

DRAFT SERVICE LEVEL AGREEMENT

with

System Integrator for implementation of
Skill Development Platform of Kerala

for

Kerala State IT Infrastructure Limited-(KSITIL),
Company of Government of Kerala,
Thiruvananthapuram

Acronyms

1.	A&M	Approach & Methodology
2.	ATS	Annual Technical Support
3.	BCA	Bachelor of Computer Applications
4.	CCN	Change Control Notes
5.	CV	Curriculum Vitae
6.	DR	Disaster Recovery
7.	DSC	Digital Signature Certificate
8.	EMD	Earnest Money Deposit
9.	GoK	Government of Kerala
10.	ICT	Information and Communication Technology
11.	INR	Indian National Rupee
12.	IT	Information Technology
13.	LCBS	Least Cost Based Selection process
14.	LoA	Letter of Award
15.	LoI	Letter of Intent
16.	MCA	Master of Computer Applications
17.	MSA	Master Services Agreement
18.	O&M	Operations and Maintenance
19.	OEM	Original Equipment Manufacturer
20.	PBG	Performance Bank Guarantee
21.	PoA	Power of Attorney
22.	PoC	Proof of Concept
23.	RFP	Request for Proposal
24.	SDC	State Data Center
25.	SDPK	Skill Development Platform Kerala
26.	SI	System Integrator
27.	SLA	Service Level Agreement applicable against RFP scope
28.	SOW	Scope of Work
29.	T&M	Time and Material
30.	UAT	User Acceptance Test

Contents

1. Definitions	6
2. Interpretations	7
3. Measurements and Arithmetic Conventions.....	9
4. Ambiguities within Agreement.....	9
5. Priority of agreements	9
6. STRUCTURE.....	9
7. OBJECTIVES OF THIS SLA.....	9
8. SCOPE OF SLA	10
9. AGREEMENT OWNERS.....	10
10. CONTACT LIST.....	10
11. PRINCIPAL CONTACTS.....	11
11.1 COMMENCEMENT AND DURATION OF THIS AGREEMENT	11
11.2 EXCLUSIONS TO THE AGREEMENT.....	11
11.3 TERMS OF PAYMENT AND PENALTIES	11
11.4 UPDATING OF THIS AGREEMENT	11
11.5 DOCUMENT HISTORY	12
12. SCOPE OF SERVICES	12
13. PERFORMANCE REVIEW	12
14. REPRESENTATIONS AND WARRANTIES OF BUYER	13
15. REPRESENTATIONS AND WARRANTIES OF THE SYSTEM INTEGRATOR	13
16. INDEMNITIES	14
17. DISPUTE RESOLUTION	15
18. MISCELLANEOUS.....	15
19. Service Levels	18
19.1 Delivery and Supply, Installation Service levels.....	18
19.1.1 Delivery, Supply, Installation	18
19.2 Impressive Virtual Class Room Infrastructure and Learning Management System Application related Service Levels	21
19.2.1 Web based system for reporting.....	23

19.2.2	Manpower requirements as per SLA	23
19.2.3	Preventive Maintenance:.....	23
19.3	SLA Compliance Review Process	23
19.4	Penalties	23

DRAFT

Service Level Agreement

THIS AGREEMENT is made on this the day of2017 at Thiruvananthapuram, Kerala.

BETWEEN

"Kerala State IT Infrastructure Limited" KSITIL having its office at 14/196/2, 3rd Floor, Chandrasekharan Nair Stadium, Palayam, Trivandrum - 695033. India hereinafter referred to as KSITIL' which expression shall, unless the context otherwise requires, include its `permitted successors and assignees);

AND

with

___ (Name, Designation and Address of the Agency/SI) hereinafter referred to as the System Integrator _____ ' (which expression shall unless excluded by or repugnant to the context be deemed to include his/her successor in office or assign)

Each of the parties mentioned above are collectively referred to as the '**Parties**' and individually as a '**Party**'.

WHEREAS:

Kerala State IT infrastructure is desirous to implement the Kerala Skill development Platform Kerala" for 150 plus Affiliated Engineering Colleges, across Kerala.

NOW THEREFORE, in consideration of the mutual covenants, promises, assurances, representations and provisions set forth herein, the Parties hereto agree as follows:

1. Definitions

For the purpose of this SLA, the definitions and terms as specified in the contract along with the following terms shall have the meanings set forth below:

1. **"Incident"** refers to any event / abnormalities in the functioning of the SDPK components that may lead to disruption in normal operations of the SDPK services
2. **"Support"** shall mean the 24x7 support which shall handle Fault reporting, Trouble Ticketing and related enquiries during this contract. Voice support & Interactive remote diagnostic support shall also be there, allowing technical support engineers to troubleshoot an incident securely through remote access.
3. **Availability** means the time for which the services and facilities are available for conducting operations on an SDPK application. Availability is defined as:
$$\{(Scheduled\ Operation\ Time - System\ Downtime) / Scheduled\ Operation\ Time\} \times 100$$
4. **Scheduled Maintenance Time / Scheduled downtime** shall mean the time that the System is not in service due to a scheduled activity as defined in this SLA. The scheduled maintenance time would not be during any activity defined in the operating timeframe. Further, scheduled maintenance time is planned downtime with the prior permission of KSITIL or its authorized agency.
5. **Scheduled operation time** means the scheduled operating hours of the System for the 3. All scheduled maintenance time on the system would be deducted from the total operation time for the month to give the scheduled operation time. The total operation time for the SDPK and applications will be 24x7x365. **Downtime** means accumulated time during which the System is totally inoperable within the Scheduled Operation Time but outside the scheduled maintenance time.
6. **"Response time"** is defined as the time between receipt of the incident by support team and its logging / generation of ticket on the system
7. **"Resolution Time"** shall mean the time taken (after the incident has been reported to the support team) till resolution. The severity parameters have been defined below:

The severity would be as follows:

- a. **Critical:** In case an essential functionality of the SDPK solution becomes unavailable in the live environment which is hampering the basic operation of SDPK platform will be termed as critical.
- b. **High:** In case an essential functionality of the SDPK solution becomes unavailable in the Live environment which is not actually hampering the basic operations of SDPK platform resulting in a denial of service to the beneficiaries but may impact the other services will be termed as critical.
- c. **Medium:** In case an essential functionality of the SDPK solution becomes unavailable in the Live environment which is not actually hampering the live services of the SDPK but may impact the services if not attended immediately will be termed as medium.

2. Interpretations

In this Agreement, unless otherwise specified:

- (a) References to Clauses, Sub-Clauses, Paragraphs and Schedules are to clauses, sub-clauses, paragraphs of and schedules to this Agreement;
- (b) Use of any gender includes the other genders;
- (c) references to a '**person**' shall be construed so as to include any individual, firm, company, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality);
- (d) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (e) any reference to a '**day**' (including within the phrase 'business day') shall mean a period of 24 hours running from midnight to midnight;
- (f) References to a '**business day**' shall be construed as a reference to a day (other than a Sunday) on which banks in the state of Kerala are generally open for business or Kerala State IT infrastructure Limited working days;
- (g) References to times are to Indian Standard Time;
- (h) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, notated or supplemented at any time; and
- (i) all headings and titles are inserted for convenience only. They are to be ignored in the interpretation of this Agreement.
- (j) The "business hours" means, it is 8 AM to 6 PM,
- (k) "Non-Business Hours" shall mean hours excluding "Business Hours".
- (l) The SLA parameters shall be monitored on every instance of the start of the examination process as per the individual SLA parameter requirements. However, if the performance of the system/services is degraded significantly at any given point in time during the contract and if the immediate measures are not implemented and issues are not rectified to the complete satisfaction of Kerala Technical University or an agency designated by them, then Kerala Technical University will have the right to take appropriate disciplinary actions including termination of the contract.
- (m) A Service Level violation will occur if the SI fails to meet Minimum Service Levels, as measured between start and end of any of the ongoing Immersive Virtual Class Room sessions at any point of time during a particular day, for a particular Service Level. Overall Availability and Performance Measurements will be on session basis for the purpose of Service Level reporting. An "Availability and Performance Report" will be provided by the SI on every session of Immersive Virtual Class Room of every college on session basis in KSITIL suggested format and a review shall be conducted based on this report. Availability and Performance Report shall be

provided to the KSITIL and certificate of satisfactory performance by the end users at the end of session containing the summary of all incidents reported and associated SI performance measurement will be recorded in the SLA monitoring tool provided by the vendor and a monthly report is generated and submitted to KSITIL or its authorized agency. The Availability and Performance Report at every instance of session will be deemed to be accepted by Kerala State IT Infrastructure Limited upon review and signoff by both SI and Kerala State IT Infrastructure Limited. Where required, some of the Service Levels will be assessed through audits or reports e.g. utilization reports, measurements reports, etc., as appropriate to be provided by the SI on a monthly basis, in the formats as required by Kerala State IT Infrastructure Limited. The tools to perform the audit will need to be provided by the SI. Audits will normally be done on quarterly basis or as required by Kerala State IT Infrastructure Limited and will be performed by Kerala State IT Infrastructure Limited or third party audit agencies (including SLA online monitoring).

(n) The Post Implementation SLAs will prevail from the start of the Operations and Maintenance Phase. However, SLAs will be subject to being redefined, to the extent necessitated by field experience at the offices and the developments of technology practices globally. The SLAs may be reviewed on an annual/bi-annual basis as Kerala State IT Infrastructure Limited decides after taking the advice of the SI and other agencies. All the changes would be made by Kerala State IT Infrastructure Limited in consultation with the SI.

(o) The SI is expected to provide the following service levels. In case these service levels cannot be achieved at service levels defined in the tables below, it shall result in a breach of contract and invoke the penalty clause. Payments to the SI are linked to the compliance with the SLA metrics laid down in the tables below. The penalties will be computed and calculated as per the computation explained in this Agreement. During the contract period, it is envisaged that there could be changes to the SLA, in terms of addition, alteration or deletion of certain parameters, based on mutual consent of both the parties i.e. Kerala State IT Infrastructure Limited and SI.

(p) Following tables outlines the key service level requirements for the system, which needs be ensured by the SI during the operations and maintenance period. These requirements shall be strictly imposed and either Kerala State IT Infrastructure Limited or a third party audit/certification agency shall be deployed for certifying the performance of the SI against the target performance metrics as outlined in the tables below. A third party agency is required to validate the outcome of the project with respect to its objectives

(q) Kerala State IT Infrastructure Limited should be interpreted as KSITIL or the or Project Management Unit appointed by Kerala State IT Infrastructure Limited to carry out SDPK related tasks

(r) One month is defined as 30 days

3. Measurements and Arithmetic Conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down except in money calculations where such amounts shall be rounded off to the nearest INR.

4. Ambiguities within Agreement

In case of ambiguities or discrepancies within this Agreement, the following principles shall apply:

- (a) As between two Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in a general Clause;
- (b) As between the provisions of this Agreement and the Schedules, the Agreement shall prevail, save and except as expressly provided otherwise in the Agreement or the Schedules; and
- (c) As between any value written in numerals and that in words, the value in words shall prevail.

5. Priority of agreements

The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the RFP and this Agreement shall be read together and construed harmoniously. In the event of any conflict between the RFP and this Agreement, the provisions contained in the RFP shall prevail over this Agreement.

6. Structure

This SLA shall operate as a legally binding services agreement specifying terms which apply to the Parties in relation to the provision of the Services by the Service Provider to the Buyer and its nominated agencies under this Agreement and the MSA.

7. Objectives of this SLA

The System Integrator shall be required to ensure that the Service Levels which shall ensure the following:

- a) Create State-of-the-art Technology enabled Learning platform that will enable remote delivery of high quality skills programme – the platform to be enabled through dedicated network backbone, Immersive Virtual Class Room and Learning Management system
- b) Deploy the learning platform connecting 150 Hi-Tech classrooms in the Engineering colleges in Kerala
- c) Use the platform to deliver Skills training to around 50,000 students every year
- d) Deliver formal skills delivery programme through Minor degree programme of University
- e) Skills database that will have the students profile and that would be accessible for Industry for their fresh graduate recruitment programme, there by increasing the employability of students from Kerala

8. Scope of SLA

This Agreement has been executed in relation to supply & delivery, implementation and support portion of the Project between the Parties. The detailed Service Levels have been set out in this Agreement.

This Agreement shall ensure the following:

- a) Establishment of mutual responsibilities and accountability of the Parties;
- b) Definition each Party's expectations in terms of services provided;
- c) Establishment of the relevant performance measurement criteria;
- d) Definition of the availability expectations;
- e) Definition of the escalation process;
- f) Establishment of trouble reporting single point of contact; and
- g) Establishment of the framework for SLA change management

The following parties are obligated to follow the procedures as specified by this Agreement:

- (a) Kerala State IT Infrastructure Limited-KSITIL
- (b) System Integrator

9. Agreement Owners

The following personnel shall be notified to discuss the Agreement and take into consideration any proposed SLA change requests:

	Title	Telephone	Email
Buyer	Authorized Representative, Kerala State IT Infrastructure Limited	<***>	<***>
System Integrator	<***>	<***>	<***>

10. Contact List

In the event that there is any change in the listed contacts, the same shall be communicated and updated prior to such change occurring. The Single Point of Contact ("**POC**") for the System Integrator shall be <***> and will be available 24X7.

Name	Title	Location	Telephone
Buyer	Authorised Representative, Kerala State IT Infrastructure Limited	<***>	<***>
System Integrator	<***>	<***>	<***>

11. Principal Contacts

The Buyer and the System Integrator will nominate a senior staff member to be the principal contact regarding operation of this Agreement. At the date of signing of this Agreement, the nominated principal contacts are:

Buyer principal contact: _____

System Integrator principal contact: _____

11.1 Commencement and Duration of this Agreement

Agreement shall commence on the date on which it is executed by the Buyer and the System Integrator (hereinafter the “**Effective Date**”) and shall, unless terminated earlier in accordance with its terms or unless otherwise agreed by the Parties, expire on the date on which this Agreement expires or terminates, which shall be a period of five years starting from the date of the Final Acceptance Test.

11.2 Exclusions to the Agreement

This Agreement shall not govern the following services:

- (a) Consulting services; and
- (b) System Integrator’s business processes not related to the Project.

11.3 Terms of Payment and Penalties

- (a) In consideration of the Services and subject to the provisions of the RFP and this Agreement, the Buyer shall pay the amounts in accordance with the Terms of Payment Schedule of the RFP.
- (b) For the avoidance of doubt, it is expressly clarified that the Buyer and/or its nominated agencies may also calculate a financial sum and debit the same against the terms of payment as defined in the Terms of Payment Schedule of the RFP as a result of the failure of the System Integrator to meet the Service Levels.

11.4 Updating of this Agreement

- (a) The Parties anticipate that this Agreement shall need to be re-evaluated and modified to account for changes in work environment and technology from time to time. Hence they hereby agree to revise the terms of the Agreement on an annual basis.
- (b) The Parties hereby agree upon the following procedure for revising this Agreement:
 - (i) Any and all changes to this Agreement will be initiated in writing between the Buyer and the System Integrator, The service levels in this Agreement shall be considered to be standard for the Buyer and shall only be modified if both Parties agree to an appended set of terms and conditions;
 - (ii) Only the Buyer or the System Integrator may initiate a revision to this Agreement;
 - (iii) A notice of the proposed revision (“**SLA Change Request**”) shall be served to the Buyer or the System Integrator as the case may be;

- (iv) The SLA Change request would be deemed to be denied in case it is not approved within a period of 30 days;
- (v) In the event that Buyer/System Integrator approves of the suggested change the change shall be communicated to all the Parties and the SLA Change request would be appended to the Agreement;
- (vi) The KSITIL shall update and republish the text of Agreement annually to include all the SLA Change Requests that have been appended to the Agreement during the course of the year. Such republished Agreement shall be circulated to all the Parties within 15 days of such change taking place.

11.5 Document History

All revisions made to this Agreement shall be listed in chronological order as per the format set out below and a copy of the same shall be provided to the Parties:

Version	Date	Description of changes
<***>	<***>	<***>

12. Scope of Services

- (a) The System Integrator shall ensure that Services are available at various locations as per the requirements of the project;
- (b) The System Integrator shall provide support services for addressing problems related to the provision of services
- (c) The System Integrator guarantees that he shall achieve the Service Levels for the Project;
- (d) The System Integrator shall be liable to penalties in case of failure to comply with the Service Levels. However any delay not attributable to the System Integrator shall not be taken into account while computing adherence to the Service Levels.

13. Performance Review

The POC's of both the KSITIL and the System Integrator shall meet on a quarterly basis to discuss priorities, service levels and system performance. Additional meetings may be held at the request of either the System Integrator or the Buyer. The agenda for these meetings shall be as follows:

- (a) Service performance;
- (b) Review of specific problems/exceptions and priorities; and
- (c) Review of the operation of this Agreement and determine corrective action to overcome deficiencies.

14. Representations and Warranties of Buyer

The KSITIL hereby represents and warrants to the System Integrator as follows:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement and carry out the transactions contemplated hereby;
- (b) It has taken all necessary actions under Applicable Law to authorize the execution, delivery and performance of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) It has the financial standing and capacity to perform its obligations under the Agreement;
- (d) This Agreement has been duly executed by it and constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof and its obligations under this Agreement shall be legally valid, binding and enforceable obligations against it in accordance with the terms thereof;
- (e) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (f) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its material (including any payment) obligations under this Agreement;
- (g) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the System Integrator's ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement.

15. Representations and Warranties of the System Integrator

The System Integrator hereby represents and warrants to the Buyer as follows:

- (a) It is duly organized and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) It has taken all necessary corporate and other actions under Applicable Laws to authorize the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) This Agreement has been duly executed by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement shall be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(d) the execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(e) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its material obligations under this Agreement;

(f) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any government instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(g) it has complied with Applicable Law in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(h) no representation or warranty by it contained herein or in any other document furnished by it to the Buyer or to any government instrumentality in relation to the Required Consents contains or shall contain any untrue or misleading statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading; and

(i) no sums, in cash or kind, have been paid or shall be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for entering into this Agreement or for influencing or attempting to influence any officer or employee of the Buyer in connection therewith.

16. Indemnities

The Parties agree to indemnify each other under this Agreement in accordance with the terms and principles set out in the RFP.

17. Dispute Resolution

Any dispute, difference or claim arising out of or in connection with the Agreement which is not resolved amicably shall be decided in accordance with the dispute resolution procedure as set out in the RFP.

18. MISCELLANEOUS

(a) Assignment and charges

This Agreement shall be binding on and ensure for the benefit of each Party's successors in title. No Party shall assign, or declare any trust in favor of a third party over, all or any part of the benefit of, or its rights or benefits under, this Agreement.

(b) Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Thiruvananthapuram, Kerala shall have jurisdiction over matters arising out of or relating to this Agreement.

(c) Waiver of sovereign immunity

The Parties unconditionally and irrevocably:

- (i) agree that the execution, delivery and performance by them of the Agreement constitute commercial acts done and performed for commercial purpose;
- (ii) agree that, should any proceedings be brought against a Party or its assets, property or revenues in any jurisdiction in relation to the Agreement or any transaction contemplated by the Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of such Party with respect to its assets;
- (iii) waive any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (iv) consent generally to the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

(d) Variation

This Agreement may only be varied in writing and signed by both Parties.

(e) Waiver

(i) Waiver including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:-

- shall be in writing
- shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

- shall not affect the validity or enforceability of this Agreement in any manner.

(f) Exclusion of implied warranties

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

(g) Survival

(i) Termination or expiration of the Term shall:

not relieve the System Integrator or the Buyer, as the case may be, of any obligations hereunder which expressly or by implication survive hereof; and

except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or expiration or arising out of such termination or expiration.

(ii) All obligations surviving termination or expiration of the Term shall cease on termination or expiration of the Term.

(h) Entire Agreement

This Agreement constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

(i) Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the dispute resolution procedure set forth under this Agreement or otherwise.

(j) No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party except as expressly provided under the terms of this Agreement.

(k) Third parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

(l) Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall be given by hand delivery, recognized courier, registered post, email or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Kerala Technical University:

Attn: <***>

Tel:

Fax:

Email:

Contact:

With a copy to:

If to the System Integrator:

Attn. <***>

Phone: <***>

Fax No. <***>

(m) Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in the English language.

(n) Counterparts

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

(o) Mitigation

Without prejudice to any express provisions of this Agreement on any mitigation obligations of the Parties, each of the Buyer and the System Integrator shall at all times take all reasonable steps to minimize and mitigate any loss for which the relevant Party is entitled to bring a claim against the other Party pursuant to this Agreement.

(p) Removal of Difficulties

The Parties acknowledge that it is conceivable that the Parties may encounter difficulties or problems in the course of implementation of the Project and the transactions envisaged under this Agreement. The Parties agree and covenant that they shall mutually discuss such difficulties and problems in good faith and take all reasonable steps necessary for removal or resolution of such difficulties or problems.

19. Service Levels

This SLA document provides for minimum level of services required as per contractual obligations based on performance indicators and measurements thereof. “SI NAME” _____ shall ensure provisioning of all required services, while monitoring the performance of the same, to effectively comply with the performance levels mentioned below. The services provided by the SI shall be reviewed by the State, which will:

1. Regularly check performance of the SI against this SLA
2. Discuss escalated problems new issues and matters still outstanding for resolution
3. Review statistics related to rectification of outstanding faults and agreed changes
4. Obtain suggestions for changes to improve the service levels

The SLAs have been logically segregated in the following categories:

1. **Delivery and Supply, Installation Service levels**
2. **Operations related Service Levels**
3. **Compliance and Reporting Service Levels**

19.1 Delivery and Supply, Installation Service levels

19.1.1 Delivery, Supply, Installation

Service Level Description	Measurement								
Supply & Delivery, configuration and successful Installation, of Central Unit, Classroom End Point and Studio End Point and installation of Online ticketing tool for monitoring the progress of the project of with the proposed Immersive Virtual Class Room solution of SDPK	<p>Supply & Delivery, configuration and successful Installation, of Central Unit, Classroom End Point and Studio End Point and installation of Online ticketing tool for monitoring the progress of the project of with the proposed Immersive Virtual Class Room solution of SDPK should be completed. The certificate of successful installation certificate from the authorized person designated by KSITIL or its agency should be produced to KSITIL from each location of installation which will be verified by SDPK PMU. Also the daily / Weekly / Monthly report on progress of this component should be shared.</p> <p>Compliance Matrix</p> <table> <tr> <th>Percentage</th><th>Violations for calculation of penalty (Index Weightage)</th></tr> <tr> <td>99.5 – 95</td><td>4</td></tr> <tr> <td>95- 90</td><td>3</td></tr> <tr> <td>90 – 85</td><td>2</td></tr> </table> <p>Where 2 is the critical threshold level. Charges will be levied from Supply & Delivery, configuration and successful Installation breakup of SDPK rollout.</p>	Percentage	Violations for calculation of penalty (Index Weightage)	99.5 – 95	4	95- 90	3	90 – 85	2
Percentage	Violations for calculation of penalty (Index Weightage)								
99.5 – 95	4								
95- 90	3								
90 – 85	2								

Incentive for early project delivery and milestone.

#	Service Parameters Implementation Phase	Metrics –	Incentive for early delivery		Proof of completion
			Metric	Incentive	
1	Supply & Delivery, and successful installation of the CU equipment and software at Central unit, Studio and for a minimum of 25 classrooms ready for operation with LMS as per the plan		Completion of milestone at least 2 calendar weeks ahead of the schedule date for the acceptance on readiness of Studio, central unit and LMS to start pilot operation with full functional features.	0.25% of total value of the contract value will be awarded to the vendor against the early completion of the milestone	A certificate of successful installation of the said equipment and software from the designated of KSITIL or its agency at the location of the installation.
2	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan		Completion of milestone at least 2 calendar weeks ahead of the schedule date for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full functional features mentioned in the RFP	0.25 % of total value of the contract will be awarded to the vendor against the early completion of the milestone	A certificate of successful installation of the said equipment from the authorized authority of KSITIL or its Agency at the location of the installation.
3	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan		Completion of milestone at least 3 calendar weeks ahead of the schedule date for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full requirements as mentioned in the RFP	0.50 % of total value of the contract value will be awarded to the vendor against the early completion of the milestone	A certificate of successful installation of the said equipment from the authorized authority of KSITIL or its Agency at the location of the installation.
4	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan		Completion of milestone at least 4 calendar weeks before the schedule date for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full requirements as mentioned in the RFP	Additional 0.75 % of total value of the contract value will be awarded to the vendor against the early completion of the milestone	A certificate of successful installation of the said equipment from the designated of KSITIL or its agency at the location of the installation.

Penalty for not meeting SLAs during implementation

S. No	Service Parameters	Violation of Service level agreement		
		Metric	Penalty	Proof of Delay
1	Supply & Delivery, and successful installation of the CU equipment and software at Central unit, Studio and for a minimum of 25 `classrooms ready for operation with LMS as per the plan	Delay in completing the milestone beyond the schedule date for the acceptance on readiness of Studio, central unit and LMS to start pilot operation with full functional features.	0.25% of total value of the contract value will be charged as penalty for every week (or part of it) of delay for the completion of the milestone, which is capped to a maximum of 1 % of the total contract value.	A report from the authorised authority of KSITIL or its agency.
2	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan	Delay in completing the milestone beyond the schedule date to a maximum of 1 Calendar week for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full functional features mentioned in the RFP	0.50% of total value of the contract value will be charged as penalty for the delay in completing the milestone.	A report from the authorised authority of KSITIL or its agency.
3.	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan	Delay in completing the milestone beyond the schedule date to a maximum of 2 Calendar week for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full functional features mentioned in the RFP	1.00 % of total value of the contract value will be charged as penalty for the delay in completing the milestone.	A certificate of successful installation of the said equipment from the authorized authority of KSITIL or its Agency at the location of the installation.
4.	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and	Delay in completing the milestone beyond the schedule date to a maximum of 3 Calendar week for the acceptance on the	2.00 % of total value of the contract value will be charged as penalty for the delay in completing	A certificate of successful installation of the said equipment from the designated of

Service Level Agreement for SDPK Project

	classrooms with ticketing tool to complete successful go-live as per the plan	SDPK platform with Studio, central unit and LMS etc with full functional features mentioned in the RFP	the milestone.	KSITIL or its agency at the location of the installation.
5	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan	Delay in completing the milestone beyond the schedule date to a maximum of 3 Calendar week for the acceptance on the SDPK platform with Studio, central unit and LMS etc with full functional features mentioned in the RFP	3.00 % of total value of the contract value will be charged as penalty for the delay in completing the milestone.	A certificate of successful installation of the said equipment from the designated of KSITIL or its agency at the location of the installation.
	Supply & Delivery, and successful installation of the CU and equipment's and software at Central unit, Studio and classrooms with ticketing tool to complete successful go-live as per the plan	If the vendor could not install the CU, Class rooms and installation of Online ticketing tool for monitoring the project as per the schedule within 4 weeks of the milestone completion date.	KSITIL will review and terminate the contract without notice and forfeit the PBG.	A report from the authorized authority of KSITIL or its agency.

19.2 SLA for SDPK infrastructure and LMS

Following outlines the service level indicators & and the target performance levels to be maintained by the SI during the contract period. These SLAs shall be monitored by KSITIL or any Nodal officer identified by KSITIL for reviewing the performance of the SI against the target performance metrics as outlined in the table below:

Availability and Downtime of SDPK System during the agreement period

1. **Availability :** The Agency is required to provide the minimum uptime on quarterly basis as per the availability matrix given below for all Modules /components/services

Sl No	Severity Level	Criticality of availability and definition	Percentage of Availability – Quarterly SLA
1.	Level 1	Critical – Issues affecting 50% more installations or issues without workaround to use the platform	Average availability in quarter 99.75 %
2.	Level 2	High – Issues affecting less than 50% installations and work around to use the platform	Average availability in quarter 98.00 %
3.	Level 3	Medium – Issues affecting some part of the functionality with no impact to normal operation	Average availability in quarter 95.00 %

2. **Down Time:** The SI is required to limit the downtime of Modules / components / services as per the permissible maximum downtime matrix as given below. SI shall provide services as per SLA matrix, which defines maximum response as well as rectification times for all kinds of issues and problems.

Sl. No	Severity Level	Total down time in a quarter In Hours	Response Time	Resolution time
1	Level 1	1.50 (1 hour and 30 minutes)	5 Minutes	15 minutes
2	Level 2	8.00	10 Minutes	1 Hours
3	Level 3	30.00	15 Minutes	4 Hours

3. **Staffing:** SI shall submit the staffing plan for implementation at the start of the project. For the Warranty support phase, SI shall provide the staffing plan at least 2 months prior to the project go-live date. Any change in the staffing shall be done only with the approval from KSITIL or with at least 3 months notice. Any violation to this will be treated as an instance of SLA violation

Penalty for not meeting the SLAs

S. No	Penalty Description	Penalty computation
1	Every instance of failure to meet the specified SLA	0.1 % of the total value of the project; this is capped to a maximum of 1 % per Quarter and 3 % per year

The SI shall provide or online ticketing tool which should support SLA monitoring and reporting.

20. Web based system for reporting

The SI shall provide a web based system for tracking and reporting issues and problems with facility to record closure of calls both by SDPK PMU in charge and SI's Engineer. All the computations are to be done by the ticketing tool data.

21. Manpower requirements as per SLA

The SI shall deploy sufficient manpower suitably qualified and experienced in shifts to meet the SLA specified during implementation and support.

The list of persons intended to be engaged for the SDPK shall be submitted well before the commencement of the SLA. The persons deployed can be withdrawn if required by the SI after providing a replacement with equal or better qualifications and experience with prior intimation to SDPK PMU.

22. Preventive Maintenance:

SI has to provide a detailed schedule for Preventive maintenance for the entire period of contract. SI shall take necessary approval from KSITIL for any planned outage towards preventive maintenance.

23. SLA Compliance Review Process

- The SI has to submit all the reports pertaining to SLA Review process within 1 weeks after the end of the month / quarter.
- All the reports must be made available to KSITIL or its authorized agency, as and when the report is generated or as and when asked by the competent authority.
- SLA may be revised , strengthened for better performance, after every year with mutually acceptable terms between SI and the KSITIL.

24. Penalties

Violations and Associated Penalties

(a) The primary intent of Penalties is to ensure that the system performs in accordance with the defined service levels. Penalties are not meant to be punitive or, conversely, a vehicle for additional fees.

(b) A quarterly performance evaluation will be based on the performance against the specified SLAs

(c) The total deduction per quarter shall not exceed 3% of the total contract value

Service Level Agreement for SDPK Project

(d) SLA penalty for any two consecutive quarter is 3 %, will be deemed to be an event of default and termination by KSITL and in such scenario, the PBG will be forfeited.

(e) It is the right of the KSITIL to bring any external consultant for the review of the programme governance and project performance.

(f) No carry forward of any penalties of SLA calculations can be done. SLA computation will be done on a quarterly basis.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of the System Integrator by:

SIGNED, SEALED AND DELIVERED

For and on behalf of the Buyer by:

(Signature)

(Name)

(Designation)

(Address)

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

2.