18. Notices**

Any notice required or permitted by this Agreement shall be provided in writing to the Parties at their respective notice address set forth below and shall be deemed effective (i) upon receipt if personally delivered; (ii) three (3) Business Days after it was sent, if by certified

mail, sender’s national mail system, postage prepaid, registered, or return receipt requested; (iii) upon acknowledgment of receipt if by facsimile; or (iv) the day they are delivered on paper by a nationally recognized express delivery service.

**19 Governing Law**

This Agreement shall be governed by the laws of India. Each Party hereby submits to the exclusive jurisdiction of the courts of Kolkata. This provision shall not be construed to be in conflict with the provisions of the Section entitled “Mediation/Arbitration.”

**19.1 DISPUTE RESOLUTION & ARBITRATION**

Both Parties will attempt to settle any claim or controversy arising out of this Agreement through good-faith negotiation. If a dispute occurs, the parties will submit the dispute in writing to a senior executive from each party. If the dispute is not resolved within thirty (30) days, then the same will be resolved through arbitration by a single arbitrator appointed by mutual consent of the Parties. The arbitration proceeding will be as per the Arbitration and Conciliation Act, 1996. The proceedings will be conducted in Kolkata. Subject to arbitration, this agreement will be subject to the exclusive jurisdiction of courts at Kolkata.

**20. No Waiver**

No act or failure to act of any Party under this Agreement or SOW shall constitute a waiver of any such Party’s rights hereunder. Any waiver of any right under this Agreement must be given in an express writing to the other Party and shall not be deemed a continuing waiver or a waiver of any other right under this Agreement or under any SOW.

**20.1 Third Party Beneficiaries**

Except to the extent expressly set forth to the contrary in this Agreement, there are no third party beneficiaries of this Agreement, and this Agreement shall not provide any third person or entity with any remedy, claim, liability, reimbursement, claim of action or other legal or equitable right in excess of those existing without reference to this Agreement.

**21Entire Agreement**

This Agreement, along with the following **Exhibits**

**EXHIBIT A - STATEMENT OF WORK (SOW)**

* **ANNEXURES TO SoW**

**EXHIBIT B - STANDARD OPERATING PROCEDURE (SOP): SAFETY CODE**

* **ANNEXURE TO SOP**

**EXHIBIT C - SERVICE LEVEL AGREEMENT**

**EXHIBIT D – INSURANCE
EXHIBIT E - ENVIRONMENT & HEALTH POLICY**

**EXHIBIT F - FORCE MAJEURE**

constitute the entire understanding and agreements between the Parties and supersede and replace all prior or contemporaneous agreements with respect to the subject matter hereof. Neither Party is relying on any promise or representation that is not expressly written in this Agreement or its addenda and exhibits.

**AGENCY NAME** (“**SERVICE PROVIDER**”)  **THE INDIAN INSTITUTE OF MANAGEMENT, CALCUTTA**

By: By:

Name: Name:

Title: Title:

(Authorized Signatory) (Authorized Signatory)

Date: Date:

Address for Notices (SERVICE PROVIDER): Address for Notices (IIMC):

**ATTN: ATTN:**

Telephone: Telephone:

Facsimile: Facsimile:

E-mail: Email: