Terms Of Use

For ENTERPRISE DATA GOVERNANCE SOLUTION

Between

GOVERNMENT USER

And

Centre for Data Governance,

NIC, MeitY, Government of India

Hyderabad

This agreement has been made on this   day of   2019

Between

The HEAD OF USER DEPARTMENT, here in after refered to as USER DEPARTMNET (which expression shall unless exclude by or repugnant to the context be deemed to include his/her successor in office or assigned) of the FIRST PART.

And

The HoG, Centre for Data Governance, NIC, here in after refered to as NCDG, (which shall unless exclude by or repugnant to the context be deemed to include his/her successor in office oir assigned) of the SECOND PART.

USER DEPARTMENT and NCDG hereinafter collectively referred to as the "Parties" and individually referred to as the "Party" as per the context.

Preamble :

Whereas the USER DEPARTMENT desires to have a comprehensive Data Governance and e-Governance Solution, from NCDG, Hyderabad.

USER DEPARTMENT will implement the digital system in coordinatoin with key stakeholders of the USER DEPARTMENT located in the geographical area of project implementation.

Scope of the project :

The scope, deliverables, timelines and budget are documented in the project proposal in detail. Scope broadly includeAs-IS System Study and Analysis of problems, To Be System modelling, customisation and architecting an end-to-end solution, Design, Development, Testing, Training the Trainers, Deployment, Piloting and Maintenance Support for the project duration ___ years to build Faceless, Cashless and Paperless systems as per the scope, functionality, deliverables, timelines and the budget documented in the proposal.

A. General terms and conditions:

1. The USER DEPARTMENT to form a Project Steering Committee (PSC) to steer the project by providing in time the functional requirements and ensure release of budget to the Government agencies to enable them to provide resources required for the smooth execution of the project.

2. NCDG to form a technical committee comprising of Officials from various Technical Domain headed by the HOG , CDG NIC. The committee would contribute towards the technology know-how for system architecture, design and development of the software to facilitate compliance to the Data Governance, Cyber Security and e-Governance standards and indent and obtain project resources from the Government agencies funded by PSC.

3. The deliverables and cost estimates for the project are worked out based on the detailed discussions and requirments outlined in the project proposal submitted by NIC. The rates quoted in the proposal are budgetory estimates and as per the current empanelled rates for mobilizing the resources including hiring of man power resources, system software packages and tools & hosting services, travel & hotel logistics and training & miscellaneous expenses, etc., These esitmates may vary as per changes in the scope, time, rates or the policies governing the respective empanelment(s) during the project execution period.

4. The Project Core Committee (PCC) will facilitate mobilisation of following resources through GeM or through the Govt of India agencies, for smooth and successful execution of the project as per Govt norms.

a) Manpower resources .

b) Cloud & Data Centre Services.

c) Material Procurement.

d) Travel & Logistics.

5. To avoid communication gaps, and delays, till the completion of the project the core committee and technical committee memebrs shall not be changed by USER DEPARTMENT and NIC.

4. PCC to organise workshop(s) preferably within a week of release of the To-Be system models or software modules by NIC, for the key representative stakeholders who are going to implement the project to under go training and test and provide feedback at the end of the workshop to avoid project delays. Such actual representative project users team is called User Acceptance Test (UAT) Team. After freezing functional requirements through the workshops, the software shall be finalized and security and performance audits shall be carried out as per the stanadards norms to ensure security , scalability and high availability of the system.

5. During the project duration, errors if any shall be corrected based on the feedback to the online help desk. However, minor modifications/upgradation on the developed software may be carried out only on recommenadation of UAT Team.

6. The project shall start from the data of receipt of funds by the Govt agencies, identified by the PCC for providing key resources required for project execution.

7. This AGREEMENT can be extended for further subsequent period on agreed terms and conditions, as per mutual consent by all co-signatories.

8. Technical Decisions: NCDG follows its own standard internal processes, e-Governance standards of Govt of India, project management methodologies and procedures and uses its intellectual knowledge resources and IT tools and system resources of its choice to ensure long-term sustainability and cost effectiveness inter-operability, re-usability, scalability etc., User department interference in such technical matters is not solicited.

9. Phases: The life cycle of any e-Governance project shall have following eight phases. a. Planning and Budgeting b. Resources Mobilisation c. As-IS System Analysis, To-Be System Design d. Development e. Testing f. Integration version control and Deployment g. Training, Implementation and project closure. h. Maintenance Phase.

10. Timely Feedback: User feedback and additional requirements shall not be entertained after phase 3 of any project. Such additional requirements shall be treated as separate project in all aspects.

11. Written Communication: User department has to specify its requirements preferably in writing in as much detail as possible. User department has to provide feedback to the models, documents, demonstrative systems, and presentations etc., made by NIC, within a week.

12. Default Clause: In the absence of written feedback it shall be presumed that user accepts the system designed by NCDG and no further feedback beyond a week shall be entertained to time overruns and cost overruns.

13. Cost & Time Overrun: Under special circumstances if any delayed feedback or modifications to already finalised model or released system are requested, the user department has to spend extra amount for the appropriate extra man hours besides shall automatically agree to the revised project schedules / deadlines.

14. IP of NCDG : The software design and development, data schema, datawarehousing, are highly technically intensive activities, the intellectual property ownership of the software and its architecture belongs to of NIC. NCDG has the full rights to claim any rewards or award(s) for its intellectual property.

15. System Usage: The user department has to use systems delivered by NIC, for the purpose and scope defined, and cannot misuse or share data with any private company or third party agency the details of NCDG software or associated manuals.

16. Master Data: If NCDG creates and codifies and time-invariant data objects / master tables then intellectual property of those master tables also belongs to NIC.

17. IP of USER DEPARTMENT : The Intellectual Property Rights and ownership of entire transaction data, validations and business rules/ functional requirements, procedures, specified in writing by the user department belongs to the User Department.

18. No Data Access to NIC: NCDG shall not keep access rights to the actual data of the eGovernance system. The system shall have a DBA role, who shall have access rights to the data to perform administrative functions.

19. Data Ownership : The ownership of data lies with the individuals or the user department as per the Cyber Laws.

20. Training: The user department/ organisation has designate officer of the user department to perform the functions of DBA. NCDG shall train the DBA on sample data and leave the control to him/her before go-live of the project.

21. RTI queries: All RTI queries related to the project are to be answered by the user department. If any technical queries are there, NCDG may provide inputs to the designated officer of the department. User department has to take total responsibility to answer all RTI queries related to the project.

22. Queries from investigating, auditing and Regulatory Functionaries: All queries from regulatory, investigating, and auditing etc., functionaries are to be answered by the officials of the user department. NCDG shall not be responsible to answer any such queries. The functionaries of the department authorised to perform various tasks digitally/manually are responsible to answer the queries. The user department should envisage the reports and output required from the e-Governance system, NCDG may develop software to generate reports to answer such queries by the respective functionaries of the department. Without obtaining written permission from NIC, user department should'nt direct any agency or officer to NIC.

23. De-sensitization of Sample Data: The NCDG uses sample data for software engineering activities, it is the responsibility of the user to de-sensitize the sample data so that there will not be any harm or legal issues even if sample data is leaked. So NCDG should be indemnified from all legal and associated problems for using and sharing the sample data provided by the user.

24. Anything beyond the scope of the approved project like application software enhancement/customization, training, hardware etc, will be assesed seperately and proposal for the same will be submitted accordingly by NIC, to USER DEPARTMENT for approval. Funds for the same will be released by USER DEPARTMENT accordingly.

25. After testing, auditing and releasing the software, for the first one month observation period, based on the feedback received druing this period shall be incorporated, if minor changes, they will be corrected.

26. All parties undertake to act in good faith with respect of each other's rights under this AGREEMENT and to adopt all reasonalble measures to ensure the realization of the objectives of this project as per the following roles and responsibiliteies.

27. Relationship of the Parties :USER DEPARTMENT and NCDG shall act as independent organizations in the performance of this MOU and neither party shall act as agent for, or partner of, the other party without the prior written consent of the other party.

28.CONFIDENTIALITY: The terms and conditions of this MoU and document mentioned in this MoU are confidential between the Parties and shall not, without consent of the other

Party, be disclosed by either Party in whole or in part, except as far as may be necessary for the either Party to carry out its obligations under this MoU.

29.Each party shall hold confidential all duly stamped "Confidential" or "Proprietary" technical data and information supplied by the other Party and shall not reproduce any such technical data or information or divulge the same to any third party without the prior written consent from the other Party. Nothing supplied or provided under this MoU by one Party may be reproduced by the other Party without the prior written consent of the first Party.

30.The MoU and its contents are to be considered as confidential information and shall be treated accordingly by the Parties. In particular, neither Party shall make any public statement or disclosure without the prior written consent of the other Party except for obligations as per MoU.

31. INTELLECTUAL PROPERTY RIGHTS : Each Party shall remain the sole owner of all industrial or intellectual property rights, Technical Data, Know-How, designs, specifications and the like, generated or acquired before the signature, or beyond the scope of this MOU.

32.NCDG shall NOT be held responsible for any error at any stage, arising due to wrong entry of information/data by remote user or the users of name of user department in any of the data tables & software modules used by them but sufficient measures will be taken to avoid these.

33.NCDG shall be entitled for full disclaimer and immunity from all aspects of custody data and its safety along with its handling by any functionary in any manner and what-so-ever.

34.NCDG team will customize the software in phased manner, if required, for its integration with the existing other related software already implemented by user in close consultation with the domain experts from time to time and within the ambit of the sub-systems of user department as per the approved project scope.

35.Non-Suability : No party can be sued in any court of law in India or abroad by the other party, for the events if any party is not able to perform as per any of the stipulations of this agreement, due to circumstances beyond the control of it.

36.NCDG cannot be sued in any Court of Law for being unable to provide any IT related support and NICNET failure, due to unforeseen circumstances or force majeure condition beyond control of NIC/NICSI.

B. Roles & Responsibilities

Roles & Responsibilities of USER DEPARTMENT

1.   USER DEPARTMENT to constitute the Project Core Committee(PCC) for steering the project, and facilitate timely provision of various inputs, adhering to approved software requirment specifications, ensuring presence of all key officials in the training and hands-on session, UAT workshops, operationalization & functioning issue, overseeing the execution of the project for the entry of error free data, etc & its approval, catalysing the smooth

execution of various software development and UAT Team for testing & acceptance/approval of the software application modules.

2.   USER DEPARTMENT will transfer the approved project fund 100% in advance as per the project proposal to the Government empanelled agencies.

3.   USER DEPARTMENT will associate required number of domain experts to finalize the functional requirements in time to facilitate the development and implemenation of the software.

4.   PCC and UAT to finalise Data input Requirtments, validations, formats and standards (content, rules/guidelines, meta-data, data survey, data classificaiton, taxonomy, legnds, annotations and symboles) in writing.

5.   PCC to provide/ensure desired spatial/non spatial data (if any required) to NIC, in desired file format, for development, customization and deployment of services.

6.   USER DEPARTMENT will provide all coordination, administrative and logistic support for necessary institutional linkages for data capture as well as provision for existing/currently available data, expertise & approvals for resolving any data related problems as and when needed.

7.   USER DEPARTMENT will provide/facilitate e-readiness at last mile besides, verificaiton, validation & approvals for resolving any data related problems as and when needed for the project.

8.   USER DEPARTMENT will provide list of probable decision-making queries and the formats of various statutory reports, and major reporting requirements to digitally empower the various stakeholders within two months of releasing the budget.

9.   The USER DEPARTMENT will make adequate number of officials available at each implementing location for operationalizing and implementing the system. These persons will be deployed to under-go training given by the ToTs, to take care of all aspects on day-to-day basis including data entry, transmission, backup and liaisoning with the online help-desk.

10.   USER DEPARTMENT will take ncessary steps to ensure safety security and operational readiness of the equipment installed at its premises and at last-mile locations (i.e., USER DEPARTMENT office and the Institutions etc.,) including physical/fire and cyber-security aspects.

11.   Any other expenses, not included in the project proposal, essential for smooth execution of the Project shall be born by USER DEPARTMENT directly out of their own funds.

12.   USER DEPARTMENT will identify appropriate officals for facilitating Users Accepatance Test (UAT)

13.   USER DEPARTMENT will identify the master trainers from its implementing units and arrange necessary training on software to them in coordiantion with NIC, team.

14.   USER DEPARTMENT will release the funds to mobilise resources   through Government Agencies within one week after signing of this agreement. Interest earned by the Government agencies, on the deposited funds of the project to be credited in the project fund of USER DEPARTMENT.

15. All the administrative and logistic support required for the project   will be provided by USER DEPARTMENT duly engaging the USER DEPARTMENT team and Government agencies identified by   by the PCC.

16. **Name of user department** will provide/facilitate verification, validation & approvals for resolving any data/ base map related problems as and when needed for the project.

17. **Name of user department** will provide list of probable decision-making queries to NCDG to develop the required module of the Software.

18. **Name of user department** will facilitate all subject matter related inputs to the project,   including   analytical/modeling   aspects,   needed,   if   any.

19. **Name of user department** will provide adequate number of Computer/ data entry operators adequately trained to take care of all aspects on day-to-day basis, including data entry, transmission, back up and liaisoning with the NIC.

20. **Name of user department** will identify the master trainers from its implementing units and arrange necessary training on software to them in coordination with NCDG officials.

B.   Roles & Responsibilites of NIC, HYDERABAD

1.   NIC, HYDERABAD   will ensure development of professional level software with   minimum-cost and   minimum time by providing its intellectual property and   other resources and facilities such as -

a) e-Governance & Data Governance Consultancy
b) Development Servers with Anti-Virus fire-walls.
c) Security Testing Tools (annual licensed fee is over a crore).
d) Several Lakhs of rupees worth Development Server with DDOS   prevention and server hardening tools.
e) Standard Libraries including Masters.
f) System Architecture
g) Initial Source code to the development team for customization and rapid development of standard code to work securely in the specific architecture on Govt/NCDG Cloud.

i) Technical Know-How related to e-Governance Standards &Security   Standards.
j) Dedicated NIC, Senior Officials and development team.
k) Other Miscellaneous services and facilities.

2.   As-IS System Study and Analysis of problems.

3. To Be System modelling and conducting UAT workshops,

4. Customisation and architecting an end-to-end solution.

5. Design, Development, Beta, Testing.

6. Security Auditing, Performance Auditing and Fine Tuning the System.

7. User Manual Preparation.

8. Training the Trainers.

9. Deployment on the cloud resources mobilised for the project.

10. Trouble Shooting, Technical support in Piloting and Maintenance Support for five years of various modules as defined in the project scope.

11. To protect the interests of Govt organizations by safeguarding source code securely and also makes professionals engaged by it to sign a Non-Disclosure Agreement to protect Govt IPR. The source code of the application software will be the property of NCDG under Intellectual   Property   Rights, though the functional needs may be specified by the users.

12.   All issues related to the technical know-how and experise for technical architecture, development, deployment of the   system will rest with NIC. All the above activites will be   carried out under   the Technical Expertise   / Consultancy and   Guidance of HoG, NIC.

13. The technical team shall function under the control of NCDG and the development enviroment and location specified by NCDG for the entire duration of the project.

III. Confidentiality :

USER DEPARTMENT and NIC, and Government agencies engaged by them shall not, either during the term or after the expiration of this contract, disclose any proprietary or confidential information relating to the services without the prior written mutual consent of the USER DEPARTMENT and NIC.

IV. Duration of the Project

The AGREEMENT shall be in effect from the date of signing the MOU or data of receipt of funds by the government agencies identified to provide the resources which later. Funds release date is the starting date of the project. The validity of AGREEMENT will be five (5) years from the starting date of the project or till date of comletion of project with hand holding done whichever is earlier. The AGREEMENT may further be extended and/or terms & Conditions of AGREEMENT can be changed with mutual consent of all co-signatories.

V. Idemnification

1. NIC, and USER DEPARTMENT shall stand indemnified from all aspects of usage of NIC, application software by any of the end users of USER DEPARTMENT themselves.

2. NIC, would be indemnified from all aspects of software piracy; consequential usage of NIC's designed & implemented system resourcdes and utilization of NICNET/NKN for any eventual usage for any illegal/antinational/subersive purposes/activities covered by the Indian Cyber Laws ad Indian penal Code.

3. NIC, will stand indemnified from all aspects regarding the process, procedure and work flow implemented in software Project already approved by the USER DEPARTMENT through User Acceptance Test by the PSC & Technical Core Committee appointed by the USER DEPARTMENT.

4. NIC, will not reply any RTI query in reference to this project and will transfer it to USER DEPARTMENT if received. However, NIC, can provide supporting technical information to USER DEPARTMENT to help in reply of any RTI query, if requested by USER DEPARTMENT.

VI. Force Mejure

NIC, and USER DEPARTMENT shall not be responsible for any failure to perform due to unforeseen circumstances or to cause beyond their resonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, accidents, terrorist activities, strikes or shortages of transportation, facilities like fuel, energy, labour or materials. In the event of any such aspect being beyond the control of participating agencies, appropriate stratergies would be worked out to compensate the project activities/schedules accordingly.

VII. Exit Clause

In the event of discontinuance of this AGREEMENT and withdrawal of I.T. services for this project, all the parties being co-signatory to this AGREEMENT should give a written notice of three months to either party for the desired discontinuance/withdrawal of the I.T. services which shall be implemented as per schedule mutually agreed to by co-signatories parties of this MOU AGREEMENT. However, the expenditure already incurred/committed by empanelled agencies consequent to the execution of the activities of the project will be deducted from the total project cost, while making the refund of the balance of the Arbitration Clause.

In case any dispute or difference arising in connection with this AGREEMENT, the same shall be settled by mutual discussions between USER DEPARTMENT and NIC. Any unresolved disputes still presist; these would be referred to a committee of the President, USER DEPARTMENT and HOG NCDG . The resolution of the committee would be final and binding on all the parties.

In comfirmation to the agreement and total conformity to all stipulations, IN WITNESS WHERE OFF the parties have executed this AGREEMENT in duplicate on the day and year, hereinafter indicated.

FOR AND ON BEHALF OF   FOR AND ON BEHALF OF :

USER DEPARTMENT   CDG, NIC,

Witness: