



उत्तर प्रदेश UTTAR PRADESH

EX 024668

AGREEMENT

Today on this date 03rd June, 2019, this agreement is executed between

Part 1: Agra Smart City Ltd. (ASCL), Chief Executive Officer(here in after called as CEO of ASCL)

And

Part 2: M/s. Azael Manufacturing Pvt Ltd. (here in after called as contractor)

It is evident that the minimum quoted bid for the project, "Supplying, Installing, Testing And Commissioning Cum Operation And Maintenance Of Smart Health Center For Twelve Years In Ten Locations Of Agra Pan City On Boot Model, Agra" have been received from **M/s. Azael Manufacturing Private Limited**, of Rs. 145 (Rupees One Hundred Forty Five) which is one time card issuance fee per Smart Health Card (Inclusive of all taxes except GST).As per approved budget ASCL will allocate for issuance and distribution of all Smart Health Cards total amounting to Rs.90,00,000.00(Ninety lacs rupees only) + 12% G.S.T Rs.10,80,000.00 (Ten lacs eighty thousand rupees only), Total amount of project including G.S.T of Rs.1,00,80,000.00 (One Crore eighty thousand Rupees only) and that this has been approved by the Chairman, ASCL and intimated the contractor vide letter no. 864/ASCL/2018-19 dated 08.03.2019.

R. K. Singh
Notary
Agra Smart City Limited

a) That the contractor, along with his representatives and successors have themselves bound through this agreement wherein, he has agreed and signed all the terms and conditions of

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Authorized Signatory

K. B. Singh
Addl. C.E.O.
Agra Smart City Limited

Chief Executive Officer
Agra Smart City Limited

Agra Smart City Ltd. and that both parties have signed, is related to it and shall be treated a part of it.

- b) All work shall be measured net by standard measure and according to the rules as mentioned in Concession Agreement and Request for Proposal (RFP) and without reference to any local custom. Under no circumstances shall the contractor be entitled to claim enhanced rates for items in this contract.
- c) That the contractor has submitted Bank Guarantee of Indian Bank ,Branch-Saket New Delhi of No: 01225IG190000007 dated on 11thMarch 2019 amounting to Rs. 10,00,000.00 as Security deposit to Agra Smart City Ltd. in order to regularize the work under this contract. The responsibility of validity of the same shall be that of the contractor.
- d) That the detailed conditions of Concession Agreement and Request for Proposal (RFP) shall be a part of this agreement and any violation of any terms and conditions mentioned therein shall be treated as breach of this contract.
- e) The start date will be 10.06.2019 and the date of completion shall be 09.04.2020. The said concessionaire is selected for a period of 12 years excluding 10 months implementation i.e.09.04.2032.
- f) Defect liability period and Operation & maintenance period will be calculated from date of completion.

1 Definitions and Interpretation

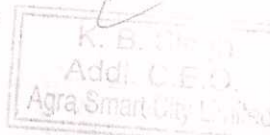
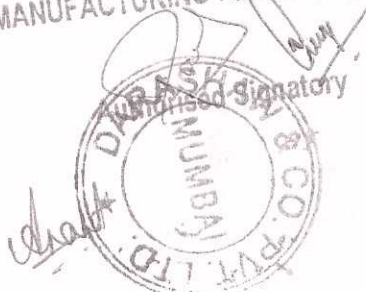
1.1. Definitions

1. **Affected Party** shall mean the party claiming to be affected by a Force Majeure event in accordance with clauses of the RFP.

2. The following documents shall be deemed to form and construed as an integral part of this **Agreement** with decreasing order of priority viz.:

- (i) Terms and conditions of Agreement
- (ii) Annexures to the Agreement
- (iii) Any correspondence exchanged with respect to this Agreement or additional document constituting part of the Agreement.
- (iv) Work specifications
- (v) Offer of the Contractor
- (vi) Contractor's submission to RFP
- (vii) Request for Proposal(RFP)

AZael Manufacturing Pvt. Ltd.



3. **Applicable Law** shall mean all laws in force and effect, as of date hereof and which may be publicized or brought into force and effect hereinafter in India including judgements, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project.

4. **Applicable permits** shall mean all clearances, permits, authorizations, consents and approvals required to be obtained or maintained by the Contractor under applicable law, in connection with the project during the subsistence of this Agreement.

5. **Authority** shall mean any agency, legislative, judicial or executive authority, public or statutory person, whether autonomous or not, of the GoI (Government of India) or GoUP (Government of Uttar Pradesh) or Agra Municipal Corporation or any local authority including the ASCL, its division or any other sub-division or instrumentality or any thereof.

6. **Bidders** shall mean a Bidding Company or Bidding Consortium, which have submitted a bid in response to this RFP document

7. **Contractor** means **Azael Manufacturing Private Limited**, a company having its registered office at 34/19, Ch. Lekhram House, Near Police Station, Jaunapur, New Delhi-110047, which has been appointed by ASCL for the Project, which includes the Contractor's personnel, representatives, successors and permitted assignees

8. **Contract Period** shall mean a period of 12 years from the Effective Date which may be extended further by additional 10 years based on performance by the contractor.

9. **Effective Date** means; the date on which this Contract is signed and executed by the parties hereto.

10. **Encumbrance** includes 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, claims for any amounts due on account of taxes, cess, electricity, water and other utility charges.

11. **Expiry Date** shall mean the date of completion of the Contract Period or the date of Termination of the Agreement, whichever is earlier

12. **ASCL** means; the Agra Smart City Limited. The project shall be executed in Agra City and shall be owned by ASCL

13. **Good Industry Practice** shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations as under this Agreement, which would reasonably and ordinarily be expected of a skilled and an experienced person

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Agra Smart City Limited

AZEL MANUFACTURING PRIVATE LIMITED
34/19, Ch. Lekhram House, Near Police Station, Jaunapur, New Delhi-110047
K. B. S.
Addl. C.
Agra Smart City Limited

K.B.S.
Addl. C.
Agra Smart City Limited

Chief Exec.
Agra Smart City Limited

13. **Good Industry Practice** shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations as under this Agreement, which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof, of any of them of a project similar to that of the project.

14. **Government Agency** shall mean Government of India (GoI), Government of Uttar Pradesh (GoUP), Agra Municipal Corporation, ASCL or any other state government or central government department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state or local, having jurisdiction over the Contractor, or the performance of all or any of the services or obligations of the Contractor under or pursuant to this Agreement.

15. **Letter of Award** shall mean the letter issued by ASCL to the successful Contractor, post the successful completion of the bidding process.

16. **Material Adverse Effect** means consequences of events which has a material adverse effect on (a) the ability of the Contractor to exercise any of its rights to perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

17. **Material Breach** shall mean a breach by either party of any of its obligations under this Agreement which has or is likely to have a material adverse effect on the project and which such party shall have failed to cure.

18. **Parties** shall mean the parties to the agreement and "party" means one of them, as the context may admit or require.

19. **Performance Security** means the deposit provided by the Contractor as a guarantee for the performance of its obligations of the Project.

20. **Person** means (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or government agency or any other legal entity.

21. **Preliminary Notice** shall mean the notice of intended termination by the party entitled to terminate this Agreement to the other party setting out, inter alia, the underlying event of default.

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R. K. Singh
Authorized Signatory

K. B. Singh
Addl. CEO
Agra Smart City Limited

Chief Executive Officer
Agra Smart City Limited

22. **Project** shall mean **SUPPLYING, INSTALLING, TESTING AND COMMISSIONING CUM OPERATION AND MAINTENANCE OF SMART HEALTH CENTER FOR TWELVE YEARS IN TEN LOCATIONS OF AGRA PAN CITY ON BOOT MODEL.** Agra.
23. **Project Agreements** shall mean collectively this Agreement and any other material contract (other than any commercial agreement with the users) entered into or may enter into by the Contractor in connection with the Project.
24. **Project Officer** shall mean a ASCL official appointed for supervision and monitoring of compliance by the Contractor with the O&M and commissioning requirements, more particularly to undertake, perform, carry out the duties, responsibilities, services and activities set forth in the work specifications.
25. **Project Area** shall mean jurisdiction of ASCL (Pan Agra City) granted to the Contractor to implement, maintain and operate the Project.
26. **Project Facilities** shall mean facilities provided by ASCL to Contractor for undertaking the Project.
27. **Proposal / Request for Proposal (RFP)** shall mean the 'Request for Proposal Document', dated 15.01.2019 issued by ASCL to the interested contractors in the proposal stage, as amended and modified from time to time together with all Annexures, Schedules, Maps along with such common set of deviations, corrigendum, addendum, amendments which have been issued from time to time.
28. **Rupees** or **"Rs."** refers to the lawful currency of the Republic of India.
29. **Standards of Reasonable and Prudent Supplier** means the standards, practices, methods and procedures expected from a person seeking in good faith to perform its contractual obligations and in so doing and in the general conduct of its undertaking, exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced Person engaged in the same type of undertaking under the same or similar circumstances and conditions.
30. **Tax** shall mean and include all taxes, fees, cesses, levies that may be payable by the Contractor under the applicable law.



Chief Executive Officer
Agra Smart City Limited

31. **Termination** shall mean the early termination of this Agreement pursuant to termination notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course.

32. **Termination Date** shall mean the date specified on the termination notice as the date on which the termination occurs.

33. **Termination Notice** shall mean the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.

1.2. Interpretations

In this Agreement, unless the context otherwise requires:

1. 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 to, or is capable of being applied to any transaction entered into herein under;
2. References to Applicable Laws shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law;
3. 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, organizations or other entities (whether or not having a separate legal entity);
4. 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;
5. The words "include" and "including" are to be construed without limitation;
6. Any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
7. The schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;
8. Any reference at any time to any Agreement, deed, instrument, license or document of any description shall be construed as reference to that Agreement, deed, instrument, license or other

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K. B. Singh
Addl. C.E.O.
Agra Smart City Limited

Chief Executive Officer
Agra Smart City Limited

document as amended, varied, supplemented, modified or suspended at the time of such reference;

9. Reference to recitals, clause(s), sub-clause(s), or schedule(s) in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, clause(s), sub-clause(s), and schedule(s) of or to this Agreement;

10. Any Agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any other party or by CEO shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such party or Project Officer on his behalf and not otherwise;

11. Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days and dates.

2 Conditions Precedent

3.1 Responsibilities of the Contractor

The Contractor shall fulfil the following conditions precedent within 60 (sixty) days from the Appointed Date:

- a) The Contractor shall have executed a Performance Security in favour of CEO, Agra Smart City Limited for a sum of Rs. 10,00,000.00 (Rupees Ten Lakh only) in the form of Bank Guarantee.
- b) The Performance Security shall be valid for the entire Contract Period plus 180 days.
- c) The Contractor shall submit a Project implementation and operation & maintenance report to ensure successful implementation and operations of the Project.
- d) The Contractor shall have deployed the requisite team for implementation of the Project.
- e) The Contractor shall have received all applicable permits and clearances, if any, from concerned authorities under relevant laws applicable.

3.2 Cost of satisfying the conditions precedent

The cost of satisfying the above conditions precedent shall be borne by the respective Parties responsible for satisfaction of the Conditions Precedent.

3.4 Non- fulfilment of the Conditions Precedent

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Agra Smart City Limited

Chief
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- a) In case of non-fulfilment of the Conditions Precedent attributable to reasons beyond the control of the Contractor or ASCL, the period for satisfaction of Conditions Precedent may be extended by mutual consent of the Contractor and ASCL.
- b) If any of the Conditions Precedent contemplated in clauses 3.1 and 3.2 are not satisfied in full or have not been waived, within the time stipulated or such extended time that the Parties may agree upon, then and in such event either party shall have the right to terminate this Agreement by 30 (Thirty) days' notice in writing to the other party, given at any time thereafter, but prior to such conditions precedent being satisfied or waived, and if the conditions precedent are not satisfied or waived within such notice period, upon expiry of such notice, this Agreement shall terminate.
- c) If the Agreement is terminated due to non-satisfaction of Conditions Precedent set forth in Clause 3.1, the Contractor shall not be compensated in any manner whatsoever and the Performance Security shall be forfeited and encashed.
- d) If the Agreement is terminated due to non-satisfaction of Conditions Precedent set forth in Clause 3.2, then ASCL shall release the Performance Security.
- e) The termination under the above circumstances shall be subject to terms & conditions as mentioned in this Agreement.

3.3 Rights, Title and Use of Project Facilities

The Contractor shall use the Project Facilities solely for this Project and shall hand it over to ASCL free of cost without any encumbrances on the expiry of this Contract or on Termination Date in event of an early Termination.

Scope of Work

The Contractor will carry out the work as mentioned at Clause 6 of the RFP.

R. K. Singh
Nodal
Agra Smart City

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Smart Health Centre (SHC) Framework

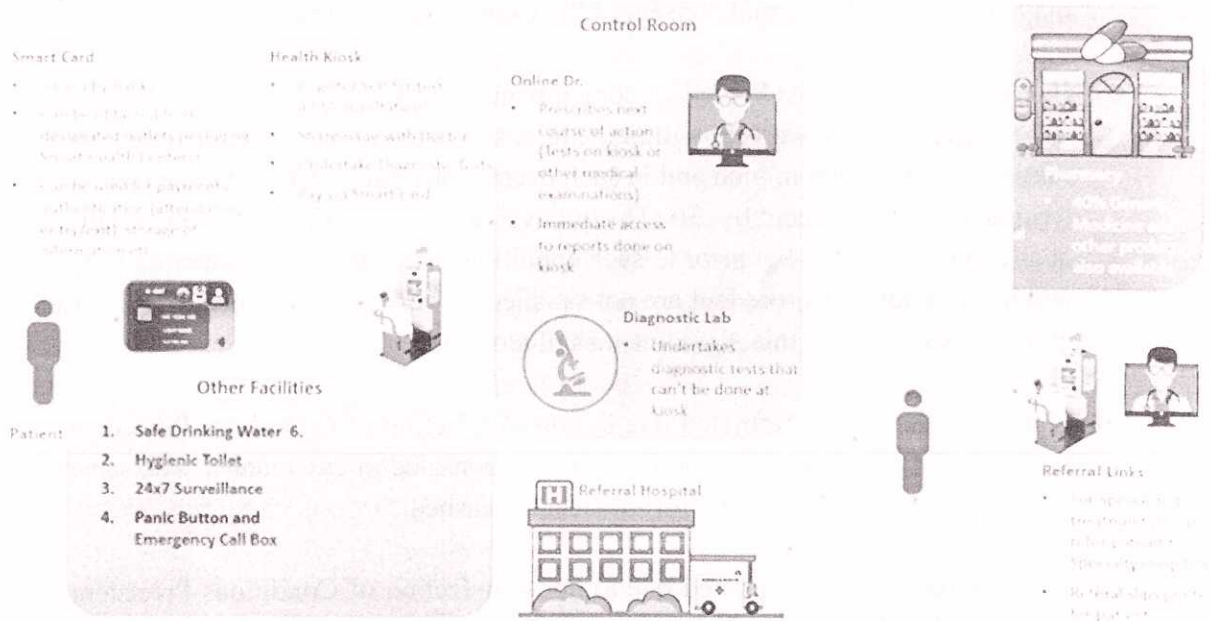


Figure 1: Smart Health Centre Framework

Project Background

- a) In the current scenario, the health care setup in the city of Agra is under tremendous pressure as it finds it hard to cope with the classic demand and supply gap. In the current context the facilities are still not in a proper ratio to meet the needs of total patients who come to these cities in need of good health care facilities. The Govt. Health Care mechanism is still overburdened with rising number of OPDs and limited room to accommodate IPD. The Smart Cities Mission targets to touch upon all parameters of Urban Lifestyle including Healthcare, whereby it aims to introduce technology to address the aforementioned concerns.
- b) Thus it becomes evident that there had to be a solution which needed to be automated up to a certain extent and can address the primary issues quickly and effectively. That is where the Smart Health Centers (SHCs) come into picture. These SHCs just like any other Primary Healthcare Centre (PHC) have access to physician, pharmacy and diagnostics. There is only a slight difference in the overall operating principle. Unlike in a PHC, the patient or the visitor is greeted by an automated health kiosk. This Kiosk will have facilities to immediately perform diagnostics that the patient wishes to undertake or else will have the option to connect the patient/visitor to the Doctor (via Tele Conferencing).

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- c) In this setup the Doctor can attend to more than one patient at different location and the turnaround time for getting results from Diagnostic tests ranges from within a fraction of a second to a few minutes, unlike the traditional diagnosis or tests which used to take time ranging from a few hours to few days.
- d) The patient can also get the prescribed medicines from the pharmacy in the same premises (also a part of the same SHC). The prime focus is always on promoting generic drugs. The vending machine will be pre-loaded with OTC generics while the pharmacy will have stock of 40% generic drugs, 50% branded medicines and rest will be Ayurveda and other health products for sale at nominal cost.

Project Objective

- a) To lighten the load from existing health infrastructure
- b) Acclimatize the residents of the city to automation and smart components in health care
- c) Introduce affordable and technologically advanced diagnosis methods for the residents.
- d) Create, Store and Analyse Digital Health Records of patients for easy retrieval and diagnosis
- e) Introduce a single mode of payment, authentication and storage across all smart solutions
- f) Introduce easier means to access free generic medicines

Health Kiosk

System should be able to deliver consultation services from a qualified Doctor as well as undertake diagnostic tests. The entire Smart Health Kiosk shall only be housed in portable/temporary structure and no permanent structure in any location shall be permitted

- a) System should be able to undertake following mandatory tests:

#	Tests/Facility	#	Tests/Facility
1	Bone mass	36	HIV I & II
2	WBC	37	PDW
3	LDL	38	PCT
4	HDL	39	P-LCC
5	Lym%	40	P-LCR
6	Mon%	41	LIC%
7	3 Lead ECG	42	LIC#
8	Online Stethoscope	43	ALY%

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#	Tests/Facility	#	Tests/Facility
9	Neu%	44	ALY#
10	Bas%	45	Leukocytes (LEU)c- Urine
11	Eos%	46	Urobilinogen (UGB)- Urine
12	Lym#	47	Vitamin C (VC) - Urine
13	Weight	48	Glucose (GLU) - Urine
14	BMI	49	Specify-gravity (SG)- Urine
15	Mon#	50	Bilirubin (BIL)- Urine
16	Neu#	51	Ketone (KET)- Urine
17	FAT%	52	PH - Urine
18	Muscle%	53	Nitrite (NIT) - Urine
19	Eos#	54	Protein (PRO)- Urine
20	Bas#	55	Blood (BLD)- Urine
21	RBC	56	Height
22	HGB	57	Diabetes & Kidney
23	HCT	58	Cardiac Parameters
24	MCV	59	Lipid Profile
25	MCH	60	Triglyceride
26	MCHC	61	Total Cholesterol
27	RDW-CV	62	Pregnancy
28	RDW-SD	63	Typhoid
29	PLT	64	Malaria
30	MPV	65	Dengue
31	Urinal Track Infection	66	Skin Check -
32	Dermascope	67	UV check
33	Pulse rate	68	Hair Check
34	Oxygen Saturation	69	IR Thermometer
35	Heart Rate	70	Software- Teleconsultation (Video conferencing)

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#	Tests/Facility	#	Tests/Facility
		71	Finger Print Authentication

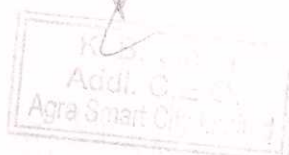
Note: All aforementioned tests MUST be charged less than or equal to rates as defined under the rate list provided by CGHS (Central Government Health Scheme), Govt. of India. Any other tests (not defined by Government agencies) shall be charged at Rs @ 20/-

- a) System should be able to undertake new patient registration and issue smart card (through limited as well as detailed KYC)
- b) System should be able to connect to a qualified Doctor through telemedicine setup that can be used by patient visiting the Health Kiosk (on a need basis)
- c) System should be able to print Medical Report of patient as well as should also be able to transmit required information onto the Smart Card
- d) The system should be able to store entire medical history/record/patient information and the same should be retrievable easily by patients using credentials through dedicated portal built for this purpose (that should be provided to patients upon registration. This should also be accessible to health care professionals using their log in credentials or through the smart card).
- e) System should be able to provide access to patient health records to emergency healthcare professionals (on need basis) even if they don't have credentials registered. There should be a defined mechanism by which an emergency healthcare professional should be able to authenticate his identity and access patient health records without the need for pre-generated login credentials.
- f) System should be accompanied by a designated medical assistant who must be holder of Diploma in Medical Laboratory Technology or better.
- g) System should be able to record the telemedicine session between patient and Doctor and make the same available to the patient and the Doctor (upon request by either party).
- h) System should be able to help the physician to communicate the prescription in a digital manner to the patient and the same should be printed out and handed over to the patient as well as stored on to the patient's health record.

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1.1 Control Room
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- a) A control room with a teleconference studio will need be set up for hosting real time consultations (where the patient will dial in from the kiosk located around the city and the Doctor will attend live from the studio).

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Chief Executive Officer
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- b) The setup should also be well equipped to undertake diagnostic tests (should be certified by NABL) which are not possible to be undertaken at the Heath Kiosk. Some of the examples are as below:

#	Tests/Facility	#	Tests/Facility
1	Blood Glucose	26	Uric Acid
2	Blood Urea	27	Toxoplasma Slide Test
3	SGOT	28	GGTP
4	Cholesterol	29	Widal Slide/Tube
5	Hemoglobin	30	LDH
6	Alkaline Phosphates	31	Sodium + Potassium Kit
7	HDL Cholesterol	32	Calcium
8	SGPT	33	C.R.P
9	CKMB	34	Inorganic Phosphorus
10	Bilirubin	35	A.S.O.
11	Iron TIBC	36	Acid Phosphates
12	Creatinine	37	G-6PD
13	P.P.D. 5 Tu/10tu	38	Brain Thromboplastin
14	Chloride	39	Albumin
15	Total Lipids	40	Amylase
16	Total Protein	41	L H
17	Thymol Turbidity	42	F S H
18	VDRL Kit Slide/Tube	43	Testosterone
19	R.A Slide Test	44	Human Growth Hormone
20	CKNAC	45	Testosterone
21	Occult Blood	46	Anti Sperm Anti Body
22	Total Lipids	47	Estriol
23	Triglyceride	48	Prolactin
24	GlycosylatdHaemoglobin	49	Estradiol

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#	Tests/Facility	#	Tests/Facility
25		50	Progesterone

Note: All aforementioned tests MUST be charged less than or equal to rates as defined under the rate list provided by CGHS (Central Government Health Scheme), Govt. of India. Any other tests (not defined by Government agencies) shall be charged at Rs @ 20/-

Smart Health Card

- The selected Contractor will be responsible for Design, Development, Procurement, Issuance, Supply, Integration, and Implementation of Health Smart Card.

1.2 Pharmacy

- A pharmacy will be needed to provide end to end solution in Smart Health Solution
- The pharmacy should stock at least 40% medicines of generic nature, 50% branded medicines and 10% medicines that fall under Ayurvedic or organic products.
- Pharmacy should be conveniently accessible to people with special abilities including those using wheel chairs. Tactical feedback tiles should placed through the Smart Health Centre to enable people with reduced visibility to move freely and reach out to desired facility within the centre.

1.3 Mobile App

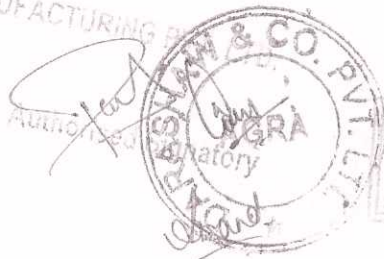
- A mobile app (developed for Android / iOS / Windows) should be made available to public for free using which any one can browse through their health record (as recorded during their visits to the Smart Health Centre (SHC).
- The users must be able to download/share the prescriptions and medical reports in a pdf format for their personal use across platforms.
- The system should be able to generate alerts to the user about any pending diagnosis scheduled on recommendation of the Dr. during his/her last visit to the SHC.
- In case the user undergoes or opts for routine checkups, the system should send him alerts few days before the due date of the diagnostic checkup.

(i) System should be able to show the pre-loaded balance amount available on the smart card of the user and all the smart city applications for which payment was made by him/her in a historical manner. (Only in case the smart scope to be implemented in Smart city other services)

(ii) System should allow new users to raise a request for new Smart Card through the mobile app. It should also provide facility to complete eKYC through the app

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platform for availing personalised card and other services of Smart Card (meant for full KYC users). (Only in case the smart scope to be implemented in Smart city other services)

1.4 Drinking Water Facility

- a) The water before being dispensed to the public shall be treated with suitable filtration process to meet BIS 14543 standard at all times. Availing water connection from nearby source will be the responsibility of concessionaire
- b) The selected contractor shall be responsible for executing works for making connection for Water dispensing units from the source provided by the ASCL including cost of all material and labour etc. The cost of filtration process at each dispensing unit, to ensure quality of water as per BIS 14543 standard shall be the responsibility of the Selected Contractor.
- c) The disposal of waste generated at each ATM shall be disposed by the Selected Contractor at his own cost to the nearest ASCL/AMC system. In case of performance severe penalties would be levied on the Selected Contractor by ASCL as applicable under existing laws related to littering in public areas.

1.5 Toilet

- a) Toilets should be mechanically ventilated. Small toilets should be fitted with an exhaust fan as minimum and should be connected to a functional sewer line and waste water drain

1.6 Other Support

- a) Authority shall provide all necessary assistance, as may be required by the Concessionaire for obtaining the Applicable Permits from the appropriate Government Agencies. If the successful contractor / Concessionaire faces any difficulties in obtaining the required permits beyond its control, SLA conditions will not be imposed on the specific project components.
- b) Electricity connection will be the responsibility of Concessionaire
- c) Authority shall ensure that the Concessionaire is not liable or responsible for any municipal or property tax, upon or in relation to the Project Assets or Project Site.
- d) Authority shall allow the Concessionaire to upgrade any or all of the Project Facilities/ Project Assets upon the advent of any new technology pertaining to the Project Facilities/ Project Assets, at its own cost.

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Chief
Agra

- e) Authority shall provide all necessary assistance, as may be required by the Concessionaire for obtaining the Applicable Permits from the appropriate Government Agencies. If the successful contractor / Concessionaire faces any difficulties in obtaining the required permits beyond its control, SLA conditions will not be imposed on the specific project components.
- f) Authority shall ensure that the Concessionaire is not liable or responsible for any municipal or property tax, upon or in relation to the Project Assets or Project Site.
- g) Minimum 750 sq. feet space (subject to availability and relevant NOC/permissions) given to the concessionaire. The location will be on the main road and as concessionaire will be providing the services at basis therefore allocation of space is most important for sustainability of the project, Therefore the location will be finalized in consultation with Authority and Concessionaire.
- h) The concessionaire can subcontract any specific services to any agency. But its mandatory to inform the Authority about the subcontract and the details of the organization. But in any case, all liability will lie with concessionaire.
- i) Authority shall ensure that during the concession period of 12 years, Authority will not allow any other agency for the similar nature of any work apart from concessionaire.
- j) Advertisement rights of the proposed site will be with concessionaire.
- k) The concession period will be further extended by Ten (10) years if the services of concessionaire is found satisfactory and as per conditions laid down under Tender and agreement.

4 Delivery Timelines

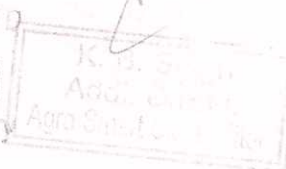
The delivery timelines are as per the clause 10.1. of the RFP as follows:

Implementation Timeline

T=Date of Signing of Contract

#	Project Activity / Milestone	Timeline
1	Issuance of LOI	T
2	Signing of Agreement with SPV	T+ 1 Weeks
3	Selection/ Allocation of places where SHC to be established with all approvals	T + 2 weeks
4	Operationalization of 1 Pilot SHC*	T+10 Weeks = T1
5	Operationalization of 25% of identified SHCs across the City	T1+ 3 Months

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6	Operationalization of 50% of identified SHCs across the City	T1+ 6 Months
7	Operationalization of 100% of identified SHCs across the city	T1+ 8 Months = T2
8	Go-Live and Sign Off by SPV (G)	T2+ 2 Weeks
9	Concession Period	G+ 12 Years
TOTAL		13 Years

5 Payment Terms

The payment terms are as per the Clause 3.7.2. of the RFP is as follows:

- The payment will raise a bill on 25th of every month on the basis of the cards distributed against which the payment will be released by SPV. The contractor will have to submit authenticated proof of individuals for which smart card is distributed like Voters ID/Aadhar Card/ PAN Card and the same will be verified on random basis by SPV to assess the genuiness

6 SLA and penalties

The SLAs and penalties for delay in deliveries/non-performance are as per clause 10. of the RFP.

- This section is to be agreed by the contractor as the Service Levels and key performance indicator for this engagement. The following section reflects the measurements to be used for tracking, monitoring and reporting of performance on a regular basis and imposition of penalties for non-performance as per the terms of the RFP.
- The purpose of this section is to define the levels of service which shall be provided by the Concessionaire for the duration of the Concession. Service Level Agreement (SLA) shall become the part of contract between the Authority(ies) and the Contractor. The Contractor has to comply with Service Levels requirements to ensure adherence to project timelines, quality and availability of services, throughout the period of this contract i.e. a total of 12 years (**the "Concession Period" excluding implementation period**).

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

- "Uptime" 80% Time period for which the specified services/ outcomes are available in the quarter being considered for evaluation of SLA

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Chief Executive
Agra Smart City Pvt. Ltd.

- b) "Downtime" 20% Time period for which the specified services/ components/outcomes are not available in the quarter being considered for evaluation of SLA
- c) "Scheduled Maintenance Time": Time period for which the specified services/ components with specified technical and service standards are not available due to scheduled maintenance activity. The Concessionaire is required to take at least 10 days prior approval from Client for any such activity. This would be allowed in off peak hours and would be granted once in a quarter and exclude festive timings (unless in any emergency situation) etc.
- d) "Incident": Any event / abnormalities in the service being rendered, that may lead to disruption in normal operations and services to the end user.
- e) "Response Time": Time elapsed from the moment an incident is reported in the Helpdesk over phone or by any applicable mode of communication, to the time when a resource is assigned for the resolution of the same.
- f) "Resolution Time": Time elapsed from the moment incident is reported in the Helpdesk over phone or by any applicable mode of communication, to the time by which the incident is resolved completely and services as desired are restored.

6.1 Implementation Timeline

T=Date of Signing of Contract

#	Project Activity / Milestone	Timeline
1	Issuance of LOI	T
2	Signing of Agreement with SPV	T+ 1 Weeks
3	Selection/ Allocation of places where SHC to be established with all approvals	T + 2 weeks
4	Operationalization of 1 Pilot SHC*	T+10 Weeks = T1
5	Operationalization of 25% of identified SHCs across the City	T1+ 3 Months
6	Operationalization of 50% of identified SHCs across the City	T1+ 6 Months
7	Operationalization of 100% of identified SHCs across the city	T1+ 8 Months = T2
8	Go-Live and Sign Off by SPV (G)	T2+ 2 Weeks
9	Concession Period	G+ 12 Years
TOTAL		13 Years

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6.1.1 Service Level Conditions

Implementation SLAs:

- a. These SLAs shall be used to evaluate the timelines for completion of deliverables that are listed in the project scope. These SLAs are applied for completion of the entire system commissioning till GO LIVE.
- b. For delay of every week in completion & submission of the deliverable mentioned in the section of Deliverables & Timeline, the Concessionaire would be charged with a penalty as follows, in addition to application of Liquidated Damages and forfeiture of Performance Security:

Delay in Following Activity	Deduction/Action on Violation of Servicelevelagreement
Delay in operationalization of SHC's	Rs 1,000/SHC/week or partthereoffortwo weeksafter due date
Submission of Inception report and Project plan	Rs. 1,000/week or partthereoffortwo weeksafter due date Rs. 2,000/week or partthereof beyondtwoweeksafter duedate
Health Application Configuration or Customization	Rs. 2,000/week or part thereof for two weeks after due date Rs. 5,000/week or part thereof beyond two weeks after due date
Trainingbefore Go-live for each identified stakeholder	Rs. 5,000/week or partthereof for twoweeksafter duedate. Rs. 10,00,000/week or partthereof beyondtwoweeksafter duedate;

6.1.2 Manpower Availability

- a. The Concessionaire needs to deploy the onsite manpower as per the defined scope of work and committed as per Annexure 4C. This manpower needs to report on day to day basis to the Authority.
- b. 50% of the total manpower deployed by the Concessionaire should be local citizens of respective cities where the concessionaire is setting up the infrastructure.

Penalties shall not be levied on the Concessionaire in the following cases:

- a. There is a force majeure event effectingthe SLA which is beyond the control of the Concessionaire. Force Majeure events shall be considered in line with the clause mentioned in RFP.

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Agra Smart City

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Addl. C.E.
Agra Smart City

Chief
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- b. The non-compliance to the SLA has been due to reasons beyond the control of the Concessionaire.
- c. The Concessionaire should take adequate anti-theft measures, spares strategy, Insurance as required to maintain the desired Required SLA.
- d. The aforementioned penalty shall be the full and final compensation for any SLA violation.

Project Documentation

- a. The Agency shall review the project documents developed by the Concessionaire including installation, training and administration manuals, version control etc.
- b. Any issues/gaps identified by the Agency, in any of the above areas, shall be addressed to the complete satisfaction of the Authority.

6.1.2 Hand-over of the system at the end of contractual period

Concessionaire will supply to the respective Authority(ies) the following during 10 weeks before the expiry of the contract:

- a. Information relating to the current services rendered and data relating to the performance of the services; Entire documentation relating to various components of the Project, any other data and confidential information related to the Project;
- b. All other information (including but not limited to documents, records and agreements) relating to the products & services related to the project to enable Authority and its nominated agencies, or its replacing Concessionaire to carry out due diligence in order to transition the provision of the Project Services to Authority(ies) or its nominated agencies, or its replacing Concessionaire (as the case may be).

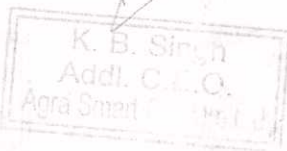
7 Project Personnel

7.1 ASCL- Project Officer

ASCL shall appoint a ASCL official as Project Officer. The Project Officer shall undertake, *interalia*, the following activities during the Commissioning Period:

- a. Ensure that the commissioning procedure is followed in accordance with the provisions of this Agreement
- b. Issue a Readiness Certificate if he/she is satisfied about the fulfilment of the commissioning requirements.
- c. Designate tests on equipment and machinery;

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Chief Executive Officer
Agra Smart City Limited

d. The Project Officer shall, in the ordinary course, maintain a record of the activities undertaken by it in discharge of its functions and responsibilities. This would include records in respect of the following:

- (i) Manpower deployed and other organizational arrangements of the Contractor;
- (ii) Reviews of documents submitted to it by the Contractor to meet the Commissioning requirements.
- (iii) Inspections undertaken and notices/instructions issued to the Contractor;
- (iv) Review of compliance with the commissioning requirements;
- (v) Payments;
- (vi) Force majeure events;
- (vii) Breaches and defaults by the parties.

7.1.1 Contractor- Project Officer

The Contractor will appoint a Project officer for coordination with the ASCL, Project officer. This person will be a Single point of contact for all the activities related to the project execution.

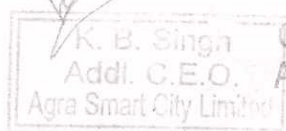
8 Performance Security

a. The Contractor shall, for due and punctual performance of its obligations hereunder relating to the Project, execute and deliver to ASCL a Performance Security in form of a Bank Guarantee in favor of CEO, Agra Smart City Limited for a sum of Rs10,00,000.00 (Rupees Ten Lakh only) valid for 180 days after completion of the Contract Period. If the Contract period is extended by ASCL then the Contractor will have to extend the validity of the Performance Security for the extended period accordingly.

b. Provided that if the Agreement is terminated due to any event other than a Contractor's event of default, the Performance Security if subsisting as on the termination date shall, subject to ASCL's right to receive amounts, from the Contractor under this Agreement, be duly discharged and released to the Contractor.

c. The Contractor shall keep the Performance Security replenished at all times. Such replenishment may be required if the ASCL has withdrawn/ deducted from the Performance Security owing to a default and the replenishment shall have to be done by the Contractor within 5 (five) working days of the withdrawal by ASCL from the Performance Security. Failure to do so on part of the Contractor shall result in an event of default by the Contractor.

9 Project Implementation and Operation & Maintenance (O&M) Obligations



- a) The Contractor shall be responsible for safety of all assets deployed as part of this Project and shall make necessary safety and security arrangements including insurance of such assets.
- b) The Contractor shall have requisite organization and designate and appoint suitable officers/representatives as it may deem appropriate to supervise the project, to deal with the Project Officer/ ASCL and to be responsible for all necessary exchange of information required pursuant to this Agreement.
- c) The Contractor shall suspend within 1 year of receipt of written notice, the whole or part of the operations upon receiving a written notice from the Project Officer who may require the Contractor to suspend the activities in whole or part if, in the reasonable opinion of the Project Officer; the operations are being carried on in a manner that is not in conformity with the terms and conditions of this Agreement. Such notice from the Project Officer shall specify the non-conformity of Contractor's obligations. The Contractor shall be entitled to continue performance as soon as said non-conformity is remedied.
- d) The Contractor shall be deemed to be in material breach if the Project Officer acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Contractor:
- (i) There has been a failure/undue delay in carrying out a scheduled/planned maintenance or the scheduled/planned maintenance has not been carried out in accordance with the terms and conditions of this Agreement.
 - (ii) There has been a serious and persistent letup in adhering to the requirements and thereby the Project and Project facilities or any part thereof is not safe for operations.
 - (iii) There has been a persistent breach of terms and conditions of this Agreement.
- e) For avoidance of doubt, persistent breach shall mean:
- (i) Any breach by the Contractor which has not been remedied by the Contractor, as required under the provisions of this Agreement despite a notice to remedy in respect thereof issued by the Project Officer / ASCL, and/or
 - (ii) Recurrence of a breach by the Contractor, during the pendency of notice to remedy by the Project Officer / ASCL requiring the Contractor to remedy a breach, and/or
 - (iii) Repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to notice to remedy or otherwise.

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Authorised Signatory

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Addl. C.E. (Extensive)
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(iv) Upon occurrence of a material breach, ASCL shall, without prejudice to and notwithstanding any other consequences provided thereof under this Agreement, depending upon the nature of obligation in respect of which a material breach has occurred, be entitled to both levy a penalty and thereafter terminate this Agreement if the breach is serious in nature.

10 Taxes, Duties and Statutory Levies

i. The Contractor shall bear all personnel taxes levied or imposed on its personnel, vendors, consultants, or any other member of Contractor's Team, etc. on account of payment received under this Agreement.

ii. The Contractor shall bear all corporate taxes, levied or imposed on the Contractor on account of payments received by it from the ASCL for the work done under this Agreement. GST will be paid as per prevailing rates on the date of billing.

iii. The Contractor shall bear all taxes and duties etc. levied or imposed on the Contractor under the Agreement including but not limited to GST, Works Contracts Tax and all Income Tax levied under Indian Income Tax Act – 1961 or any amendment thereof. It shall be the responsibility of the Contractor to submit to the concerned Indian authorities the returns and all other connected documents required for this purpose.

iv. The Contractor agrees that it shall comply with the Indian Income Tax act in force from time to time and pay Indian Income Tax, as may be imposed / levied on them, for the payments received by them for the works under this Agreement.

v. Should the Contractor fail to submit returns/ pay taxes in times as stipulated under the Indian Income Tax Act and consequently any interest or penalty is imposed by the Indian Income Tax authority, the Contractor shall pay the same. Contractor shall indemnify ASCL against any and all liabilities or claims arising out of this Agreement for such taxes including interest and penalty any such Tax Authority may assess or levy against the ASCL / Contractor.

11 Insurance

a. The material procured under this Project shall be fully insured by the Contractor, against any loss or damage. The Contractor shall submit to the Project Officer, documentary evidence issued by the insurance company, indicating that such insurance has been taken.

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b. The Contractor during the term of this Contract:

Shall take out and maintain, at his own cost but on terms and conditions approved by the ASCL, insurance with financially sound and reputable insurers against the risks, and for the coverage, as specified below:

i. ASCL's liability and workers' compensation insurance in respect of the Personnel of the Contractor / Contractor's Team, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

ii. Insurance against loss of or damage to (i) the Contractor's assets and property used in the performance of the Services, (ii) any documents prepared by the Contractor in the performance of the Services

iii. Shall pay all premiums in relation thereto and shall ensure that nothing is done to make such insurance policies void or voidable

iv. At ASCL's request, shall provide evidence to ASCL showing that such insurance has been arranged and maintained and that the current premiums therefore have been paid.

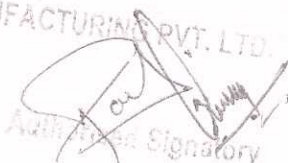
12 Limitation of Liability of Parties

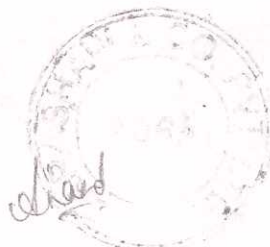
a. Neither Party shall be liable to the other Party for any indirect or consequential loss or damage (including loss of revenue and profits) arising out of or relating to the Agreement.

b. Except in the case of Gross Negligence or Willful Misconduct on the part of the Contractor / Contractor's Team or on the part of any person or firm acting on behalf of the Contractor executing the work or in carrying out the services, the Contractor, with respect to damage caused by the Contractor including to property and/or assets of the ASCL or of any of ASCL's vendors shall regardless of anything contained herein, not be liable for any direct loss or damage that exceeds (A) the Contract Price or (B) the proceeds the Contractor may be entitled to receive from any insurance maintained by the Contractor to cover such a liability, whichever of (A) or (B) is higher.

c. For the purposes of this section, "Gross Negligence" means any act or failure to act by a Party which was in reckless disregard of or gross indifference to the obligations of the Party under the Agreement and which causes harmful consequences to life, personal safety or real property of the other Party which such Party knew, or would have known if it was acting as a reasonable person, would result from such act or failure to act. Notwithstanding the foregoing, Gross Negligence

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shall not include any action taken in good faith for the safeguard of life or property. "Willful Misconduct" means an intentional disregard of any provision of this Agreement which a Party knew or should have known if it was acting as a reasonable person, would result in harmful consequences to life, personal safety or real property of the other Party but shall not include any error of judgment or mistake made in good faith.

d. This limitation of liability shall not affect the Contractor liability, if any, for direct damage by Contractor / Contractor's Team to a Third Party's real property, tangible personal property or bodily injury or death caused by the Contractor / Contractor's Team or any person or firm/company acting on behalf of the Contractor in executing the work or in carrying out the Services.

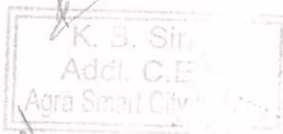
13 Rights and Obligations of the Parties

13.1 Contractor's Obligation

The Contractor shall at its own cost and expense:

- a. Maintain the amenities for housing his/her team including office space, office furniture, electricity and connectivity infrastructure (adequate Internet and Intranet bandwidth) without any additional cost.
- b. Obtain all applicable permits as required by or under the applicable law and be in compliance thereof at all the times during the Contract Period;
- c. Shall indemnify ASCL in respect of any claims made against it (ASCL) in relation to the use of licenses, permits, and/or any intellectual property, used/required for the Project.
- d. Procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the project.
- e. Make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the project and hereby indemnifies ASCL against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall ASCL be treated as employer in this regard.
- f. Be responsible for all the health, security, environment and safety aspects of the Project at all times during the Contract Period.

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g. Shall at all times obtain and necessary insurance, workmen compensation insurance policies throughout the Contract Period for the other employees deployed for this Project.

h. Upon receipt of a request thereof, afford access to the Project Facilities to the authorized representatives of ASCL for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement.

i. Take all approvals, permissions and authorizations which he may require or is obliged to seek from ASCL or any other Organization under its Agreement, in connection with implementation of the Project and the performance of its obligations.

j. Maintain the Project Area and Project Facilities with utmost care and ensure clean and hygienic conditions at the Project area at all times.

13.2 ASCL's Obligations

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, ASCL shall have the following obligations:

a. ASCL shall make available the site free of cost to the Contractor to undertake the Project.

b. Wherever appropriate ASCL will provide all support to Contractor on a best effort basis in securing applicable permits. However any delay in obtaining required permit is solely the responsibility of contractor only

c. Observe and comply with all its obligations set forth in this Agreement.

14 No breach of obligations

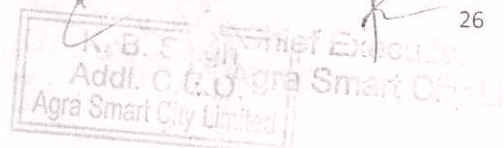
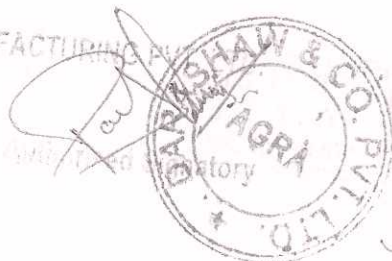
The Contractor shall not be considered to be in breach of its obligations under this Agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Agreement is affected by or on account of any of the following:

a. Force Majeure event as per clauses of the RFP

b. ASCL's event of default

c. Compliance with the instructions of the Project Officer /ASCL or the directions of any government agency other than instructions issued as a consequence of a breach by the Contractor of any of its obligations hereunder.

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d. Closure of the Project or part thereof with the approval of the Project Officer /ASCL for no fault of the Contractor.

15 Indemnity

The Contractor agrees to indemnify and hold harmless the ASCL and its officers and employees (each known as "ASCL Indemnified Party") promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorneys' fees and disbursements) and expenses (collectively known as "Losses") to which ASCL Indemnified Party may become subject, insofar as such Losses directly arise out of, in any way relate to, or result from:

i. Any negligence or wrongful act or omission by the Contractor or the Contractor's Team or any third party associated with Contractor in connection with or incidental to this Agreement; or

ii. Any breach of any of the terms of the RFP, the Contractor's Bid as agreed, the Tender and this Agreement: by the Contractor, the Contractor's Team or any third party.

iii. Any infringement of patent, trademark/copyright or industrial design rights arising from the use of the supplied goods and related services or any part thereof.

iv. Against any privilege, claim or assertion made by a third party with respect to right or interest in, ownership, mortgage or disposal of any asset, property, and movable or immovable as mentioned in any Intellectual Property Rights, licenses and permits

b. ASCL agrees to indemnify and hold harmless the Contractor and its officers and employees (each known as "Contractor Indemnified Party") promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorneys' fees and disbursements) and expenses (collectively known as "Losses") to which Contractor Indemnified Party may become subject, insofar as such Losses directly arise out of, in any way relate to, or result from:

I. Any mis-statement or any breach of any representation or warranty made by ASCL or

II. The failure by ASCL to fulfil any agreement, covenant or condition contained in this Agreement, including without limitation the breach of any terms and conditions of this Agreement by any employee of ASCL or

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III. Any claim or proceeding by any third party against Contractor arising out of any act, deed or omission by the ASCL.

For the avoidance of doubt, indemnification of Losses pursuant to this article shall be made in an amount or amounts sufficient to restore each Contractor Indemnified Party to the financial position it would have been in, had the Losses not occurred.

c. Any payment made under this Agreement pursuant to an indemnity or claim for breach of any provision of this Agreement shall be net of applicable Taxes.

d. Notwithstanding anything in this Clause 8, the obligations of both parties shall be limited to the extent determined under Clause 5.5.

16 Force Majeure

Force Majeure Event

Notice of Force Majeure Event Any of the events resulting in material adverse effect shall constitute a Force Majeure Event:

- a. Lightning, earthquake, landslides, tempest, cyclone, hurricane, whirlwind, storm, flood, and other unusual or extreme adverse weather or environmental conditions (including, without limitation, any such conditions at sea affecting the delivery of equipment to the Project) or other events of natural disaster of rare severity;
- b. Meteorites or objects falling from aircraft or other aerial devices, the occurrence of pressure waves caused by aircraft or other aerial devices travelling at high speeds;
- c. Fire or explosion, chemical or radioactive contamination or ionizing radiation; not attributed to the Contractor,
- d. Epidemic or plague;
- e. Strikes, lock-outs or other industrial action, change in government policy or labour disputes of ASCL excluding those by the Contractor or its Employees;
- f. Act of war (whether declared or undeclared), threat of war, invasion, armed conflict or act of foreign enemy, unexpected call up of armed forces, revolution, religious strife, bombs, sabotage, terrorism or threat of such acts or other similar events of a political or social nature;
- g. Expropriation, confiscation, nationalization or requisition of the Project by GoI, GoUP, or ASCL except as provided under this Contract Agreement;

Agra Smart City Limited

RAJESH K. SHARMA
RAJESH K. SHARMA & CO. PVT. LTD.
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Addl. C.E.O.
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h. Any decision or order of a court or tribunal, which has the effect of restraining all or any part of the activities concerning the construction, operation, maintenance or management of the Project including the determination, levy, demand, collection, retention and appropriation of Financials;

i. Any other similar things beyond the control of the Party/Parties.

Notice of Force Majeure Event

As soon as practicable and in any case within 3 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Party which is rendered wholly or partially unable to perform any of its obligations under this Contract Agreement because of a Force Majeure Event ("the Affected Party") shall notify the other party of the same, setting out, inter alia, the following in reasonable detail:

a. The nature and extent of the Force Majeure Event;

b. The estimated Force Majeure Period;

c. The nature of and the extent to which, performance of any of its obligations under this Contract Agreement is affected by the Force Majeure Event;

d. The measures, which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and

e. Any other relevant information concerning the Force Majeure Event, and/or the rights and obligations of the Parties under this Contract Agreement.

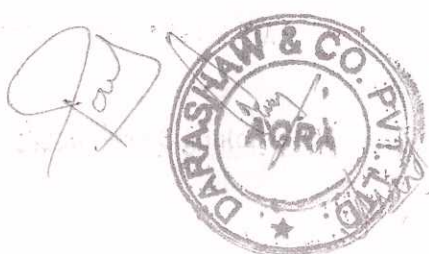
Performance of Obligations

The Affected Party shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

a. Due notice of the Force Majeure Event has been given to the other Party as required by the preceding Clause 9.2;

b. The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;

R. K. Singh
Agra Smart City Limited



K. B. Singh Chief Executive Officer
Addl. C.E. of Agra Smart City Limited

c. There shall be no Termination of this Contract Agreement except as provided in Clause 9.4;

d. Where the Contractor is the Affected Party, the various deadlines set forth in this Contract and the Contract Period shall be extended by the period for which such Force Majeure Event shall subsist;

e. Where the Contractor is the Affected Party, it has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Facility as a result of the Force Majeure Event and to restore the Facility, in accordance with the Good Industry Practice and its relative obligations under this Contract;

f. When the Affected Party is able to resume performance of its obligations under this Contract, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance;

g. The Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Contract; and

h. Any insurance proceeds received by the Contractor shall be entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with Good Industry Practice and in consultation with the ASCL, unless otherwise agreed to by ASCL.

Termination Due To a Force Majeure Event

If a Force Majeure Event as described in Clause 9.1 continues or is in the reasonable judgment of the Parties likely to continue beyond a period of 120 days, the parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the parties are unable to reach an agreement in this regard, the affected party shall after the expiry of the said period of 120 days, be entitled to terminate this Agreement. Upon Termination of this Agreement on account of a Force Majeure Event, the Affected Party shall be entitled to receive any outstanding payments due to it for under the Contract Agreement up to the date of Termination.

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17 Events of default and termination
Agra Smart City Limited
17.1 Events of default

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Agra Smart City Limited

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Agra Smart City Limited

Event of default shall mean either Contractor event of default or ASCL event of default or both as the context may admit or require.

a. Contractor event of default

Any of the following events shall constitute an event of default by the Contractor ("Contractor event of default") unless such event has occurred as a result of one or more reasons of force majeure:

I. The Contractor has failed to replenish the Performance security within 5 (five) working days of the encashment by ASCL of the earlier Performance Security;

II. Any representation made or warranty given by the Contractor under this Agreement is found to be false or misleading;

III. The Contractor has abandoned the Project;

IV. The Contractor has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;

V. The Contractor has suffered an attachment levied on any of its assets which has caused or is likely to cause a material adverse effect on the project and such attachment has continued for a period exceeding 90 (ninety) days.

VI. Any other instance explicitly not mentioned in this Agreement as having constituted an event of default.

VII. The Contractor fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the ASCL may have subsequently granted in writing;

VIII. The Contractor becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;

IX. The Contractor fails to comply with any final decision reached as a result in accordance with the dispute redressal mechanism of this agreement hereof;

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Addl. C.E. Agra Smart City Limited

X. The Contractor submits to the ASCL a statement which has a material effect on the rights, obligations or interests of the ASCL and which the Contractor knows to be false;

XI. As the result of Force Majeure, the Contractor is unable to perform a material portion of the Services for a period of not less than 60 (Sixty) days; or

Aa XII. ASCL, in its sole discretion and for any reason whatever decides to terminate this agreement.

b. ASCL event of default

Any of the following events shall constitute an event of default by ASCL ("ASCL" event of default), unless caused by a Contractor event of default or a force majeure event:

I. ASCL is in material breach of any of its obligations under this Agreement and has failed to cure such breach within 45 (Forty Five) days of receipt of notice thereof issued by the Contractor;

II. ASCL fails to comply with any final decision reached as a result of arbitration.

17.2. Termination due to event of default

a. Termination notice

Subject to the procedures of this Agreement, if a party having become entitled to do so decides to terminate this Agreement pursuant to the preceding sub clauses 10.1(a) or

10.1(b), it shall issue termination notice setting out:

I. In sufficient detail the underlying event of default;

II. The termination date, which shall be a date occurring not earlier than 30 days from the termination notice;

III. The estimated termination payment including the details of computation thereof; and,

IV. Any other relevant information

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b. Withdrawal of termination notice

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Addl. C.E.O.
Agra Smart City Limited

Notwithstanding anything inconsistent contained in this Agreement, if a party who has been served with the termination notice cures the underlying event of default to the satisfaction of the other party at any time before the termination occurs, the termination notice shall be withdrawn by the party which had issued the same.

Provided that the party in breach shall compensate the other party for any direct costs/consequences occasioned by the event of default which caused the issue of termination notice.

17.3. Termination Payments and Rights on termination

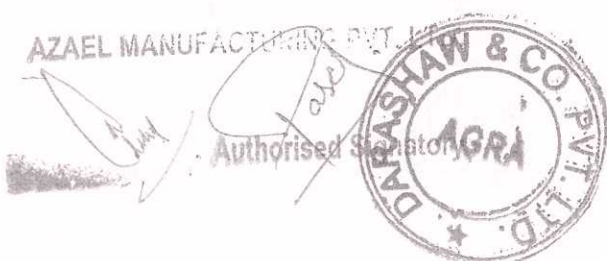
a. Contractor event of default

- I. ASCL shall be entitled to appropriate the amounts in the Performance Security.
- II. ASCL shall be entitled to enter upon and take possession and control of the Project forthwith;
- III. ASCL may prohibit the Contractor and any person claiming through or under the Contractor from using/dealing with the Project;
- IV. In case of breach by the Contractor of any terms and conditions of the RFP or that of agreement, the Executive Director, ASCL shall have absolute right to terminate the contract without notice to the Contractor and forfeit the performance security. The ASCL reserves its right to encash performance bank guarantee even before termination of the contract on breach.

b. ASCL event of default

- I. Contractor shall be entitled to appropriate the amounts in the Performance Security if subsiding,
- II. Contractor shall be entitled to receive all expenses done with respect to the Project as on date of Termination Notice, provided the Contractor produces proof of all such unpaid expenses. Notwithstanding anything contained in this Agreement, ASCL shall not, as a consequence of termination or otherwise, have any obligation whatsoever, including but not limited to, obligations as to compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, with respect to any person in the employment of or engaged by the Contractor in connection with the Project, and the handover of the Project and Project Facilities by the Contractor to ASCL shall be free from any such obligation.

18 Hand back and Transfer Requirements



18.1. Ownership

Without prejudice and subject to the Agreement, the ownership of the Project developed by the Contractor and Project Facilities provided by ASCL to the Contractor, including all modifications, renovations and improvements made therein by the Contractor, shall at all times remain that of ASCL.

18.2. Contractor's Obligations

The Contractor shall at the end of the Agreement Period hand back peaceful possession of the Project and Project Facilities including fixed assets, improvements made therein by the Contractor, to ASCL free of cost and in good operable condition.

a. On the Transfer Date, the Contractor shall, transfer and assign to the ASCL or its nominated agency, as the case may be, free and clear of any charges, liens and Encumbrances created or suffered by the Contractor after the Effective Date all of the Contractor's right, title and interest in and to the Project Assets and the Facility. The Contractor shall also deliver to the ASCL or its nominated agency on such date such operating manuals, plans, reports, accounts and other information as may reasonably be required by the ASCL or its nominated agency to enable it to continue the operation of the Facility either directly or by its nominated agency. The personnel of the Contractor shall continue to be the employees of the Contractor and the transfer of the Project Assets and the Facility shall not in any manner affect their status as employees of the Contractor and they shall have no claim to any type of employment or compensation from the ASCL or its nominated agency.

b. The Contractor shall to the extent possible assign to the ASCL or its nominated agency at the time of transfer all unexpired guarantees and warranties by suppliers and all insurance policies. The Contractor shall ensure that any rights, which are to be so assigned, are capable of assignment and such assignment has been approved under the terms of the relevant contract by the counterpart to the Contractor.

c. The Contractor shall, to the extent possible at the time of transfer assign to the ASCL or its nominated agency all contracts, equipment contracts, supply contracts and all other contracts relating to the Project entered into by the Contractor and subsisting at the time of transfer except contracts with employees.

The transfer of Facility shall be treated as a transfer on a going-concern basis. The transfer of immovable property comprising the Project shall be deemed to be a termination of all contracts in relation to the Facility and the title to all such immovable property shall automatically revert

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to the ASCL or its nominated agency. The Facility shall be deemed to be transferred to the ASCL or its nominated agency by constructive delivery and possession.

e. At the time of transfer of the Facility, the Facility shall be in such condition as is reasonable in all the circumstances, taking into account their age, the design, materials used, and maintenance carried out.

f. The Contractor shall be responsible for the costs and expenses, including stamp duties, taxes, legal fees and expenses, incurred in connection with the Transfer of the Facility to ASCL.

g. On the Transfer Date, the Contractor shall hand over the possession of the Facility to the ASCL or its nominated agency. Furthermore, the Contractor and its employees shall vacate the Facility forthwith.

h. From the Transfer Date, the obligations and the rights of the Contractor under this Contract Agreement shall terminate vis-à-vis the ASCL, and the ASCL or its nominated agency shall take over the Facility and the Project Assets and their operation, maintenance & management and any other rights or obligations arising out of this Contract, which either may expressly or implicitly survive termination of this Contract; provided, however, that the Contractor may continue with any other business operations arising other than in connection with this Contract and; provided further that the Contractor shall no longer act in its capacity as Contractor in relation or pursuant to this Contract.

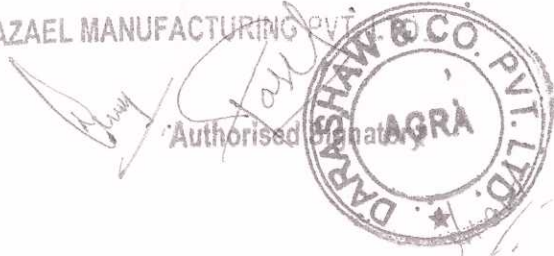
i. At least 3 (Three) months before the expiry of the Agreement Period a joint inspection of the Project and Project Facilities shall be undertaken by ASCL, Project Officer and the Contractor. ASCL/ Project Officer shall, within 15 (fifteen) days of such inspection prepare and furnish to the Contractor a list of works/ jobs, if any, to be carried out. The Contractor shall promptly undertake and complete such works/ jobs at least 1 (One) month prior to the expiry of the Agreement Period and ensure that the Project and Project Facilities continue to meet such requirements until the same are handed back to ASCL.

j. The Contractor hereby acknowledges ASCL's rights specified above enforceable against it upon Termination and its corresponding obligations arising thereof. The Contractor undertakes to comply with and discharge promptly all such obligations.

18.3. ASCL's Obligations

ASCL shall, subject to ASCL's right to deduct amounts from the Performance Security towards:

AZael Manufacturing Pvt. Ltd.



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a. Carrying out works/ jobs listed under Clause 11.2, which have not been carried out by the Contractor

b. Purchase of items, which have not been handed back to ASCL in terms of Clause 11.2 and

c. Any outstanding dues, which may have accrued in respect of the Project during the Agreement Period duly discharge and release to the Contractor, the amounts in the Performance Security account or balance therein after deductions in respect to (a), (b) and (c) above, as the case may be, upon issuance of certificate from Project Officer regarding compliance by the Contractor with the Hand back and Transfer Requirements.

19 Dispute Resolution

a. All disputes or differences arising out of or in connection with this Contract, shall be raised before the Competent Authority, as defined in Contract data in writing giving full description and grounds of Dispute. It is clarified that merely recording protest while accepting measurement and/or payment shall not be taken as raising a dispute. Disputes between the Parties shall be resolved amicably within thirty days of such dispute arising, and at least one party having brought such dispute to the notice of either Party.

b. No issue of dispute can be raised after 45 (forty five) days of its occurrence. Any dispute raised after expiry of 45 (forty five) days of its first occurrence shall not be entertained and the Employer shall not be liable for claims arising out of such disputes.

c. The Competent Authority shall decide the matter within 45 (forty five) days of receipt of notice of such disputes.

d. Appeal against the order of the Competent Authority can be preferred within 30 (thirty) days of the receipt of the Order of the Competent Authority to the Appellate Authority as defined in the Contract data. The Appellate Authority shall decide the dispute within a further period of 45 (forty five) days.

e. If the dispute persists then the aggrieved party shall refer the case to the tribunal constituted under Uttar Pradesh Uttarsthata Adhikaran Adhiniyam, 1983 and Indian Arbitration and Conciliation Act, 1996. Costs associated with arbitration and/or litigation shall be borne by the respective parties. Statutory costs and fees other than the costs stated above, wherever applicable shall be paid by the Party referring the dispute to the tribunal. Place for dispute resolution shall be at Agra. The language of arbitration shall be English.

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f. Appeals against arbitration orders can be filed only in Courts within the state of Uttar Pradesh. The language of all proceedings to this effect shall be English.

g. Notwithstanding the pendency of the outcome of any arbitration or suit, the Contractor as well as employer/ASCL shall continue to discharge his obligations under this Contract.

h. The courts at Agra shall have the exclusive jurisdiction in respect of disputes.

i. Pending the resolution of any dispute, the parties shall continue to perform their respective obligations under this Agreement without prejudice to a final adjustment in accordance with such resolution.

20 Change in Law

Change in law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:

I. The enactment of any new Indian law;

II. The repeal, modification or re-enactment of any existing Indian law

III. A change in the interpretation or application of any Indian law by a court of record.

Provided that change in law shall not include any change in the rates of taxes.

21 Representations and warranties

21.1. Representations and warranties of the Contractor

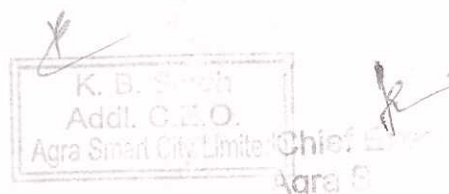
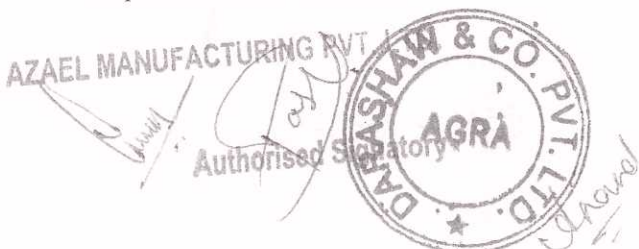
The Contractor represents and warrants to ASCL that:

a. It is duly organized, validity existing and in good standing in accordance with the laws of India;

b. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

c. It has taken all necessary corporate and other action under applicable laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;

d. It has the financial standing and capacity to undertake the Project as per the requirements of the RFP;



- e. This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- f. The execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Contractor's memorandum and articles of association or any applicable laws or any covenant, Agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- g. There are no actions, suits, proceedings or investigations pending, or to the Contractor's knowledge, threatened against it at law or in equity before any court or before any judicial, quasi-judicial or other authority, the outcome of which may constitute Contractor's event of default or which individually or in the aggregate may result in material adverse effect; It has complied with all applicable laws and has not been subjected to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have material adverse effect;
- h. Subject to the receipt by the Contractor from ASCL of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Contractor in and to the Project shall pass to and vest in ASCL on the termination date free and clear of all encumbrances without any further act or deed on the part of the Contractor or ASCL
- i. No representation or warranty by the Contractor contained herein or in any other document furnished by it to ASCL or to any government agency in relation to applicable permits contains or will contain any untrue statement of material fact or omits or will omit to state material fact necessary to make such representation or warranty not misleading.
- j. No bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Contractor to any person to procure the contract.
- k. Without prejudice to any express provision contained in this Agreement, the Contractor acknowledges that prior to the execution of this Agreement, the Contractor has after a complete and careful examination made an independent evaluation of the project requirements and the information provided by ASCL, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Contractor in the course of performance of its obligations hereunder.

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Agra Smart City Limited

1. The Contractor also acknowledges and hereby accepts the risk of inadequacy. Mistake or error in or relating to any of the matters set forth above and hereby confirms that ASCL shall not be liable for the same in any manner whatsoever to the Contractor

21.2. Representations and warranties of ASCL

ASCL represents and warrants to the Contractor that:

- a. ASCL has full power and authority to grant the contract;
- b. This Agreement constitutes ASCL legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- c. There are no legal suits or other legal proceedings pending or threatened against ASCL in respect of the Project and Project Facilities.

21.3. Obligation to notify change

In the event that any of the representations or warranties made/given by a party ceases to be true or stands changed, the party who had made such representation or given such warranty shall promptly notify the other of the same.

22 Miscellaneous

22.1. Assignment and charges

- a. The Contractor shall not assign in favour of any person for this Agreement or any part of this agreement, the rights, benefits and obligations hereunder save and except with prior written consent of ASCL
- b. The Contractor shall not create nor permit to subsist any encumbrance over the Project and Project Facilities

22.2. Governing law and jurisdiction

This Agreement shall be governed by the laws of India. The courts at Agra , U.P shall have the jurisdiction over all matters arising out of or relating to this agreement.

22.3. Waiver

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a. 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:

I. Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;

II. Shall not be effective unless it is in writing and executed by a duly authorized representative of such party; and

III. Shall not affect the validity or enforceability of this Agreement in any manner.

b. Neither the failure by either party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a party to the other party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

22.4. Survival/ Termination of this Agreement

a. Shall not relieve the Contractor or ASCL of any obligations already incurred hereunder which expressly or by implication survives termination hereof, and

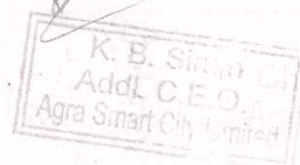
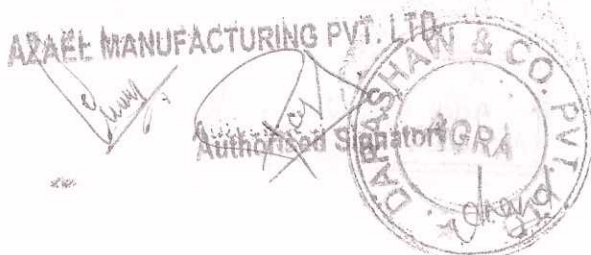
b. Except as otherwise provided in any provision of this Agreement expressly limiting the liability of the either party, shall not relieve the either party of any obligations or liabilities for loss or damage to the other party arising out of or caused by acts or omissions of such party prior to the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

22.5. Entire Contract

This Agreement and the annexures together constitute a complete and exclusive understanding of the terms of the Agreement between the parties on the subject hereof and no amendment or modification hereto will be valid and effective unless agreed to by all the parties hereto and evidenced in writing and duly executed by persons especially empowered in this behalf by the respective Parties.

22.6 Copyright

The Contractor, hereby transfers to the ASCL copyright, and all other intellectual property rights subsisting in or accruing to the Contractor, in relation to the Documents made or to be made by or on behalf of the Contractor, during the Contract Period for which such copyright subsists in such works. The ASCL hereby grants to the Contractor non-exclusive royalty-free license to use



such documents and drawings solely for the purpose of complying with its obligations under this Contract.

22.7. Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognized national courier, mail, registered speed post, telex or facsimile transmission and delivered or transmitted to the parties at their respective addresses set forth below:

If to ASCL:

The Chief Executive Officer

Agra Smart City Limited, Agra
Agra Municipal Corporation, Near Sur Sadan, Agra

If to the Contractor:

The Managing Director,
Azael Manufacturing Private Limited,
34/19, Ch. Lekhram House,
Near Police Station,
Jaunapur,
New Delhi-110047

Or such address, telex number or facsimile number as may be duly notified by the respective parties from time to time, and shall be deemed to have been made or delivered, in the case of any communication made by letter, when delivered by hand, by recognized national courier or by mail (registered, return receipt requested) at that address, and in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

22.8. Severability

If for any reason whatsoever 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

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a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions as nearly as is practicable. Provided that the failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

22.9. No partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the parties. Neither party shall have any authority to bind the other in any manner whatsoever.

22.10. Language

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

22.11. Exclusion of implied warranties etc.

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 and any representation by any party not contained in a binding legal Agreement executed by the parties.

22.12. Counterparts

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

22.13. Costs

The Contractor shall bear all the costs related to the signing and registration of this Agreement including but not limited to stamp duties and registration charges.

22.14 Confidentiality

a. Except with the prior written consent of the ASCL, the Contractor including its officers, employees, or agents shall not at any time communicate to any person or entity (other than to any of its or their respective officers or employees who require the same to enable them to properly carry out their duties) any information concerning the operations, contracts, commercial or financial arrangements or affairs of the Contract/Project, nor shall the Contractor make public any information related to the Project.

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b. Both Parties agree that confidentiality obligations do not apply to:

a. Information that is already known to third parties without breach of this Contract; and

b. Information that is required to be disclosed by an order of a court of competent jurisdiction or an appropriately empowered public authority, or as a result of an obligation arising under the Right to Information Act or other public disclosure law.


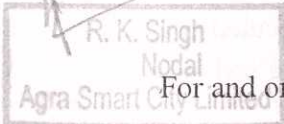
22.15 Assignment and Charges

a. The Contractor shall not assign in favour of any person for this Agreement or any part of this agreement, the rights, benefits and obligations hereunder save and except with prior written consent of ASCL.

b. The Contractor shall not create nor permit to subsist any encumbrance over the Project and Project Facilities

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

SIGNED, SEALED AND DELIVERED

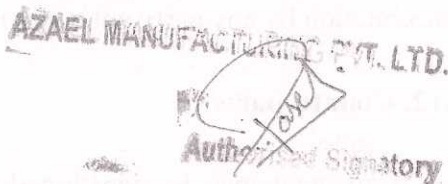



For and on behalf of ASCL by:

Signature

Name


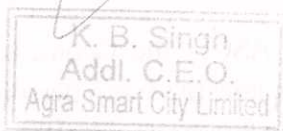
Designation




For and on behalf of Contractor

Signature

Name *Pascal Loustence*
Designation *Deputy manager Procurement*


Chief Executive Officer
Agra Smart City Limited

