



**ODISHA MOTOR VEHICLE DEPARTMENT
GOVERNMENT OF ODISHA**

**REQUEST FOR PROPOSAL (RFP) FOR
SELECTION OF OPERATOR FOR ESTABLISHMENT, OPERATION &
MAINTENANCE OF AUTOMATED DRIVING TEST SYSTEM (ADTS) ON PPP
MODEL IN ODISHA**

Volume 2: Operator Agreement
December 2021

RFP No. LX- 100/2021/120/TC dated 05.01.2022

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OPERATOR AGREEMENT

Transport Commissioner -cum- Chairman, State Transport Authority, having its office at 6th Floor, Rajaswa Bhawan, Chandini Chowk, Cuttack- 753002 (hereinafter referred to as the "Authority", which expression shall include its successors and permitted assigns);

AND

[_____], a company incorporated under the/ Companies Act / Registered Partnership firm/ Registered Proprietary firm/Joint Venture having its registered office at [_____] (hereinafter referred to as the "Operator", which expression shall include its successors and permitted assigns);

The Authority and the Operator are hereinafter individually referred to as "Party" and collectively as "Parties"

WHEREAS

- A Transport Commissioner, Odisha "Authority" intends to use automated driving test tracks for assessing the driving skills of the applicants seeking two-wheeler and LMV driving licenses for improving road safety scenario in the state of Odisha by deploying a video analytics based Automated Driving Test System at 19 RTO Offices on PPP basis through appointment of an Operator. Towards this endeavor, the Authority sought a Private Operator for Establishment, Operations and Maintenance of Automated Driving Test System (ADTS) at its RTO Offices with necessary equipment & IT systems along with Allied Electrical & Civil Infrastructure in Odisha with responsibilities better defined in the accompanying clauses in this Agreement and Instruction to Bidders in the RFP document, through an open selection process in _____ 2021.
- B After evaluation of the proposals received, Authority accepted the proposal of M/s _____ as the successful Proposal and issued its Letter of Acceptance _____ dated _____ (hereinafter called the "LOA") for Establishment, Operations and Maintenance of Automated Driving Test System (ADTS) with necessary equipment & IT systems along with Allied Electrical & Civil Infrastructure at _____ locations under Cluster _____ in Odisha as per Annexure 1 of Volume 2 of RFP, requiring, inter alia, the execution of this Agreement. The ADTS under different RTOs have been categorized into two Clusters (ie., Cluster 1 and Cluster 2) based on the testing demand at each center.

- C By its letter dated _____ the _____ (Operator) has accordingly agreed to enter into this Agreement with Authority for execution of his rights and responsibilities, subject to and on the terms and conditions set forth hereinafter.
- D The Authority and the Operator are hereby entering into this Operator Agreement to implement the Project of Establishment, Operations and Maintenance of Automated Driving Test System (ADTS) with necessary equipment & IT systems along with Allied Electrical & Civil Infrastructure at _____ locations under Cluster _____ in Odisha as per Annexure 1 of Volume 2 of RFP, Odisha.

NOW, THEREFORE, the Parties hereto hereby agree as follows:

1. DEFINITIONS AND INTERPRETATION

- 1.1. In the Agreement, unless the context otherwise requires, the following terms and expressions, whenever used, shall have the following meanings hereinafter respectively ascribed to them:
- 1.1.1 “ADTS” or “Automated Driving Test System” means the video analytics-based system which is being established and maintained by the Operator as per the terms of the RFP for assessing the driving skill of the candidates seeking permanent driving license of two wheeler or LMV or both.
- 1.1.2 “ADTS Services” means the ADTS Services in the Driving Testing Centers at the RTO premises being implemented by the Authority in one or more phases in accordance with the terms of this Agreement.
- 1.1.3 “ADTS Specification/Technical Specifications” shall mean the specifications of the ADTS including but not limited to civil structures, track dimensions, electrical systems, information systems and other IT systems and equipment and other details stipulated by the Authority.
- 1.1.4 “Aggregate Fines” shall have the meaning as ascribed thereto in Clause 31.3 of the Agreement.
- 1.1.5 “Agreement” means this agreement executed between the Authority and the Operator together with its annexure and any further correspondence, notices and conditions, in the RFP or otherwise, that the Parties signatory to this Agreement have expressly agreed to include as part of this Agreement.
- 1.1.6 “Applicable Clearances” means all clearances, permits, no-objection certifications, exemptions, authorizations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the Project, during the subsistence of this Agreement.
- 1.1.7 “Applicable Law” means all the laws, acts, ordinances, rules, regulations, notifications, guidelines or bye-laws, in force and effect, as of the date hereof and which may be promulgated or brought into force and effect hereinafter

in India, including judgments, 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.

- 1.1.8 “Assured ADTS Availability” shall have the meaning as ascribed thereto in Clauses 25 and 27 of the Agreement.
- 1.1.9 “Authorisation” means the permission for operating the ADTS as required under the Motor Vehicles Act, 1988 or any other Applicable Law from time to time.
- 1.1.10 “Authority” means Motor Vehicle Department, Government of Odisha represented by the Transport Commissioner cum Chairman or his/her authorized representatives.
- 1.1.11 “Authority Clearances” means the clearances, which are required to be procured by the Authority in accordance with Applicable Law.
- 1.1.12 “Base User Charge” or “User Fee” means the rate/fee for each driving test payable by the Authority to the Operator for testing a driving license seeking applicant.
- 1.1.13 “Commercial Operations Date”/“COD” - The COD shall be the date which is number of days from the date of LOA for different Cluster/Group category of RTO as defined in clause 3 of Volume 2 of RFP or the date of commencement of operations whichever is earlier depending upon the Group category of the driving testing center as per Annexure 1 of Volume 2 of RFP.
- 1.1.14 “Consortium” shall mean the group of legally constituted maximum three entities, who have come together and have agreed to or have formed an understanding (in writing) for Establishment, Operations and Maintenance of ADTS on PPP Model in Odisha including establishment of associated Electrical and Civil Infrastructure and its Maintenance subject to the terms of this Agreement.
- 1.1.15 “Contract Period/Agreement Period” shall mean the term as defined in Clause 3.1
- 1.1.16 “Department Fee” means the fee collected by the Odisha Motor Vehicle Department for testing and issue of permanent driving license for two-wheeler and LMV vehicle as per the prevailing rules under the CMVR and Odisha State Motor Vehicles. The Department Fee is also inclusive of the User Fee as defined the succeeding sections given below.
- 1.1.17 “Delivery Schedule” shall have the meaning as ascribed thereto in the Clause 10.1 of the Agreement.
- 1.1.18 “Dispute” shall have the meaning ascribed to it in Clause 40 of this Agreement.
- 1.1.19 “Driving Testing Center” means one or more of the Driving Testing Centers of the Authority for use by the Operator from time to time for the purposes of establishment, operations and maintenance in the ADTS Service Area in

accordance with the terms of this Agreement, and which shall include but not be limited to including civil work, electrical systems, information system and other IT systems and equipment, and the details of such ADTS are provided in detail in Volume 3 of the RFP.

- 1.1.20 “Encumbrances” means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest or other obligations and shall also include physical encumbrances, including utilities both under and above the ground and encroachments.
- 1.1.21 “Execution Date” shall mean and refer to the date of signing of this Agreement.
- 1.1.22 “Fines” shall have the meaning as ascribed thereto in the Agreement.
- 1.1.23 “Operation Plan” means the detailed plan as developed and finalized by the Authority from time to time in accordance with Clause 21.
- 1.1.24 “Government” means the “Government of Odisha”;
- 1.1.25 “Good Industry Practice” shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the Project.
- 1.1.26 “Kerb hit” means hitting/mounting/crossing of edge line marking on the test track by the tyre or body overhang of the vehicle.
- 1.1.27 “Letter of Award” means the letter of award dated __/__/20__ issued by the Authority to the Selected Bidder for Establishment, Operations and Maintenance of Automated Driving Test Systems on PPP Model in Odisha including Establishment of associated Electrical and Civil Infrastructure and Its Maintenance.
- 1.1.28 “LMV” means light motor vehicle category as defined under Motor Vehicles Act, 1988 and related amendments.
- 1.1.29 “MVD” means the Motor Vehicle Department, Government of Odisha.
- 1.1.30 “Material Breach” means a breach of the terms and conditions of this Agreement, which has a material adverse effect on any act or event, or on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement, which include but are not limited to an act or event which causes a material financial burden or loss to either Party.
- 1.1.31 “Maintenance Standards” means the maintenance requirements which are required to be undertaken by the Operator throughout the Contract Period and have been provided at different places in the agreement.

- 1.1.32 “Operating Plan” or “Operation Plan” means the detailed Standard Operating Procedures, which is developed and finalised by the Authority.
- 1.1.33 “Operator” shall have the meaning as ascribed thereto in the array of Parties in the Recitals above.
- 1.1.34 “Operator Clearances” means the clearances which are required to be procured by the Operator in accordance with Applicable Law.
- 1.1.35 “Operator’s Event of Default” shall have the meaning as ascribed thereto in Clause 34.1 of the Agreement.
- 1.1.36 “Operator Manager” shall have the meaning ascribed to it in Clause 28.1.9.
- 1.1.37 “Operator’s Payment” means payment given to the Operator for providing operating and maintenance services in accordance with Clause 25 of this Agreement.
- 1.1.38 “Payment Period” shall have the meaning as ascribed thereto in Clause 25 of this Agreement.
- 1.1.39 “Performance Security” shall have the meaning as ascribed thereto in Clause 6.1 of this Agreement.
- 1.1.40 “Project” means the Establishment, Operations and Maintenance of ADTS in Odisha including Establishment of associated Electrical and Civil works and its Maintenance service being provided by the Operator for Authority in accordance with the terms of this Agreement.
- 1.1.41 “RTO” means the Regional Transport Office of respective region.
- 1.1.42 “Remedial Period” shall have the meaning specified in Clause 36.1 and 36.2 of this Agreement.
- 1.1.43 “SOP” means detailed Standard Operating Procedures, which is developed and finalised by the Authority.
- 1.1.44 “STA” means the Transport Commissioner cum Chairman, State Transport Authority, Odisha
- 1.1.45 “Selected Operator” means the applicant(s) to whom the Authority issues the Letter of Award for undertaking the Project.
- 1.1.46 “Third Party” means any Organisation / person other than the Authority and the Operator
- 1.1.47 “Training Period” shall have the meaning as ascribed thereto in Clause 18.4 of this Agreement.
- 1.1.48 “Two-Wheeler” means motor cycle vehicle category as defined under Motor Vehicles Act, 1988 and related amendments.
- 1.1.49 “User Fee” shall have the meaning ascribed to it in Clause 23.1 of this Agreement.
- 1.1.50 “Validity Period” means the period for which the Performance Security has to be maintained in accordance with Clause 6 of this Agreement.
- 1.1.51 “Vandalism” shall have meaning specified in Clause 30 of this Agreement.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires:

- a) words denoting the singular shall include the plural and vice versa;
- b) words denoting a person shall include an individual, corporation, company, partnership, trust or other entity;
- c) heading and bold type face are only for convenience and shall be ignored for the purposes of interpretation;
- d) reference to any legislation or law or to any provision thereof shall include references to any such law as it may, after the date of this Agreement, from time to time be amended, supplemented or re-enacted;
- e) references to the word “include” or “including” shall be construed without limitation;
- f) references to this Agreement or to any other agreement or deed or other instrument shall be construed as a reference to such agreement, deed, or other instrument as the same may from time to time be amended, varied, supplemented or innovated; and
- g) the Annexure to this Agreement form part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement.
- h) terms and expression not herein defined shall have the meanings assigned to them in the Indian Sale of Goods Act, 1930 (as amended) or the Indian Contract Act, 1872 (as amended) or the General Clauses Act, 1897 (as amended) as the case may be.

1.2.2. The following documents attached hereto shall be deemed to form an integral part of this Agreement:

- a) This Agreement along with all Annexures hereto.
- b) Request for Proposal (RFP) in its entirety including all its Volumes, Sections, Annexures, Corrigendum and Addendums thereto.
- c) Letter of Acceptance (LOA) no. _____ issued to the Operator on ___/___/2022
- d) Any relevant correspondence between the two Parties that the signatories have agreed to include as a part of the Agreement for validating and clarifying any points in the contract or by way of revised or improved understanding of any terms of the Agreement as appended herein.

2. APPOINTMENT OF THE OPERATOR AND CONSORTIUM CONDITIONS

2.1 Appointment of the Operator

Subject to and in accordance with the provisions of this Agreement, the Authority hereby

appoints, on a non-exclusive and non-transferable basis, the Operator, and the Operator hereby accepts its selection and appointment as Operator to establish, operate and maintain Automated Driving Test System (ADTS) with necessary equipment & IT systems along with Allied Electrical Infrastructure & Civil Works in Odisha. The expected driver licensing tests at each of the locations and annual test track capacities are enclosed in Annexure 2 of Volume 2 of RFP. The ADTS shall be maintained as per the Standard Operating Procedure outlined in relevant Annexure 3 of Volume 2 of RFP and all equipment and software shall be provided as per the Functional and/or Technical Specifications given in Volume 3 of the RFP. The Operator shall maintain the ADTS installed in accordance with the terms of this Agreement and subject to the Applicable Laws and Applicable Clearances.

2.2 Undertaking

In consideration of the rights, privileges and benefits conferred upon the Operator, and other good and valuable consideration expressed herein, the Operator hereby accepts this Agreement and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof, and bear and pay all costs, expenses and charges in connection with, or incidental to the performance of its obligations in accordance with the terms contained herein. An undertaking to this effect as per the format in Annexure 4 of Volume 2 of RFP is enclosed.

2.3. Consortium Conditions

2.3.1. The Consortium shall perform all obligations and responsibilities of the Operator specified in this Agreement during the Contract period and additionally adhere to the conditions specified hereunder.

- a) Each member of the Consortium shall be jointly and severally liable for due Implementation of the Project as per the scope and discharge of all obligations resulting from the Agreement.
- b) Operator shall submit a Consortium Agreement (the contract between the consortium members) comprising the terms specified hereunder, alongwith the submission of RFP Document OR within 10 days from LOA to Authority for its review which shall become part of this Agreement.
 - (i) A Bidding Consortium is required to nominate a Lead Member as per provision of Volume 1 of RFP. The Lead Member shall be authorized to sign the Contract on behalf of the Consortium and do all deeds and acts on behalf of the Consortium. The nomination should be supported by a Power of Attorney in favour of the Lead Member as per the provision of Volume 1 of RFP.
 - (ii) Include a statement to the effect that all members of the Consortium shall be jointly and severally liable for all obligations of the Operator pursuant to this Agreement during the Contract Period.

- (iii) The Tenure of the Consortium Agreement shall be coinciding with the Contract Period subject to clause 2.3.2. The Consortium shall continue to be in existence during the period of the contract and that any change will be subject to approval of the Authority and subject to clause 2.3.2.
- (iv) Clearly outline the proposed roles and responsibilities, if any, of each member. The role and responsibility of any member must be commensurate with the technical/financial capabilities that such member is contributing towards meeting the qualification criteria. Each consortium member is liable to contribute resources in terms of knowledge, skills and trained manpower commensurate with its role and responsibilities during the Contract Period.
- (v) The Consortium Agreement shall be made available to Authority for legal vetting and open to its suggestions by the Authority. The Authority shall have rights to suggest binding corrections if it finds that such contract does not meet its requirements and interests as per the RFP in letter and spirit.
- (vi) The Agreement should be on stamp paper of appropriate value, notarized and registered. The signatories must be duly authorized. The Authority shall have the right to suggest role reallocation if it finds that the role and responsibilities allocated to each partner are not commensurate with qualifications and capability of that partner.
- (vii) Any modification in roles and responsibilities between consortium members during Contract Period shall be allowed only after approval from the Authority. Any changes and deviation of roles and responsibilities of consortium members during the execution and maintenance of this Project without prior approval of Authority shall be viewed seriously by the Authority as it can affect an important public service. Such unilateral action by the Operator shall entitle Authority to take appropriate action including considering it an Event of Default under this Contract leading to consequences including termination with appropriate notice.
- (viii) In the event of non-performance by any particular members of the consortium leading to an Event of Default not leading to Termination, Authority reserves a right to demand a change in the defaulting member, with the process as above.
- (ix) Any Dispute arising during the Contract Period between the Consortium Member shall be resolved amicably without adversely impacting Agreement. If in Authority's opinion, Dispute between Consortium members adversely impacting implementation and

operation of Authority then Authority may its sole discretion in the interest of the Project (a) Terminate the Contract after due process and/or (2) Provide a binding solution.

2.3.2. Lock in Period for Consortium

The members of Consortium shall remain in Consortium for a Lock-In Period for the Contract Period as stipulated in Volume 1 of the RFP.

3. TERM OF THE AGREEMENT

3.1 The term of this Agreement shall be a contiguous period comprising of

- “Establishment Period” at each location beginning on the Execution Date and ending on the Commercial Operations Date (COD) and
- “Operations and Maintenance Period” at each location beginning from COD and ending as per the Lock in Period as per Volume 1 of the RFP from the COD (“Contract Period/ Agreement Period”) during which period Operator shall maintain the ADTS along with allied civil works and electrical infrastructure on PPP basis as directed by Authority.

3.2. The COD shall begin from 10 months from the date of site handover by the Authority with all utility connections including electricity, water, sewer systems etc. Authority assures that Operator shall be given clear site and site will be handed over on the date of signing of Operator Agreement along with the constructed driving test tracks, networking chambers, waiting area and control room. If the site isn’t handed over to the Operator on the date of signing of the Operator Agreement, the Establishment Period would be revised accordingly.

3.3 The Commercial Operations Date (COD) at each location shall be the date which is 10 months from the date of site handover of different locations of RTO as defined in Annexure 1 of Volume 2 of RFP with the approval of the Authority after CIRT’s final inspection and clearance for commencement of operations whichever is earlier.

3.4 In the event of termination, the Contract Period shall be limited to the period commencing from the Execution Date and ending on the date on which this Agreement is terminated in accordance with the provisions contained herein.

4. SCOPE OF WORK

4.1 Detailed Scope of Work of the Operator broadly includes

4.1.1 Establish infrastructure required for the establishment, operations and maintenance of ADTS along with but not limited to civil works, furniture and all necessary electrical systems, sub-systems, accessories and parts as defined in Volume 3 of RFP.

4.1.2 The Operator shall develop and install Automated Driving Test System at the RTO Driver Testing premises (herein after referred as “ADTS”), the application based on video analytics to assess the driving skill of the applicant by capturing the driving

test parameters as per Volume 3 of RFP without human intervention and generate graphical and statistical reports on the spot for testing and grading drivers' driving skill and knowledge at each location mentioned above. The ADTS should be equipped with necessary equipment & IT systems including but not limited to software, hardware, networking and integration with the MVD's SARTHI and a third party's Queue Management System with adequate and necessary security provisions as outlined in Volume 3 of RFP.

- 4.1.3 The Operator shall provide infrastructure with necessary furniture, computers, servers, along with utilities including air conditioners, UPS of adequate capacity as detailed below and in Volume 3 of RFP. The Operator shall be liable to pay utility expenses (limited to electricity) for the entire period of the Agreement starting from the date of commencement of operations at each center. Bidders are encouraged to visit the site offices to ascertain the requirements. Operator shall provide furniture to mount the equipment for being supplied by him/her at the registration counters, control room and server room.
- 4.1.4 The Operator shall install adequate number of cameras for recording and monitoring driving tests and testing parameters and also provide requisite systems to monitor and assess the driving skills of the applicant seeking driving license while on the test tracks.
- 4.1.5 The Authority shall allow the Operator to erect and install the adequate civil and networking infrastructure for ADTS as per the details in Volume 3 of RFP. The site shall be handed over to the Operator for erection of the civil and IT infrastructure for a 2-month period within 90 days from the date of signing of the Operator agreement.
- 4.1.6 The source code for the entire project for all locations will remain with the Operator as per clause 35.1.5 of Volume 2 of RFP.
- 4.1.7 The Operator shall provide and maintain the server room with limited access control and security facilities in the control room as outlined in Volume 3 of RFP.
- 4.1.8 The Operator shall provide adequate lease line connection not less than 30 Mbps 1:1 at each project site. If lease line connection isn't available at the respective location, the Operator shall provide stable broadband connection not less than 30 Mbps to provide uninterrupted services of the ADTS.
- 4.1.9 The Operator shall present the best solution in terms of IT technology, solutions and systems considering the operational requirements of MVD.
- 4.1.10 The Bidder shall submit, along with the bid all ADTS specifications as per the format asked in Volume 3 of RFP. It shall also provide all test certificates as outline in volume 3 . In case it cannot provide some of these certificates during execution, it shall provide an Undertaking that it will provide these certificates at the time of inspection. Any remedial measures recommended during inspection shall have to be undertaken by the Operator at his/her own costs.

- 4.1.11 The expected commencement of operations of the ADTS shall be subject to inspection and approval of the Project Management Agency (PMA) authorized by the Authority ie, CIRT. A CIRT team authorized by the Authority will visit the site premises along with the representative from the authority to inspect the standard of facility being created as per the requirements of the RFP and may reject the ADTS if found defective and workmanship is not found satisfactory, in which case the remedial work shall be immediately made and subject to re-inspection by the PMA. CIRT's Acceptance of quality related issues in civil construction will be based on verification of documents from PWD/recognised agencies with ref. to Camera Pole Foundation, Structural Design, installation etc. The Operator shall fully cooperate with the Authority, CIRT Team as and when required and provide all necessary information as demanded.
- 4.1.12 Schedule from the Date of awarding the Letter of Award (LOA) is detailed in Annexure 5 of Volume 2 of RFP.
- 4.1.13 The driving license testing centers shall be operated for a minimum of 8 hours per day on all working days as per the calendar of the Authority at each location notified by the Odisha Government. The centers may work after office hours as well and on holidays to conduct testing to meet the appointment schedules to provide service to other organizations without disturbing the appointment schedule of ADTS activities.
- 4.1.14 When the driver licensing tests at any of the identified locations exceed the daily test track capacities enclosed in Annexure 2 of Volume 2 of RFP, the Authority may
- a) increase the working hours per day or working days in a year at such location or
 - b) establish additional tracks at the locations identified. In such event, the Operator should scale up and install ADTS at additional locations as per the directions of the Authority.
- 4.1.15 The selected Operator should provide adequate trained personnel to handle the day to day operations and maintenance requirements at the ADTS developed.
- 4.1.16 The selected Operator shall maintain the ADTS by providing adequate and trained maintenance personnel to carry out the entire maintenance activities of the ADTS as per requirements outlined in clause 6.2.3 of Volume 1 of RFP and clause 28 of Volume 2 of RFP. The manpower being provided should have complete knowledge of ADTS software operations as well.
- 4.1.17 The selected Operator shall maintain the ADTS by providing adequate inventory including but not limited to cameras to carry out the entire breakdown maintenance of the ADTS as per requirements outlined in Volume 2 of RFP in the event of intentional or unintentional damage/theft/burglary/rain/heat/earthquake /act of God etc. Provisions of clause 28.1.2(vii) of Volume 2 of RFP shall

prevail. The Operator shall keep the test tracks free from all physical obstructions to ensure smooth operations of ADTS.

- 4.1.18 The selected Operator shall also undertake preventive and breakdown maintenance of civil and IT infrastructure erected/installed by the Operator for ADTS. The Operator will support the maintenance and/or replacement in all respects throughout the Agreement Period. It will make its appropriately trained and qualified technical staff available for any solutions, challenges and fine tuning at all locations.
- 4.1.19 The Operator shall bear all taxes as may be levied under Applicable Law in relation to the Establishment, Operations and Maintenance of ADTS, except those taxes which are the responsibility of the Authority as per the terms of this Agreement and Applicable Law.
- 4.1.20 The Operator should develop/update ADTS MIS reports on tests being conducted in formats being specified by the Authority from time to time. Details of the MIS reports currently required by the Authority are indicated in Volume 3 of RFP. Details of the Standard Operating Procedure to be adopted are enclosed in Volume 3 of RFP.
- 4.1.21 All the servers shall have provision for recording and storing data for testing activities undertaken by the Driving Testing Centers along with all testing parameters as stipulated in Volume 3 of RFP. Such recording and storing of data shall be subject to audit by a third-party agency nominated by the Authority. The Operator shall submit the requisite data as and when demanded to the Authority in the format prescribed by the Authority.
- 4.1.22 The Operator Agreement shall remain in force for a period as specified in Volume 1 of the RFP from Commercial Operations Date (COD) at each location as defined in clause 3 above, during which period the Operator shall maintain the ADTS on MVD directions adhering to its rules and regulations from time to time. The tenure of the Agreement may be extended beyond the conditions of the contract agreement. The Authority reserves the right to extend the contract beyond the agreed tenure if required or felt necessary based on the agreed terms and conditions of the Authority.
- 4.1.23 The Operator is expected to make available the services outlined in the Operator Agreement as per the Service Level Agreement outlined in Volume 2 of RFP. The Operator is expected to keep spare accessories to meet this requirement. The Applicant may refer Volume 2 of RFP regarding Fines/Damages.
- 4.1.24 Ensure that all Applicable Labour Laws and any other Laws including but not limited to the Minimum Wages Act, 1948 are complied with in relation to appointment, hire, recruitment, of any personnel (whether on temporary, contractual or permanent basis by the Operator) required in relation to the maintenance of ADTS.
- 4.1.25 Maintain and upkeep the facilities in good condition as per Agreement.

- 4.1.26 Maintain the ADTS in safe, secure and good operable conditions in accordance with Good Industry Practices and operation and maintenance requirements set forth in the agreement.
- 4.1.27 The selected Operator shall also provide adequate security staff at the ADTS center.
- 4.1.28 Ensure that safety and security of infrastructure created by the Operator and all users of the premises is maintained at all times related to the Operator's scope of work. The Authority reserves the right to direct the Operator to carry out any safety audit at any time during the contract tenure if felt necessary.
- 4.1.29 Carry out all activities necessary for the effective implementation of the provisions of this Agreement.
- 4.1.30 MVD personnel shall be supervising/inspecting/auditing the ADTS.
- 4.1.31 The Operator shall be required to pay Project Management Consultancy (PMC) fee to CIRT, Pune electronically as per the following details:
- a) PMC Charges during establishment and implementation phase amounting to INR 7.5 lakhs plus applicable taxes per location during project execution as per the following:
 - b) Payment schedule is detailed below

Sl. No.	Payment Details	Date of Payment
1	50% of the amount is to be paid by the shortlisted Operator before signing of the contract.	Within 7 days from the date of issue of Letter of Acceptance and before signing of the Operator Agreement
2	30% of the amount is to be paid by the shortlisted Operator on completion of hardware and software installation on Tracks.	Within 7 days from the date of CIRT inspection and before the release of inspection report
3	Balance 20% of total amount to be paid by the shortlisted Operator after commissioning of ADTS.	Within 7 days from the date of release of CIRT's inspection report.

- i) All payments as detailed above shall be made electronically in the name of "DIRECTOR, CIRT PUNE" as indicated in the RFP Schedule.
- ii) Expenses for a maximum of four visits will be incurred by CIRT. If project gets delayed due to any reason, the Operator will have to incur travelling, lodging & boarding expenses of CIRT. All payments for additional site inspections and audits beyond four visits of CIRT at each location towards travel logistics (including air travel, local transport, 3-star lodge and boarding facilities) shall be borne by the Operator for 2 members per visit per location.

- 4.1.32 Ensure that the ADTS premises is safe by employing adequate safety personnel during the entire contract tenure.
- 4.1.33 Project monitoring audits shall be conducted by the Authority through third party agency at regular intervals. The Operator shall extend complete cooperation with the auditors appointed by the Authority by submitting all the information requested by the Auditors. The audit fee shall be borne by the Authority.
- 4.1.34 Replacement of hardware (with similar or higher specifications mentioned in Volume 3 of RFP) including but not limited to cameras, servers, UPS, workstations, networking components and communication devices etc. being provided by the Operator whenever required in order to meet the SLAs. Upon five years of COD, STA will carry out a third party audit to check the efficiency of the equipment installed and identify components which need to be replaced. A meeting shall be conducted to discuss the audit report. The decision of the Authority with reference to the hardware/equipment that needs replacement shall be final. The Operator shall then replace the identified hardware/equipment within mutually agreeable timelines.
- 4.1.35 Value Added Services
The Operator shall be allowed to generate additional revenue at the premises of the driving test tracks. Details of the same are provided clause 23 of volume 2 of RFP.

4.2 Standard Operating Procedure of ADTS

- 4.2.1 The standard operating procedure enclosed as per Volume 3 of RFP shall be followed for conducting the driving test and issuing test report using video analytics based technology.
- 4.2.2 Online appointment shall be taken by the applicant to take the licensing test as per the existing system prevalent in the state.

5. AGREEMENT

The whole Agreement is to be executed in the approved, substantial and workman like manner, to the entire satisfaction of the Authority, who both personally and by his/her deputies, shall have full power, at every stage of progress, to inspect the ADTS at such times as he/she may deem fit which he/she may disapprove. The Authority will depute a team of monitoring personnel who shall have full powers to check, monitor, demand any records from any of the Operator personnel.

6. PERFORMANCE SECURITY

- 6.1. For securing the due and faithful performance of the obligations of the Operator under this Agreement, the Operator, has handed over to the Authority, Performance Security of INR _____ in form of Bank Guarantee (instrument no _____) drawn on _____ (Bank) dated _____, for a Validity Period of _____, lien marked in favour of State

Transport Commissioner cum Chairman, State Transport Authority, Odisha, through a nationalised Bank, payable/encashable, admissible and extendable at Cuttack only. (“Performance Security”).

- 6.2. The Operator shall maintain a valid and binding Performance Security for a period of six months after the expiry of the Contract Period (“Validity Period”).
- 6.3. The Authority shall be entitled to forfeit and appropriate the amount of the Performance Security in whole or in part:
 - a) in the event the Authority requires to recover any sum due and payable to it by the Operator including but not limited to Damages; and which the Operator has failed to pay in relation thereof; and
 - b) in relation to Operator’s Event of Default in accordance with the terms contained herein.
- 6.4. At any time during the Validity Period, the Performance Security has either been partially or completely been encashed by the Authority in accordance with the provisions of this Agreement. The Operator shall within [15 (fifteen) days] of such encashment either replenish, or provide a fresh performance security, as the case may be, failing which shall be considered as Operator’s Event of Default as per clause 34.1.
- 6.5. On the performance and completion of the Contract by expiry of its term in all respects the Performance Security shall be returned to the Operator without any interest, provided the Operator is not in default of the terms hereof and there are no outstanding dues of the Authority with the Operator.

7. ADTS ESTABLISHMENT

Upon submission of requisite Performance Security to MVD and Signing of this Agreement, the Operator shall establish ADTS with allied civil, electrical and IT systems as defined under Scope of Works in Volume 2 of RFP. The Operator shall obtain adequate insurance as mentioned in the clause pertaining to Insurance in this RFP.

8. QUALITY ASSURANCE

8.1. Quality of Materials

- i) The Operator shall procure material and equipment which is as per Standards set in India. Wherever, Indian Standards are not available, internationally acceptable Standards may be referred for quality assurance of material and equipment.
- ii) The Operator shall obtain all necessary statutory clearances during establishment as well as operations. The term “statutory clearance” shall include but not be limited to
 - a. FCC/EL/ UL Certification for all electronics items.
 - b. Statutory clearance includes but is not limited to Security audit of the ADTS application as per clause 13 of Volume 3 on page 10 and tree trimming/removal for ensuring working condition of ADTS.
- iii) Cost of all tests, and analysis would be borne by the Operator.

- iv) All the ADTS equipment should be as per the specifications stipulated in the agreement.

8.2. The Operator shall conform in all respect to provisions in this behalf as contained in the Central Motor Vehicle Act, 1988 (or latest) as amended up to date and Central Motor Vehicle Rules, 1989 (or latest) / Odisha Motor Vehicle Rules currently in force in Odisha or to any other statutory modifications or enactment thereof in such Act & Rules from time to time.

9. INSPECTION AND TESTING

Please refer Volume 3 for details on inspection and testing for acceptance of ADTS by MVD.

10. SCHEDULE OF DELIVERY OF SERVICES AFTER ESTABLISHMENT

- 10.1. The delivery schedule defined in Clause 4 under Scope of Works in Volume 2 of RFP shall be adopted.
- 10.2. The Operator shall establish ADTS at the place/ places as specified by the Authority in Volume 2 of RFP, not later than the dates/schedule specified in the Agreement.
- 10.3. The Authority shall be entitled to levy damages as per clause 16 of the Agreement to the Operator upon failing to perform as per Clauses above.
- 10.4. Failure to comply with stipulated delivery schedule shall attract pre-defined liquidated damages and other provisions of the contract.
- 10.5. The Operator shall intimate CIRT and Authority at least 7 days prior to any inspection of ADTS at Driving Testing Center premises failing which Authority shall not be liable for delay in inspection and meeting the delivery schedule. Delay in establishment of ADTS on account of late inspection and delay in submission of inspection report by the Authority for the affected quantity shall be entirely attributable to the Authority.

11. INSPECTION OF ADTS

On receipt of request from the Operator, the ADTS shall be inspected by CIRT for completeness and satisfactory condition of all equipment/ components. The inspection shall be conducted either physically/virtually depending upon the requirement of inspection. Damages, defects and deficiencies, if any, shall be noted and the Operator shall initiate immediate action for making good the same under advice from Authority/CIRT within mutually agreed time period. Any delay in commissioning of the ADTS due to any such reason shall be attributed to Operator's account and shall be dealt with by the Authority as per Conditions of the Agreement. Please refer Volume 3 for details on inspection and testing for acceptance of ADTS by MVD. To save time and costs, CIRT will initially conduct online testing and later final testing along with MVD representative.

12. COST OF INSPECTION

CIRT will conduct online and physical site inspections to check the progress and compliance with RFP terms and conditions. All the costs associated with the inspection of ADTS, including travelling and conveyance expenses and lodging and boarding expenses of representatives of the CIRT beyond 4 site inspections shall be borne by the Operator as per provisions set in clause 4 in Volume 2 of the RFP.

13. PROVISIONAL CERTIFICATE

Authority shall issue Provisional Certificate within three working days of receipt of Inspection Report of CIRT on ADTS established in good condition along with valid required documents. The Provisional Certificate issued by the Authority shall not be considered the Acceptance of the ADTS for deployment for operations as per the conditions of the Agreement.

14. REPAIR OF REJECTED ADTS

Please refer Volume 3 of RFP upon non-acceptance of any ADTS for further course of action.

15. FINAL ACCEPTANCE CERTIFICATE

Final Acceptance Certificate shall be issued by Authority and process of commencement of ADTS operations in accordance with clauses of this agreement shall be initiated as per provisions in the RFP.

16. LIQUIDATED DAMAGES (LD) FOR DELAY IN COMMENCEMENT OF OPERATIONS OF ADTS

16.1. If the Operator fails to handover the ADTS for commencement of operations of ADTS by the Authority at each location as per the delivery schedule specified under clause 4 Scope of Works in Volume 2 of RFP and clauses 10.1 and 14 above and if the Operator is not able to cure such default/delay within the prescribed delivery schedule, the Authority shall, without prejudice to other remedies under the Agreement, levy/deduct pre-estimated liquidated damages (LD) as indicated below in clause 16.3.

16.2. The amount of pre-estimated liquidated damages to be charged under the contract, in terms of Clause 16 of Contract Conditions shall not exceed INR 1.8 lakhs per location.

16.3. In case of extension in the delivery and/ or installation period/ completion period with liquidated damages, the recovery shall be levied for the respective location as indicated in the table given below when the Operator has failed to supply/install complete beyond permissible time for reasons attributable to the Operator and if extended by the Authority. The driving testing centers under different RTOs have been categorized into two clusters based on the testing demand at each center. The Maximum LD shall be levied for 90 days.

Delay Period	Amount per day per location (in INR)
Upto 30 days of delay	INR 1000/-

31 – 60 days of delay	INR 2000/-
61 – 90 days of delay	INR 3000/-

- i. The total delay shall include the CIRT inspection and certification period.
- ii. Fraction of a day in reckoning period of delay in supplies/installation maintenance of services shall be eliminated if it is less than half a day.
- iii. The maximum amount of agreed liquidated damages shall be Rs 1.8 lakh per location.
- iv. If Operator requires an extension of time in completion of contractual supply on account of occurrence of any hindrances, he shall apply in writing to the authority which had placed the work order, for the same immediately on occurrence of the hindrance but not after the stipulated date of installation and completion of work.
- v. Delivery period may be extended without liquidated damages if delay is on account of
 - hindrances beyond the control of Operator
 - site/control issues pending with the Authority

16.4 In the event of the commencement of operations of ADTS is delayed beyond the stipulated Delivery Schedule as per Volume 1 of RFP and clause 10.1 and within the period of additional 90 days after expiry of the delivery schedule, the Authority at its discretion may levy additional penalty as deemed fit by the Authority or not accept ADTS beyond above mentioned time period unless such occurrence is not attributable to Force Majeure Events.

16.5 If the Operator fails to establish the ADTS with the requisite infrastructure and systems at all locations within the identified time period as per clauses 3 and 16 of Volume 2 of RFP, the Authority reserves the right to handover the location to the Operator of the other cluster along with all the erected hardware and civil infrastructure.

17. CONSEQUENCES OF NON-ADHERENCE TO DELIVERY OBLIGATIONS

In case the Operator fails to handover ADTS for commencement of operations of ADTS as per stipulated schedules and timelines and as specified in sub clause 16, after exercising all remedial measures provided in elsewhere in this agreement, it shall be considered Operator's Event of Default.

18. COMMENCEMENT OF OPERATIONS OF ADTS

18.1. Subject to issuance of Final Acceptance Certificate from the Authority, the Operator shall commence operations of ADTS at each or all locations no later than 10 (Ten) days from the date of Final Acceptance Certificate, or any extended period as may be agreed upon the Authority in writing ("Commercial Operations Date for ADTS" or "COD for ADTS").

18.2. In the event the Operator is not able to commence ADTS operations at a particular location as per above clause for reasons not attributable to the Authority or to a Force Majeure Event, and which in the opinion of the Authority can be attributable to the Operator, the Operator shall pay liquidated damages as per clause 16 of this Agreement

for every day of delay till COD is achieved for that location. Capping of LDs and consequences are as per clause 16 of this Agreement.

18.3. It is hereby clarified that non-compliance of any ADTS specifications and design shall not be acceptable as a reason for delayed or non-commencement of ADTS operations.

18.4. The Operator shall deploy required Staff for operations and maintenance of the ADTS before the commencement of ADTS operations as per the terms of the agreement.

18.5 The Operator shall provide adequate staff at each location for the contract tenure from COD to ensure smooth operations at the ADTS.

18.6 Training Period

The Operator shall deploy adequate trained staff for provision of services training of Authority personnel for minimum 7 working days prior to COD.

18.6.1 During the Training Period, the Operator's personnel shall be educated about the intricacies of ADTS Operations, ADTS system and skill-set required for efficient operations.

18.6.2 Entire Costs towards above training shall be borne by the Operator.

18.6.3 Minimum one-week onsite training for four to six persons per location may be considered.

18.7 Cost of Damage to Project Asset or any other third-party property including fatalities, injuries of employee of Authority, Operator or third party or Driver Testing Center users due to negligence on the part of the Operator or the staff employed by the Operator for the purpose of establishment, training, operations and maintenance shall be the liability of Operator.

19. OWNERSHIP OF ADTS

19.1. The ownership of the ADTS shall remain fully with the Authority during the entire term of the Agreement. All the Driving Testing Centers shall be in the name of the Authority. Ownership of the ADTS system along with the server room and hardware, equipment and entire system shall be vested with the Operator during the entire period of contract agreement.

19.2. Operator shall mount Equipment at the Driving Testing Center as per the specifications provided in Volume 3 of RFP. Operator shall also ensure to supply services and equipment compatible with SARATHI of Authority so as to enable smooth integration. Operator shall be responsible for regular maintenance of all equipment installed by it during the Contract Period. Operator and Authority hereby agree to share interfacing protocols and Active Programming Interface with each other for smooth integration of systems provided by Operator with Authority's System.

19.3 The test data generated by the ADTS shall be the property of the Authority and cannot be shared in any form without the written consent of the Authority.

19.3 The Operator shall handover the ownership of system and tracks to the Authority after completion of project tenure/termination of the contract. Undertakings to this effect

enclosed in Annexures 4 and 9 are to be signed by the Operator before signing of the contract agreement.

20. DRIVER TESTING CENTER PREMISES

- 20.1. The Operator shall at his own cost and expenses bring any such moveable equipment and/or machinery and infrastructure and appoint skilled/unskilled personnel and supervisor for regular operations, upkeep, maintenance of the ADTS premises in accordance with the terms contained herein.
- 20.2. It is hereby clarified that the ownership of the infrastructure and systems erected by the Operator at the ADTS premises shall remain vested solely with the Operator as per the terms of the Agreement until expiry of contract/upon termination.

21. OPERATION PLAN

- 21.1. The Operator shall develop a plan which shall contain details including but not limited to number of Driver Testing Centers, Establishment Plan, Operating Plan, Downtime/Uptime (“Operation Plan”).
- 21.2. The Operator may develop the Operation Plan in consultation with the Authority provided however, the suggestions made by the Operator shall not be binding on the Authority.
- 21.3 The Authority reserves the right at its own sole discretion to make changes to the Operation Plan from time to time and shall notify the same to the Operator.

22. OPERATIONS

- 22.1 The Authority shall have the exclusive discretionary power for allotment of appointment for driving tests as part of the Operation Plan throughout the Contract Period.
- 22.2 The Operator shall ensure that the ADTS at each Driving Testing Center is operated by the Authority as specified by the Authority from time to time in accordance with the maintenance standards specified herein.
- 22.3 The Authority may at any time make changes to the Operation Plan due to any reason whatsoever including but not limited to special circumstances, festivals, and seasonal requirements.
- 22.4 In the event the Authority makes changes as specified in above Clause, it shall notify the Operator in writing [three (3) days] prior to the date of implementation of such change.
- 22.5 The Authority reserves the right to utilize the driver testing tracks for purposes other than driver testing for issue of driving license to Operator for tests to be conducted for applicants seeking driving license. The Authority may use the system for any other purpose like selection tests for organisations/ departments or assist legal system in any cases. Payments shall be made to the Operator for these additional activities as per the User Fee identified through the bidding process. Operator should make necessary provisions in the system for such additional activities.

23. VALUE ADDED SERVICES (VAS)

23.1 Types of VAS

23.1.1 Renting of Vehicles for taking the licensing test

23.1.2 Practice tests without affecting the appointment schedule of the Authority

23.1.3 Cafeteria & Shops selling driving accessories promoting road safety

23.1.4 Road safety training programmes for the applicants and general public.

23.1.5 Advertisement

- a) Advertisement rights shall be vested with the Operator.
- b) Any software changes in the test result format required for display of advertisement shall have to be incorporated by the Operator from time to time with the approval of the Authority or its representative.
- c) The Operator shall have rights to display advertisement of all types of media on the ADTS premises as well as to collect and retain revenue generated from advertisement.
- d) The Operator shall comply with the following in connection with the advertisement rights:
 - The Operator shall comply/abide with all local body rules & regulations.
 - The Operator shall be responsible for any tax related issues for income generated.
 - The Operator shall have rights to display advertisement of all types of media at the driving test track premises as well as to collect and retain revenue generated from advertisement.
 - Advertisement rights shall be limited for the following spaces:
 - Boundary of the RTO premises
 - Classrooms/Waiting areas
 - Vehicles being rented by the Operator
 - Soft copy of the test report generated
 - Display screens provided by the Operator
 - The dimensions and colour schemes of the advertisement panels shall be finalised in consultation with the Authority.
 - The Advertisement should not be anti-social, vulgar, unlawful and should require permission of Authority. The Authority shall have the right to regulate the Advertisement. The Operator shall not display any Advertisement that is on the negative content as detailed below, irrespective of the time of the day and scale of the advertisement. Such negative content list is mentioned below:
 - Advertisement banned by the Advertisement Council of India or by law.
 - Advertisements of goods or services which are prohibited by any law
 - Advertisement of Political Parties.

- Advertisements of any kind of prohibited drugs, hard drinks (Alcohol) and all kind of tobacco products for smoking.
- Advertisements containing pornographic contents and/ or an "indecent representation of women" within the meaning of the Indecent Representation of Women (Prohibition) Act, 1986.
- Advertisements containing sexual overtone and/ or nudity.
- Advertisements glorifying exploitation of women or child.
- Advertisements showing violence and cruelty to either human being or any kind of plant or animal.
- Advertisements showing racial abuse to any caste or community or propagating ethnic differences.
- Advertisements related with lottery tickets, sweepstakes entries and slot machines
- Any animated, laser, moving or blinking displays.
- Advertisements accompanied by sound.
- Advertisements banned by the provisions of the Election Commission.
- Any other advertisement not found appropriate by the Authority.
- The advertisement space on the test report should comply with the rest report format indicated in Volume 3 of RFP.

23.2 Terms & Conditions

- 23.2.1 All the value-added services proposed at the ADTS centers are to be started with the written approval of the STA.
- 23.2.2 The value-added services being provided by the Operator shouldn't affect / disturb the day to day operations of the RTO premises.
- 23.2.3 The Operator shall be responsible for any local body approvals / tax related issues for income generated wrt to these value-added services.
- 23.2.4 The Operator is solely responsible for the safety & security issues of all users of the ADTS premises arising out of the value-added services.
- 23.2.5 The Operator shall be responsible for security and cleanliness of material and equipment related to value added services being provided at the ADTS centers.
- 23.2.6 In case any damages occur to the ADTS and driving test tracks due to these value-added services (such as while mounting or dismounting advertisement material/equipment or providing well maintained vehicle or complying with prevailing fire safety/health regulations), the Operator shall immediately make good of such damages at it's own cost. The Authority shall not make any compensation to the Operator in this regard. The Operator shall solely be responsible for any issues arising out of the provision of value added services and comply with the legal/penal actions imposed by the appropriate departments/government bodies during the entire contract tenure.

23.2.7 The contents, duration and fee to be collected and shared by the Authority and Operator for the proposed road safety training programmes to be conducted at the ADTS centers shall be decided by the Authority.

24. FEE COLLECTION

24.1 User Fee Determination

24.1.1 The Authority shall approve User Fee per test for Two-Wheeler category due to the selected Operator through the bidding process. The User Fee per test for LMV category shall be the same as that of Two-Wheeler Category User Fee.

24.1.2 The User Fee exclusive of taxes per driving test for two wheelers and LMV categories of vehicles at the ADTS during the contract tenure shall be determined through the bidding process. The quoted User Fee shall be rounded off to the nearest Rs 5.

24.1.3 The User Fee shall be revised after 5 years. An upward price revision of 15% over the prevailing rate will be allowed after 5 years from the date of commencement of operations of 50% of the locations in the respective cluster for the remaining contract tenure.

24.2 User Fee Collection

24.2.1 The User Fee due to the Operator will be collected by the Authority. The User Fee due to the Operator shall be deposited in an Escrow Account in a manner as stipulated in clause 25 of Volume of RFP.

24.2.2 The Operator shall not directly or indirectly collect online or offline any other fee apart from the User Fee prescribed above in clause 24 of Volume 2 of RFP or any portion thereof from the applicant appearing for the driving test seeking permanent driving license.

24.2.3 All offline fee collection (if required) shall be done by the Authority offices in the respective regions or by the Operator with the approval of the Authority.

24.2.4 The Operator shall not in any way cause any interference in the process of collection of online User Fee and shall fully co-operate with the process.

24.3 Re-Test Fee

Candidates who have failed in the driving test shall be allowed to take re-test as per the following conditions:

24.3.1 The candidate has to take appointment for retest.

24.3.2 The payment of User Fee shall be as per the prevailing laws of the MVD.

24.3.3 The test charges applicable for re-test shall be as per the User Fee under clause 24.1.

24.3.4 No user fee shall be paid to the Operator for re-tests conducted due to technical failure of hardware/software components of ADTS.

25. PAYMENTS TO THE OPERATOR

25.1 Basis for Payments

- 25.1.1 The bidder shall quote his “User Fee” rate per driving test conducted for two-wheeler category in “INR per test” for establishment, operations and maintenance of ADTS as per the terms and conditions specified in the contract. The User Fee for LMV category shall be the same as that of the two-wheeler category user fee.
- 25.1.2 The user fee quoted will be effective for the contractual period under the contract with provision for revision in the User Fee as indicated in clause 24 of Volume 2 of RFP to cover the upward price escalation after the first years of contract.
- 25.1.3 Any other payments due to the Operator as per the provisions of clause 28.1.2(vii) of Volume 2 of RFP.

25.2 Calculation of Test Charges

- 25.2.1 The Authority shall collect and pay
- a) User Fee per driving test at the rate determined through the tender process for the actual driving tests conducted through the ADTS and test results generated.
 - b) User Fee per driving test at the rate determined through the tender process even for the driving tests conducted above the daily test track capacities as per Annexure 2 of Volume 2 of RFP and test results generated after reconciliation of total monthly tests per track at each location.
 - c) User Fee per driving test at the rate determined through the tender process for the driving tests conducted for purposes other than driver testing for issue of driving license
- 25.2.2 Driving tests conducted category wise for making payment will be reckoned from the appointments and test results issued and daily reports generated.
- 25.2.3 Tests not conducted, or test results not generated in spite of appointments taken for the driving tests due to technical hardware/software glitches of ADTS shall not be considered.
- 25.2.4 Driving tests conducted through ADTS which are beyond the appointment lists, which is outside the Operating Plan but approved by the Authority for specific and special requirements, shall be considered.
- 25.2.5 Operator is free to keep spare inventory as deemed fit for smooth running of ADTS. The Operator shall make available the ADTS as per the center requirements. If Operator fails to provide services, penalty will be charged as per mentioned in Annexure 6 for Deficiency and Incident Wise Damages/ Fines of the agreement.
- 25.2.6 In case of cancellation of tests for any reason, payment shall be made for actual tests conducted.
- 25.2.7 All driving tests shall be completed through the ADTS and no manual testing would be allowed upon start of COD where the driving test tracks have been provided to the Operator for implementation of ADTS. The candidate would be allowed to choose any

center within the same cluster and take the test. This will ensure that the Operator will not be losing revenue and be penalised for cancellation of tests for which he isn't responsible. However, in case of event of default of Operator, the penalties will be applicable as per SLA.

25.3 Payment of Bills

The Authority shall compute and provide payment to the Operator, for every Payment Period, as and when the COD of ADTS commences at each location. The data of total number of tests conducted through the ADTS for the aforesaid period will be collected from all driving testing through the MIS reports generated and driving licenses issued. The User Fee collected by the Authority shall be transferred in the account of the Operator in the following manner:

- 25.3.1 The Operator shall provide daily details of category wise driving tests conducted along with the breakdown periods as per the format enclosed in the SOP.
- 25.3.2 90% of the User Fee due to the Operator based on the number of test reports generated shall be transferred into the Operator's bank account within two days of completion of the test report generation through an Escrow Account. The draft Escrow agreement is provided as Annexure 9 in Volume 2 of RFP.
- 25.3.3 By the fifth working day of every month, the Operator shall submit the monthly bill to the representative of the Authority at the respective locations for verification and certification of
 - a) driving tests conducted at the driving testing center and
 - b) breakdown periods at the driving testing center
 - c) deficiencies as per the Agreement
 - d) Payments due as per the provisions of clause 28.1.2(vii) of Volume 2 of RFP
- 25.3.4 Upon certification of the above listed in sub clause 25.3.3 by the representative of the Authority at the respective location, the monthly bill shall be forwarded to the STA.-
- 25.3.5 Calculations shall be made using actual data on test appointments taken, test results generated and details of the deductions due to any penalty to be levied by the Authority on Operator for lapse in services required to be provided by the Operator during the previous month under the clauses of the agreement with the supervision of the Authority staff.
- 25.3.6 After calculations and verification of the approvals forwarded by the center representatives' as detailed above, balance 10% of the User Fee due to the Operator shall be released after completion of STC's quarterly verification and audit mechanism along with details of penalty calculations (if any) with supporting data.
- 25.3.7 Payments shall also be released as per the provisions of Annexure 6 of Volume 2 of RFP.
- 25.3.8 User Fee will be exclusive of GST/Taxes.
- 25.3.9 Payments shall be made after deduction of applicable TDS.

25.4 **Payment Terms**

25.4.1 **Invoicing Period**

Monthly Bills for the payment of User Fee as per provision laid in 25.1 above shall be prepared by the Operator and submitted with receipt along with certificate of authorized official of the Authority by the fifth day of the second month for the First Month and bill for second month can be submitted by the 5th day of succeeding month. The Operator shall submit an invoice specifying:

- i) Driving Test Center details and the type of driving tests that are being conducted as part of the Agreement,
- ii) Driving tests conducted categorywise by each Center as part of the Agreement in the relevant payment period (clearly identifying the Driving Test Center)
- iii) Applicable User Fee for the driving tests conducted.
- iv) Breakdown periods at the driving testing center
- v) Deficiencies as per the Agreement
- vi) GST tax, and any applicable surcharge or cess on it, if any, payable on the amount as per provision of sub clause below.
- vii) The Operator shall submit invoice strictly for the driving tests conducted for the payment period provided by Authority. (here in together referred as “Invoice Amount”)

25.4.2 All payments shall be made by the Authority to the Operator after making any tax deductions at source under Applicable Law.

25.4.3 **Payment Period**

The Authority shall, within two days of test report generation, make payment of the invoiced amount as per subclauses laid out above through the Escrow Account.

25.4.4 However, the Authority will not be liable to pay interest on delayed payments.

25.4.5 In case of expiry of the agreement in the normal course of time, complete payment of last month of operation shall be made within one month of the last day of the Agreement.

25.4.6 The Authority doesn't hereby assure the Operator that the Operating Plan will be formulated so as to ensure minimum number of driving tests per day at the Driving Testing Center.

25.4.7 In the event that the Authority is unable to allot applicants to undergo driving tests at the Driving Testing Center, no payment shall be made to the Operator.

25.4.8 It should be noted that the Payment Amount will not be payable for any shortfall in driving tests that arise due to:

- a) Default of the Operator under this Agreement
- b) Non-availability of ADTS for reasons attributable to maintenance or accidents
- c) Breach of law by the Operator
- d) Occurrence of a Force Majeure Event.

- 25.4.9 The Authority shall provide the Operator with a notice of the calculation of penalty amount with the supporting data within 5 days of written notice provided to the Authority representative.
- 25.4.10 The Authority shall have right to compute/verify on its own the driving tests being conducted, and test results generated at the Driving Testing Center.
- 25.4.11 Any dispute regarding payments received shall be taken up with the RTO of the respective region within one month from date of receipt of payment. Claims raised after one month shall be treated as null and void. The disputes shall be heard and settled by the Commissioner of Transport or his/her appointed representative.

25.5 Limitations to Liability of Authority for Maintenance

The Authority or its representatives shall not be liable to make any other payments other than the payments described in this Clause 25.

25.6 Liabilities arising from negligent driving and accidents

The liabilities under this clause shall be limited to the items/equipment/area covered in the scope of work of the Operator or arising due to the failure of ADTS within the scope of the Operator.

- 25.6.1 The Operator shall be responsible for repair/replacement of any/all ADTS components erected by the Operator that may arise due to accidents, or any loss/damage to any ADTS property, etc.
- 25.6.2 It shall be the responsibility of the Operator to assist the Authority for proper prosecution of proceedings before the Judiciary in respect of the claims as stated herein at its own cost and consequences. The assistance shall be limited to providing all respective data, files, system logs and video logs of respective candidates in question which are to be handed over to the Authority on their demand. The handing over of all relevant files, data, system logs and video logs shall not be held up or delayed due to non-receipt of payments due to the Operator at any stage during the contract period.
- 25.6.3 In case of accident due to the fault of the Operator or staff appointed by the Operator, Operator himself shall make arrangement to bail out his employee from police custody following the applicable law and also to deal with further litigations arising out of the said accident, as per the applicable law.

25.7 Fines And Compensation

Any fines levied by any competent Authority due to the services being rendered as per the scope of work of the agreement, will be borne solely and directly by the Operator. The Authority shall have no liability in relation thereof.

26. TAXES AND STATUTORY LEVIES

The responsibility to pay taxes and statutory charges related to ADTS Operation would be vested with the Operator as mentioned in the responsibility matrix provided in the table below:

Sr. No.	Permission/ Clearance	Responsibility
1	Insurance	Operator
2	Taxes for Electrical & Civil Infrastructure & other assets in ADTS erected by the Operator	Operator
3	User Fee Notification	Authority
4	GST	As applicable

27. MAINTENANCE STANDARDS

- 27.1. The Operator shall observe the minimum service standards for maintenance of ADTS as provided in the Agreement.
- 27.2. The Operator shall maintain the ADTS in accordance with the Operation Plan as per the instructions of the Authority from time to time.
- 27.3. The Operator shall ensure that the following activities are undertaken as part of the maintenance activity of the ADTS without causing any disruption to the driving licensing activity of the Authority in accordance with the terms contained herein:
- a) Checking and maintaining equipment, hardware, software and networking accessories.
 - b) Attending to defects reported by users and Authority/its representative.
 - c) Repairing/ Replacing any damaged, non-functional parts, systems and sub systems of ADTS of the same/higher specification.
- 27.4. In the event of any theft or damage of ADTS component/hardware/software, then the Operator shall reinstall / re-instate such component/hardware/software of the same or equivalent quality and specification after giving prior written notice to the Authority and after obtaining consent of the Authority. Please refer provisions of clause 28.1.2(vii) of Volume 2 of RFP.
- 27.5. The Authority or representative of the Authority shall monitor the replacement or reinstallation done by the Operator and shall determine whether the replaced or reinstalled component/hardware/software is the same or equivalent quality as originally provided or installed in the Driving Testing Center. In the event that the Authority or representative of the Authority determines that the replaced or reinstalled component/hardware/software is of an inferior quality or not as per the contractual terms then the Authority shall consider this as an Operator's Event of Default. All costs towards such inspection/certification by the Authority or representative of the Authority shall be borne by the Operator.
- 27.6. In the event of such breach in security, the Operator may file complaint to the police and undertake any other investigation.
- 27.7. Operator shall replace component/hardware/software at its own cost if need so arise to comply with Assured Availability during the Contract Period.

28. ROLES, RESPONSIBILITIES AND OBLIGATIONS OF THE OPERATOR AND THE AUTHORITY

28.1 Obligations of the Operator

In addition to the terms and conditions of this Agreement, the Operator shall perform the following obligations. The Operator shall establish ADTS in accordance with terms and conditions set forth in this Agreement.

28.1.1 Minimum Manpower Requirement

- a) Requirement of manpower for Onsite Operational and Technical Support for ADTS at each location may be planned by the Operator with reference to SLAs to be maintained as per Annexure 4 Section B of Volume 1 of RFP. The Operator should make sure the minimum manpower is available at all times for carrying out the maintenance operations and providing maintenance support.
- b) The requirement of man power provided in clause 28.1.1 above is indicative only. The Operator is expected to visit each site & assess the manpower requirement on the basis of the number of licenses issued from each office so as to ensure speedy disposal of the applicants. However, at places where there are more than two sets of driving tracks or the working hours are more than 8 hours the manpower shall be assessed and provided accordingly by the Operator.
- c) The Operator will be responsible for engaging and posting the required qualified manpower as mentioned in clause 28.1.1 for the efficient functioning of each Project Site during the Contract Period. The Operator will be responsible for the employees deputed on Project/ Project Sites and compliance of the Acts and legislation pertaining to employment, Applicable laws and provisions of the Departments etc.
- d) The Operator shall keep with it, the deployed staff members' present and permanent address, educational and technical qualification, specimen signature, two passport size photographs and furnish this details/ information to such Authority as specified by the State Transport Commissioner cum Chairman, Government of Odisha from time to time.
- e) The Operator shall supply valid I-cards to all the professionals/personals deployed for the Project and at each Project Site.
- f) The personals and professionals deployed on Project shall not develop any direct/ indirect business/ commercial relationship with the Users/ staff of Procuring Authority/general public.
- g) In case, any staff member of the Operator is found engaged in doing any work other than the project work or his/ her performance/ conduct is not found to be satisfactory or is absent from the project site, the Operator shall immediately make alternate arrangement for replacing such person.
- h) The manpower supplied by the Operator shall maintain office decorum. They shall be courteous, polite, co-operative and committed to the Project. They may

- be required to work on holidays and beyond office hours as per the instructions issued from time to time by the State Transport Commissioner cum Chairman.
- i) The Operator will ensure that no information, about the Project and the policies of the Procuring entity/Authority is taken out in any form including electronic form or otherwise, from the Project Sites.
 - j) The Operator's manpower hired is for the Project and Project Sites only. Their deployment would in no way be construed as employment with Procuring Authority.
 - k) The Procuring Authority stands absolved for any liability on account of death or injury sustained by any personnel deployed by the Operator on the Project or Project Sites, or agency who supplied manpower during the performance of this Agreement and also for any damages or compensation due to any dispute between the Operator and manpower as deployed on the Project or Project Sites.
 - l) The personnel to be deployed on the Project and Project Sites shall possess the Education qualification as referred in clause 6.2.3 of Volume 1 of RFP and shall have adequate experience for the position as per Job requirement.
 - m) The Operator shall appoint a project manager for the entire contract period. The department shall interact with such person for proper maintenance of the project sites. Besides this, adequate offsite/oncall support staff shall also be appointed by the Operator so that the officers of the OMVD may interact with for sorting out day to day problems faced during the contract period.

28.1.2 Maintenance of ADTS

- i) Maintain the ADTS in accordance with Specifications, maintenance manual and other information provided in Volume 3 to the Agreement.
- ii) Allow access to the ADTS to authorized personnel of the Authority without any prejudice or discrimination;
- iii) Ensure that all recruited staff shall be qualified and trained as per the roles identified. Details of staff shall be submitted to Authority for verification as and when demanded by the Authority/its representatives. Further, if any staff is found to be wanting in the requisite skills, knowledge, and responsibility, Authority reserves the right to ask for replacement of such staff by a duly qualified staff and the Operator shall forthwith comply with this requirement immediately.
- iv) Make all Operator's staff undergo orientation / familiarisation training programme. Operator would also arrange for space, the training, etc for said training programme at his cost.
- v) The training program shall be organised by the Operator on periodic basis as an ongoing activity of providing primary training to newly recruited staff and technicians of the Operator as well as upgradation training to existing manpower of the Operator as per the requirement.

- vi) Ensure safety and security of the applicants, Authority/its representatives working on ADTS.
- vii) Ensure safety and security of the ADTS against theft or other forms of damage. The Operator shall be responsible for replacing the equipment in case of theft/loss of property due to any reason. Payment for replacement of items damaged due to vandalism / stolen shall not be made by the Authority. Under such circumstances, the Operator has to supply the item with the same configuration. If the item with the same configuration isn't available, the same needs to be replaced with a higher configuration with no additional cost to the Authority. The Operator should replace the item on completing the legal formalities after theft/vandalism/damage not attributed to Operator.
The Operator shall ensure at its own cost and expense and keep available at all times, any and all equipment, consumable (excluding stationary, cartridge, printer), machine or material that is required for the uninterrupted and continuous management and maintenance of the ADTS and the implementation of this Agreement. It is clarified that all the costs, including costs relating to the equipment, material and consumables shall be solely borne by the Operator. The Operator shall keep the test tracks clear of all physical obstructions to ensure smooth operations of ADTS
- viii) Pay all amount due and payable including but not limited to damages and/or fines to the Authority and CIRT/ third party audit agency as per terms of Agreement without any delays;
- ix) Keep available any and all equipment, material and consumables that is required for the uninterrupted and continuous management and maintenance of the ADTS at all times and places during the Contract Period;
- x) Make adequate arrangement for Maintenance and repair of ADTS system and its components to meet the SLA requirements.
- xi) Shall not tamper or interfere with any equipment, instrument, hardware. Software, system, testing mechanism, test procedure, marking scheme installed in the ADTS.
- xii) Shall ensure the air conditioners provided in the Driving Testing Center are maintained in good working condition as per the design capacity, failing which the Authority shall have the right to impose fines in relation thereof.
- xiii) Ensure at its own cost and expense and keep available at all times, any and all equipment, consumable, machine or material that is required for the uninterrupted and continuous management and maintenance of the ADTS and the implementation of this Agreement. It is clarified that all the costs, including costs relating to the equipment, material and consumables shall be solely borne by the Operator.
- xiv) Agree to comply with all Applicable Laws including labor and local laws, pertaining to the employment of labor, staff and personnel engaged by it for implementing the Project, that are now or may in the future become applicable to Operator's management and maintenance of the Project, and personnel, engaged in such

operations covered by this Agreement or accruing out of the performance of testing services and operations contemplated hereunder. The Operator shall be solely responsible and liable for compliance with all Applicable Laws, including labor and local laws, pertaining to the employment of labor, staff and personnel engaged by it for implementing the Project.

xv) Operational Plans

ADTS must be effectively maintained and managed to ensure that all services are delivered without any breakdown. The system needs to be covered with the Service Level Guarantees. The basic procedures for the Maintenance & Support of ADTS Project are furnished below.

xvi) Maintenance Plan

The maintenance team will work for providing a robust system with minimum down time by applying a comprehensive maintenance policy incorporating both Hardware and Software maintenance.

- Hardware Maintenance Plan

All the necessary hardware required for the project like Cameras, Sensors, Servers and Network Components, UPS, UPS Batteries health, Computers, peripherals and other associated components would be sourced from reputed OEMs. The Operator agency will have agreements with such OEMs. All equipment shall be maintained in good condition and defective units shall be replaced at any of the designated locations. Maintenance is broadly classified as Preventive and Reactive.

- Preventive Maintenance

The Operator shall be responsible for doing routine maintenance like virus scan and update, UPS / AC maintenance, cleaning of camera lens, auto health checkup of ADTS equipment before commencement of daily operations as per the User Manual supplied. The maintenance activities are followed to prevent any breakdown. Standard/genuine spares would be maintained for any replacement.

- Breakdown/Reactive Maintenance

The Operator shall have to maintain the ADTS in line with the tender provisions to ensure the defined SLAs. In the event of breakdown, breakdown maintenance of the identified equipment(s) shall be carried out by the Operator to meet the SLA requirements

The total cumulative downtime per month during the working hours of the center shall be taken into account for levying of penalty as outlined in clause 31, Annexure 6 and Annexure 8 of Volume 2 of RFP. The detailed Service Level Benchmarks are outlined in Annexure 8 for conducting half yearly audit.

- Software Maintenance Plan

The Operator shall provide Software Updates, patches/fixes, new versions/releases of all the Application software and System software as and when it takes place. The Operator on its own will also install and set these updates on all the components of the System. Troubleshooting and Customization of all the Application software will be part of this activity. The Operator will provide a comprehensive maintenance support to the Authority for all the Hardware, Software and material of the Operator.

28.1.3 Co-operation with the Authority

- i) cooperate with the Authority and/or any third party appointed by Authority for the purposes of establishing or operating or auditing ADTS;
- ii) make adequate communication arrangements / develop communication facilities / centre for effective and efficient, timely communication of all incidents/ accidents/ breakdowns etc. to relevant authorities/persons/officials.
- iii) cooperate with the Authority and/or any third party appointed by the Authority for the purpose of monitoring or inspecting any equipment, instruments or systems or operations in the Driving Testing Center;
- iv) The Authority, its authorized personnel, and authorized Operator shall have complete access and shall not be in any manner obstructed by the Operator, or its personnel.
- v) All systems and data shall in no manner be tampered with or damaged by the Operator or its personnel;
- vi) Update the ADTS installed in the Driving Testing Center premises as and when required as per the directions of the Authority/its representatives within 30 days of notice.
- vii) Cooperate with the Authority for the purposes of monitoring and supervision of the quality, efficiency and adherence of the Operator to other contractual arrangements pertaining to Project.
- viii) Maintain log books, and all maintenance work / activities pertaining to each equipment shall be entered there-in on regular basis. Authority shall be free to inspect logbooks at all times and the Operator shall make log books available to Authority or it's representative and answer all queries The log books to be maintained in the system.
- ix) respond to all notices, letters, communications received from Authority within the given time frame;
- x) provide all information, data, records, documents or information as may be required by Authority or its representatives, from time to time; and
- xi) Participate in all the meetings, discussions as directed by the Authority from time to time.

28.1.4. Compliance with the terms of the Warranty and Good Industry Practice

- i) shall comply with all terms of Warranty and instructions that are provided by equipment manufacturer;
- ii) undertake all preventive and corrective maintenance in compliance with terms of the Warranty as provided by the equipment manufacturer, standards and instructions as may be notified by the Authority from time to time and in accordance with Good Industry Practice;
- iii) shall comply with all the literature provided by the manufacturer in terms of manuals and maintenance and safety instructions/manual to the Operator. The Operator shall be responsible for understanding the working of Driving Testing Center in all aspects specified above including ethical and safety features. Operator shall abide by the instructions specified in the maintenance and safety instructions/manual all times during the Contract Period. The inspection procedures for the frequency and type of the inspection for each technical condition criteria as specified therein for Driving Testing Center shall be complied by the Operator;
- iv) notify defects of any system or equipment and/or monitoring device to Authority and take prompt and immediate action as per the instructions of the Authority at Operator's own cost and expense, as per the instructions issued by the Authority.

28.1.5. Record and Reporting Requirements

- i) maintain record of all preventive maintenance activities shall be kept in the maintenance log book and duly authenticated by the person in charge of carrying out ADTS maintenance.
- ii) The Operator shall submit the log books for inspection by Authority staff as and when demanded;
- iii) submit to the Authority in a format as specified by the Authority from time to time:
 - a) a monthly report which shall include but not be limited to:
 - Progress reports
 - Status of all risks and issues.
 - Status of readiness the skilled staff to maintain ADTS and assist Driving Testing Center operations.
 - Status of ADTS with regards to compliance with highest maintenance standards/manufacturer's manual or instruction.
 - b) report on an immediate basis reporting incident requiring urgent attention of the Authority such as accidents, theft, etc.
 - c) submit a summary of all the complaints on a monthly basis to Authority.

28.1.6. Inspection

- i) Make available ADTS to the Authority or its authorised personnel for inspection as and when required/instructed by Authority for assessment of compliance with maintenance and roadworthiness.
- ii) Upon such inspections any suggestions/instruction received from the Authority with regards to corrective actions, maintenance requirement, part replacement requirement, shall be implemented by the Operator at its own cost within [15 (fifteen)] days or a reasonable time period as specified by the Authority. In case of non-rectification/non action of such instruction within stipulated time period, the Authority may replace or rectify such defect at its own cost and such expenses borne by the Authority shall be reimbursed by the Operator on an immediate basis.
- iii) It is hereby clarified that the Authority at its sole discretion, if it determines that such events are occurring on regular basis or are causing undue interference with the Driving Testing Center Services, may: (i) impose fines and/or damages in accordance with the terms contained herein; and/or (ii) terminate this Agreement.

28.1.7 Appointment of Staff

- i) appoint either on a temporary, permanent or contractual basis trained and skilled staff for maintenance, and assistance for the ADTS systems and facilities related thereto at his cost for services as per the Agreement.
 Provided however, the Authority may require the Operator, to remove any person employed for the Services, who in the opinion of the Authority:
 - persists in any misconduct,
 - is incompetent or negligent in the performance of his duties,
 - fails to conform with any provisions of this Agreement, or
 - persists in any conduct which is prejudicial to safety, health, or the protection of the general public / environment.
- ii) be solely and exclusively responsible for all employees, workmen, personnel and staff employed for the purposes of implementing the Agreement. The Operator shall ensure that all personnel and staff are under its supervision so as to provide the Service in a safe, ethical and efficient manner to the public.
- iii) Provided, however the Authority shall not be liable for any payment or claim or compensation (including but not limited to compensation on account of death/injury/termination) of any nature to such foregoing persons at any point of time during tenure of this Agreement or thereafter and the Operator shall keep the Authority indemnified in this regard.
- iv) hold periodic training sessions for Operator staff and all personnel (temporary or on contractual or permanent basis) so as to ensure to implementation of Driving Testing Center Services efficiently.

- v) ensure that the personnel engaged by the Operator do not involve in any subversive activities, disruption in normal services and inconvenience or/and harassment to the users. The personnel engaged by the Operator are required to be police verified.
- vi) be responsible for all the costs and expenses of maintenance, employment of personnel including but not limited to travel, training of its employees, and Operators engaged by the Operator in connection with the implementation of this Agreement.
- vii) make efforts to maintain harmony and good industrial relations among the labor and personnel employed in connection with the performance of the Operator's obligations under this Agreement and shall at all times be the principal employer in respect of such labor and personnel.

28.1.9. Appointment of Operator's Manager

The Operator shall appoint one qualified personnel to manage the project on a day to day maintenance of the ADTS and Maintenance of systems and equipment and associated electrical and civil infrastructure erected as per the scope of the project and to act as a single point contact to manage all the communications and correspondence with Authority ("Operator Manager").

28.1.10 Payment of Taxes and Duties

Subject to Clause 25, make timely payment of all taxes and duties due and payable under Applicable Law.

28.1.11 Payment of Fines

Shall ensure that it promptly pays any fines or damages that may be imposed for any defaults in compliance with the RFP terms or other Applicable Laws in relation to the Establishment, Operations and Maintenance of the ADTS.

28.1.12 Bear the costs associated with repair and maintenance activities as outlined in the earlier provisions.

28.1.13 No Alterations or Modifications of the ADTS at Driving Testing Center

- a) ensure that there are no alterations in the ADTS or any part thereof made at any point of time including the test parameters and marking scheme without the prior written approval of the Authority.
- b) ensure that no additional or new equipment, hardware or software is installed or used in the Driving Testing Center without prior approval of Authority.
- c) shall not tamper or interfere with any equipment, instrument or system and any other equipment without prior approval of Authority.

28.1.14 Complaints Redressal

Take appropriate action as per the instructions notified by the Authority in relation to any complaint made by any user of the Driving Testing Center or any third person in relation to the ADTS.

28.2. Rights of the Operator

The Operator shall have right to:

- 28.2.1. receive Operator Payment from the Authority as per the terms mentioned in this Agreement;
- 28.2.2. receive support for obtaining required permits and sanctions from the government, or local body and to obtain assistance and support in dutifully carrying out the obligations as provided for in this Agreement as may be within the purview and general jurisdiction of the Authority;
- 28.2.3. Operate and maintain the ADTS as per conditions set forth in the Agreement.

28.3 Authority's Rights and Responsibilities

In addition to the terms and conditions of this Agreement, the Authority shall:

- 28.3.1 provide APIs and Interfacing protocols to Operator so as to ensure compatibility and integration of Operator's IT Equipment with Authority's IT System.
- 28.3.2 establish and operate a system to:
 - i) register complaints, public grievances in relation to the driving license testing Services being undertaken by the Operator under this Agreement; and
 - ii) monitor and supervise the functioning of the Operator;
 - iii) maintain records and reports in relation to the implementation of the Project;
- 28.3.3 provide assistance, on a best effort basis, in obtaining the Operator Clearances, provided the Operator has made the applications for such permits/ clearances to the concerned government authorities and is otherwise in compliance with the terms applicable for grant of the same;
- 28.3.4 conduct regular inspections of ADTS and the Project at any time during the Contract Period.
- 28.3.5 have the right to levy damages and or fines as provided in this Agreement and in the event the Operator fails to make payments of such fines, the Authority shall have the right to deduct the same from the payments for User Fee and / or Performance Security
- 28.3.6 have the right to issue operating instructions and any other advisory or instruction as deemed necessary to maintain highest standards of Services including safety, functionality and operational ability of the ADTS.
- 28.3.7 have ownership of server room and its facilities in line with the tender conditions upon expiry of contract tenure or termination of the contract.
- 28.3.8 have ownership of all driving test records.

29 INSURANCE

29.1 Insurance During the Contract Period

- 29.1.1 The Operator shall, from day one from the date of signing of Agreement at its cost and expense, purchase and maintain insurances, as per law of India and as per prudent market practices starting from COD upto the end of the Contract Period such, including but not limited to the following;
- 29.1.2 Insurance of ADTS and payment of charges as per statutory provisions for Establishment, Operations and Maintenance of ADTS with Operator as the beneficiary and insurance charges if any for all subsequent years of contract.
- 29.1.3 The Operator shall obtain Comprehensive third-party liability insurance for all the ADTS for every year of Contract Period.
- 29.1.4 100% insurance of employee compensation and other liability as per Workmen's Compensation Act 1923.
- 29.1.5 Any other insurance that may be necessary to protect the Operator, its employees and the Project Asset against loss, damage or destruction at replacement value including all risks, loss/damage to external media and increased cost of working along with all Force Majeure Events that are insurable and not otherwise covered in items 29.1.2 to 29.1.6 with the Authority as beneficiary/co-beneficiary. The Operator shall maintain the ADTS by providing adequate inventory including but not limited to cameras to carry out the entire preventive/breakdown maintenance of the ADTS as per requirements outlined in Volume 2 of RFP in the event of intentional or unintentional damage/theft/burglary/rain/ heat/earthquake/act of God/Cyclone/vandalism/riots etc.
- 29.1.6 The Operator shall be responsible to pay the premium regularly and maintain the insurance policies specified above all the time during the Contract Period. Operator shall be solely responsible for failure of its renewal and liabilities arising thereof shall be payable by Operator.
- 29.1.7 Apart from above, any liabilities arising out of or incidental to accidents in which ADTS staff are involved shall be on account of the Operator and shall have to borne by the Operator including any compensation payable, whether such compensation payments become claimed, or paid during or after the currency of the contract. Authority shall not be responsible for payment of any such compensation to aggrieved parties on accounts of accidents of any kind involving the ADTS.

29.2. Evidence of Insurance Cover

The Operator shall at the time of entering into Agreement with the Authority and thereafter from time to time, provide to Authority copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by it in accordance with Operator Agreement.

29.3 Application of Insurance Proceeds

29.3.1 Subject to the provisions of this Agreement, all moneys received under insurance policies shall be promptly applied by the Operator towards repair or renovation or restoration or substitution of the Project Asset or any equipment/part thereof or Third party Property which may have been damaged or required repair/modification.

29.3.2 The Operator shall carry out such repair or renovation or restoration or substitution in such manner that Project Asset, or any part thereof, shall, after such repair or renovation or restoration or substitution shall be in the same condition as they were before such damage or destruction.

29.4 Validity of Insurance Cover

The Operator shall pay the premium payable on such insurance Policy/Policies so as to keep the insurance in force and valid throughout the Contract Period and furnish copies of the same to the Authority for each year/policy period. If at any time the Operator fails to purchase, renew and maintain in full force and effect, any and all of the Insurances required under this Agreement, Authority may at its option purchase and maintain such insurance and all sums incurred by the Authority therefore shall be reimbursed by the Operator forthwith on demand, failing which the same shall be recovered by the Authority by encashment of Performance Security, exercising right of set off or otherwise. Non-purchase or non-renewal of Insurance by the Operator shall not absolve or relieve the Operator from any or all of the liabilities/obligations of the Agreement.

30 DAMAGE TO ADTS DUE TO VANDALISM

30.1 In the event that any damages or need for repairs to the ADTS any other asset arises during the Contract Period on account of Vandalism, the Operator shall be required to make good the damages and repair the ADTS to the original conditions at the cost of Operator. No reimbursement of any kind shall be available to the Operator for any such damage or loss. In case of loss of equipment, Operator shall replace the lost equipment with another equipment of same configuration, specifications, make and vintage. In all cases, the repair, servicing and rectification Service or replacement shall be undertaken by the Operator at its own cost to the satisfaction of Authority.

30.2 For the purpose of this clause, "Vandalism" is defined as destroying or damaging ADTS, and the IT, electrical and civil infrastructure deliberately and/or for no reasons attributable to omission of act or breach of obligation of the Operator by the persons other than the employee or sub-contractor of the Operator. Payments for the same shall be made as per the provisions of clause 28.1.2 (vii) of Volume 2 of RFP.

30.3 Provided however, damage to ADTS or any part thereof due to regular wear and tear, or breach of maintenance obligations or any other obligations by the Operator and/ or omission of act by the Operator shall be the liability of the Operator. In such cases, the repair, servicing and rectification Service shall be undertaken by the Operator at its own cost to the satisfaction of Authority.

31 FINES/DAMAGES

- 31.1 Without prejudice to and notwithstanding any other provision of this Agreement pursuant to which the Operator is liable to pay fines/damages, the Operator shall be liable to pay damages/fines during the Payment Period to the Authority in respect of the deficiencies/events provided in Annexure 6 of this Agreement (“Fines”).
- 31.2 Fines in respect of said specified deficiencies/events for ADTS shall be as provided in Annexure 6 to this Agreement.
- 31.3 The total Fines payable to the Authority in any Payment Period in terms of this clause in respect of all the categories of ADTS shall be computed by arriving at the arithmetic sum computed for each such category (“Aggregate Fines”).

32 MONITORING

32.1 Evaluation of Performance of Operator

32.1.1 The Authority shall review the performance of the Operator, based on three sets of parameters, indicated broadly as follows;

Sr. No.	Performance Parameter	Appraisal Time / Period / Frequency	Mode of appraisal
1	ADTS Maintenance	Random Checking	Physical checking by Authority
2	ADTS Operations	Quarterly/Half yearly/Annual basis as decided by the Authority	By an audit of ADTS systems, infrastructure, test records, log books and maintenance operations registers to be maintained by the Operator through agency nominated by the Authority.

32.1.2 In the event the Operator fails to perform any parameter as highlighted in sub-clause (i) above, it shall be liable to pay fines to the Authority for such non-performance in accordance with Annexure 6 to this Agreement.

32.1.3 Fines for non-performance in accordance with the terms contained hereof, such fines and/or damages along with interest shall be deducted from the Operation Payment to be made by the Authority against the Invoice raised by the Operator.

33 CONFIDENTIALITY OBLIGATIONS OF OPERATOR

33.1 Protection of Confidential Information

The Operator shall not without Authority’s prior written consent use, copy or remove any Confidential Information from Authority’s premises, except to the extent necessary to carry out Operator’s obligations hereunder. Upon completion or termination of each assignment hereunder, Operator shall return to Authority all documents or other materials containing Authority’s Confidential Information and shall destroy all copies thereof.

For the purpose of this Clause, the term “Confidential Information” means the information or document which is specifically marked by the issuer/provider of information as confidential or otherwise clearly marked as confidential or proprietary, and shall include any proprietary or confidential information of Authority relating to the Driving Testing Center Services provided under the Agreement in relation thereto and information relating to Authority’s business or operations.

Confidential Information shall not include information which:

- 33.1.1 Is or becomes generally available to the public without any act or omission of Operator;
- 33.1.2 Was in Operator’s possession prior to the time it was received from Authority or came into Operator’s possession thereafter, in each case lawfully obtained from a source other than Authority and not subject to any obligation of confidentiality or restriction on use;
- 33.1.3 Is required to be disclosed by court order or operation of law; in such event, Operator shall so notify Authority before such disclosure; and
- 33.1.4 Is independently developed by or for Operator by persons not having exposure to Authority’s Confidential Information.

33.2 The Operator is under an obligation to protect Confidential Information under this Clause for a period of three (3) years after the expiry or termination of this Agreement.

33.3 Intellectual Property Rights

- 33.3.1 All ADTS software application developed by Operator in relation to the Project and any modifications thereto or works derived there-from shall be the exclusive property of the Operator at all times. Provided however that the Authority shall have the right to possess and use the same during the Agreement Period for purposes of effective implementation and maintenance of the Project.
- 33.3.2 In the event of termination of contract before the expiry of the contract without being liable to pay any additional amount/royalty to the Operator.
- 33.3.3 After the expiry or termination of the Agreement, Operator shall have no right, title or interest in or to any work including without limitation the designs, software, modifications or facilities developed at the allotted sites by Operator for Authority under the Project for any purpose whatsoever.
- 33.3.4 For purposes of the Agreement the terms “software”, “software programs” shall include without limitation the specifications, documentation, technical information, and all corrections, modifications, additions, improvements and enhancements to any of the foregoing provided at the sites by the Operator in relation to the Project pursuant to the Agreement.

34 EVENT OF DEFAULT AND TERMINATION

34.1 Operator's Event of Default

Any of the following listed events shall constitute an Event of Default by the Operator ("Operator's Event of Default") unless such event has occurred as a result of a Force Majeure Event. The Authority reserves the right to terminate the Operator and cancel the Operator Agreement/Contract without payment of any compensation on occurrence of any of the following events.

- 34.1.1 Operator is in breach of any of its obligations under this Agreement and the same has not been remedied for more than [60 (sixty)] days;
- 34.1.2 A resolution for voluntary winding up has been passed by the shareholders of the Operator;
- 34.1.3 Any petition for winding up of Operator has been admitted and liquidator or provisional liquidator has been appointed or Operator has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction, provided that, as part of such amalgamation or reconstruction the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Operator under this Agreement;
- 34.1.4 Operator fails to comply with the Applicable laws, rules and regulations.
- 34.1.5 Operator does not abide by Consortium conditions specified in Agreement and elsewhere in the RFP.
- 34.1.6 Operator does not share APIs and Interfacing protocols of its IT systems and equipment with Authority.
- 34.1.7 Any representation made or warranties given by the Operator under this Agreement or under the RFP document is found to be false or misleading.
- 34.1.8 Operator fails to maintain/ refurbish/ replenish the Performance security as per terms of this Agreement.
- 34.1.9 Operator stands incapable of establishment of ADTS as per the specifications.
- 34.1.10 Operator suspends or abandons the maintenance of ADTS without the prior consent of Authority, provided that the Operator shall be deemed not to have suspended/ abandoned operation if such suspension/ abandonment was
 - i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or
 - ii) is on account of a breach of its obligations under this Agreement by the Authority.
- 34.1.11 The Operator repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement.
- 34.1.12 The Operator failed to make any payments/damages/damages due to Authority within period specified in this Agreement or indicated by Authority without any valid reason.
- 34.1.13 The Operator failed to perform any of the Operator's obligations, which has a Material Adverse Effect on the Agreement

- 34.1.14 Operator creates an Encumbrance over the ADTS and Driver Testing Center operations.
- 34.1.15 Operator fails to adhere to the timelines set forth in the Agreement for performance of Operator's obligations there under; and reason thereof damages as provided in Clause 31 exceeds value of Performance Security;
- 34.1.16 Repeated occurrence of breach of Operator's obligations specified in this Agreement and which shall not be remedied in Remedial Period specified by Authority; and
- 34.1.17 Any other default/breach of its obligation by the Operator, for which default/breach termination has been prescribed in terms of this Agreement.
- 34.1.18 The Operator fails to repay any debt / loan raised by the Operator for the purpose of financing the ADTS from institutional Lenders such as Banks.
- 34.1.19 In the event of malpractice committed by the Operator and/or its staff without any payment of compensation.
- 34.1.20 In the event of malpractices or fraudulent or corrupt practices attributable to the Operator.
- 34.1.21 If the Operator fails to deliver any or all quantities of the service within the time period specified in the contract, or any extension thereof granted by the Authority; or
- 34.1.22 If the Operator fails to adhere to the SLAs in four succeeding monthly uptimes in any of the RTO/ARTO sites/locations.
- 34.1.23 If the Operator fails to perform any other obligation under the contract within the specified period of delivery of service or any extension granted thereof; or
- 34.1.24 If the Operator commits breach of any condition of the contract.
- 34.1.25 If the Operator, in the judgement of the Purchaser, is found to be engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the contract.
- 34.1.26 If the Authority terminates the contract in whole or in part, amount of PSD may be forfeited.

35 TERMINATION DUE TO EVENT OF DEFAULT

35.1 Termination for Operator's Event of Default

- 35.1.1 Without prejudice to any other rights or remedies, which the Authority may have under this Agreement, upon occurrence of an Operator Event of Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Operator; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Operator of its intention to issue such Termination Notice and grant minimum 15 (Fifteen) days or such other reasonable period as the Authority deems fit at its sole discretion to the Operator to remedy the default ("Remedial Period") and/or make representations, and may after the expiry of such Remedial Period on non-remedy of breach/default to the satisfaction of the Authority, whether or not it is in receipt of such representation, issue Termination Notice and then terminate the Agreement.

35.1.2 In the event of termination for a Operator Event of Default due to non-commencement of ADTS operations as per agreement conditions, the Authority shall:

- a) Cancel contract agreement and
- b) Invoke the Performance Security amount in full

35.1.3 Termination & Amount to be Recovered for Incomplete Tenure

If during the period the contract remains in force, the State Transport Commissioner cum Chairman has reasons to be dissatisfied with the execution of contract and/or the performance of the Operator due to any or all of the reasons listed at clause 34 of Volume 2 of RFP, the State Transport Commissioner cum Chairman or the officer appointed by the State Transport Commissioner cum Chairman may by 1st notice of 30 days and 2nd notice of 30 days in writing call upon the Operator to remove the cause of such dissatisfaction in the way to be indicated in the notice. If the Operator fails to respond for this period of 60 days after the receipt of such notices through email and/or registered post and remedy such cause of dissatisfaction to the satisfaction of the State Transport Commissioner cum Chairman, then the State Transport Commissioner cum Chairman or the Officer appointed by him shall have a right to terminate the contract on failure of the Operator to follow the orders in the said notice and notwithstanding anything contained in the agreement by giving the Operator a final 48 hours' notice in writing through email and/or registered post. The contract shall on expiry of the said notice period stand terminated without prejudice to the right of the State Transport Commissioner cum Chairman to forfeit the Security Deposit-cum-Performance Guarantee provided for the contract. State Transport Commissioner cum Chairman also, for any other genuine/bonafide reasons, in the interest of the Authority, may terminate the contract and may forfeit the Security Deposit. Ownership rights of the infrastructure installed at the sites in either of the above cases shall be vested with the Authority in the event of such termination.

35.1.4 Termination due to Non-compliance of SLAs is detailed below:

- Monthly uptime for each testing center in each RTO location would be reviewed by the Authority against the SLA finalised.
- When a monthly uptime of any single RTO location or 2W/LMV testing center category isn't meeting the SLA in two succeeding months, it will be a cause for issue of warning letter.
- This procedure will be followed for both LMV and Two-Wheeler testing centers at each of the locations. So, two monthly SLA compliance reports are to be generated for both tracks at each location through the system.
- Operator needs to improve his uptime in the next succeeding three months, else it will be a cause for issue of showcause notice to the Operator with a warning to improve performance. If the SLA isn't improved during these 3 months, State can then terminate Operator.

- Compliance with SLAs will be verified for both LMV and Two-Wheeler tracks independently.
- Non-compliance in any vehicle track/location is liable for termination.

35.1.5 Also, the source code for the entire project for all locations will remain with the Operator. The source code should be handed over to the Authority in the event of Termination for Operator's Event of Default. However, under such circumstances, the Authority assures that the source code will not shared with any third party.

36 FORCE MAJEURE

36.1 Force Majeure

36.1.1 For the purposes of this Agreement the expression "Force Majeure" or "Force Majeure Event" includes acts of God, war, revolutions, hostility, civil commotions, strikes, fires, floods, earthquake, epidemics, quarantine restrictions, freight embargoes or explosions, except electrical supply failure and if it affects the performance by the Party claiming the benefit of Force Majeure (the "Affected Party") of its obligations under this Agreement and which act or event:

- i) is beyond the reasonable control of the Affected Party, and
- ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and
- iii) has Material Adverse Effect on the Affected Party.

36.1.2 As soon as practicable and in any case within [seven (7) days] of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the other Party, inter alia, the following in reasonable detail:

- i) the nature and extent of the Force Majeure Event;
- ii) the estimated duration of the Force Majeure Event;
- iii) the nature of and the extent to which, performance or any of its obligations under this Agreement is affected by the Force Majeure Event;
- iv) 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 performances of such of its obligations affected thereby; and
- v) any other relevant information concerning the Force Majeure Event, and / or the rights and obligations of the Parties under this Agreement.

36.1.3 As soon as practicable and in any case within [5 (five) days] of notification by the Affected Party in accordance with the preceding sub clause (a), the Parties shall, hold discussions in good faith in order to:

- i) assess the impact of the underlying Force Majeure Event;
- ii) to determine the likely duration of Force Majeure Period; and
- iii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations the performance of which shall have been affected by the underlying Force Majeure Event;

- 36.1.4 The Affected Party shall during the Force Majeure Period provide to the other Party representative regular (which shall not be less than weekly) reports concerning the matters set out in the preceding sub-clause (b) as also any information, details or document, which the other Party may reasonably require.
- 36.1.5 If the Affected Party is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such obligation to the extent it is unable to perform the same on account of such Force Majeure Event provided that:
- i) due notice of the Force Majeure Event has been given a required in accordance with the terms contained herein;
 - ii) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
 - iii) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or likely to be caused to the Project as a result of the Force Majeure Event and to restore the Services affected as a result of the Force Majeure Event in accordance with the Good Industry Practice and its obligations under this Agreement;
 - iv) when the Affected Party is able to resume performance of its obligations under this Agreement, 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 in resuming such performance;
 - v) 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 the Agreement; and
 - vi) any insurance proceeds received shall be, subject to the provisions of Financing Documents, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.
- 36.1.6 If the inability on account of Force Majeure to perform continues for a period of more than three (3) months, each Party shall have the right to be released from further performance of the Agreement, in which case, neither Party shall have the right to claim damages from the other. All prior performance shall be subject to the terms of this Agreement.
- 36.1.7 Upon Termination of this Agreement on account of a Force Majeure Event, the Operator shall be entitled to receive;
- i) Pay any sum due and payable as the Payment by the Authority till date of such termination
 - ii) Refund/release of performance security in full provided there are no outstanding dues off the Authority on the Operator

37 CHANGE OF LAW

37.1 Change in Law shall mean the occurrence or coming into force of any of the following, after the date of execution of this Agreement:

- a) The enactment of any new law;
- b) The repeal, modification or re-enactment of any existing law;
- c) A change in the interpretation or application of any law by a court of record;
- d) Any order, decision or direction of a court of record; and
- e) Any change in the rate of any of the taxes that have direct effect on the Agreement;

Provided, however, Change in Law shall not include:

- a) Coming into effect, after the Execution Date, of any provision or statute which is already in place as of the date of execution of this Agreement;
- b) Any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the
- c) Effective Date which is a matter of public knowledge;
- d) Non availability of any spare part, equipment, component due to price escalation or otherwise

37.2 Upon occurrence of a Change in Law,

- a) The Operator shall notify the Authority nature and the impact of Change in Law on the Agreement and Project; and
- b) Upon receipt of the notice of Change in Law issued by Operator pursuant to preceding sub-clause, the Authority and the Operator shall hold discussions in relation thereof and notwithstanding anything contained in the Agreement, the Authority may take appropriate decision.

38 HANDBACK ON TERMINATION OR EXPIRY/COMPLETION OF CONTRACT TENURE

The Authority shall retain the title and ownership of ADTS in relation to the Project under this agreement.

38.1 Upon Termination

38.1.1 Upon Termination for any reason whatsoever or Expiry/Completion of Contract Tenure, the Operator shall to the extent instructed by the Authority shall cease all further work as instructed by the Authority in the Termination/Contract Closure Notice and the Operator shall carry out works for the sole purpose of securing, preserving and protecting that part of the Works already Executed.

38.1.2 In case of termination, the security deposit paid by the Operator shall be forfeited by the Authority and all balance dues if any will not be paid to the Operator.

38.1.3 Upon termination or Expiry/Completion of Contract Tenure, the selected operator shall

- i) Transfer entire IT, civil and electrical infrastructure of ADTS including but not limited to test tracks, control room, ADTS hardware & software, cameras, IT

accessories & equipment, integration of system etc. to the Authority. Operator will not have any rights on this transferred property stated above and the transferred property shall become a property of the Authority solely for its further use and the operator will not have any right on it.

- ii) Comply with and confirm to the divestment requirement and the provisions of “divestment of rights” shall apply mutatis mutandis.

38.2 Divestment of Rights And Interest

38.2.1 Divestment Requirements

Upon Termination or Expiry/Completion of Contract Tenure, the Operator shall comply with and conform to the following divestment requirements (the “Divestment Requirements”), no later than [15 (fifteen)] days from the date of Termination or expiry of contract tenure:

- i) deliver forthwith the actual or constructive possession of the ADTS along with the infrastructure therein, free and clear of all Encumbrances;
- ii) cure all equipment and systems of all defects and deficiencies so that they are compliant with the future operation requirement Obligations; the Authority shall grant to the operator such additional time, not exceeding [30] days, as may be reasonably required for repair and rectification thereof;
- iii) cure all the equipment at the ADTS of any defect or deficiency such that it can continue to be used efficiently and economically in accordance with Good Industry Practice;
- iv) deliver and transfer relevant records, reports, Warranty/Guarantee records, Annual Maintenance Contracts of all equipment and systems pertaining to ADTS and other equipment’s including all software and manuals pertaining thereto, Software codes thereof and complete ‘as built’ Drawings as on the Commencement Date and updated, ratified, modified, upgraded during Operation Tenure so as to enable the Authority to operate and maintain the ADTS, and execute such deeds of conveyance, documents and other writings as the Authority may reasonably require in connection therewith. For the avoidance of doubt, the Operator represents and warrants that the Intellectual Property shall be adequate and complete for the operation and maintenance of the ADTS and shall be assigned or licensed to the Authority free of any Encumbrance;
- v) transfer and/or deliver all Applicable Permits in respect of the ADTS, to the extent permissible under Applicable Laws;
- vi) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Operator in respect of the outstanding insurance claims to the extent due and payable to the Authority;

- vii) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the ADTS; and
- viii) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Operator in the ADTS and Insurance Cover, free from all Encumbrances, absolutely unto the Authority or to its nominee.

Subject to the exercise by the Authority of its rights under this Agreement or any of the Project Agreements to perform or procure the performance by a third party of any of the obligations of the Operator, the Operator shall continue to perform their obligations under this Agreement notwithstanding the giving of any Termination Notice until the Termination of this Agreement becomes effective in accordance with its terms.

38.2.2 Inspection and cure

Not earlier than [30] days prior to successful completion of contract tenure or [2] days prior to Termination but not later than [15] days prior to the effective date of such Termination/successful completion of contract tenure, the Authority shall verify, after giving due notice to the Operator specifying the time, date and place of such verification and/or inspection, compliance by the Operator with the Maintenance Obligations, and if required, cause appropriate tests to be carried out at the Operator's cost for this purpose. The Operator shall at its own cost and expense, cure defaults if any, in the Maintenance Obligations and the provisions of this clause shall apply, mutatis mutandis, in relation to curing of defects or deficiencies.

38.2.4 Cooperation and assistance on transfer of ADTS

- i) The Operator and Authority shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the assets specified in this Clause in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the users, other members of the public or the lawful occupiers of any part of the ADTS.
- ii) The Authority shall provide to the Operator
 - a) [2] days intimation prior to the Transfer Date in the event of Termination.
 - b) [1] month intimation prior to the Transfer Date in the event of successful completion of contract tenure.

38.2.4 Vesting Certificate

The divestment of all rights, title and interest in the assets specified in this Clause shall be deemed to be complete on the date on which all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially (the "Vesting Certificate"), which will have the effect of constituting evidence of

divestment by the Operator of all of its rights, title and interest in such assets, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the ADTS on the footing that all Divestment Requirements have been complied with by the Operator/successful bidder.

38.2.5 Divestment costs etc.

- i) Upon termination/expiry of contract tenure, the Operator shall bear and pay all costs incidental to divestment of all of the rights, title of the ADTS in favour of the Authority.
- ii) In the event of any dispute relating to matters covered by and under this clause, the Dispute Resolution Procedure shall apply.

39. Dispute Resolution.

39.1 If at any time either party is unable to perform their duties or responsibilities under this agreement consistent with such party's statutory and regulatory mandates, the affected party shall immediately provide written notice by e-mail to the other party to establish a date for resolution of the matter.

39.2 If dispute between the parties not resolved amicably, same shall be adjudicated by the appropriate court of law at Cuttack, Odisha.

39 SUB CONTRACT

The Operator shall not be allowed to sub-contract the software development and maintenance of ADTS.

40 INDEMNITY

The Operator shall at all times, i.e. during the Contract Period and at any time thereafter, defend, indemnify and hold the Authority harmless from and against all claims (including without limitation claims for infringement of intellectual property, breach of contract, or other tort claims) and expenses arising out of or relating to the breach by Operator of any covenant representation or warranty or from any act or omission of the Operator or his agents, employees or sub-contractors.

41 MISCELLANEOUS

42.1 Governing Law and Jurisdiction

42.1.1 This Agreement shall be governed and interpreted in accordance with the laws of India.

42.1.2 The Courts of Cuttack alone shall have exclusive jurisdiction over all matters arising out of or in respect of the Agreement.

42.2 No waiver of rights and claims

Any forbearance, toleration or delay in invoking any of the rights or claims accruing in favour of any party under the terms of this Agreement shown or made by such a party in whose favour such rights or claims might have vested by virtue of this Agreement shall neither constitute nor be construed to be a waiver of such rights or claims accruing in respect of such a party.

42.3 Schedules and Annexure

All schedules and annexures and other explanatory details attached to this Agreement shall be deemed to be a part of this Agreement.

42.4 Supersession of earlier Agreements

This Agreement represents the entire Agreement between the Authority and the Operator, and all agreements, correspondence, notes or any other document submitted or understandings made or reached by and between the Parties inter se in respect of the subject matter of these presents prior to the date hereof shall be deemed to have been superseded and revoked on the execution of this Agreement.

42.5 Notices

Unless otherwise stated, notices to be given under this Agreement shall be in writing and shall be given by hand delivery/ recognized international courier, mail, telex or facsimile and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Authority

(Name of the Concerned Official)

For & on behalf of Transport Commissioner, Odisha.

If to the Operator

All notices under this Agreement shall be in Marathi/English.

42.6 Counterparts

This Agreement may be executed 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.

42.7 Assignment

No assignment of this Agreement, or any rights or duties hereunder shall be made in whole or in part by any Party at any point of time during the Contract Period.

Provided, further that, under no circumstances shall the Operator be absolved of his rights, duties, obligations under the terms and conditions of this Agreement, and the Operator shall be solely and exclusively responsible for the implementation of this Agreement.

42.8 No Partnership

Nothing herein contained shall be construed to constitute a partnership between Authority and the Operator, or to constitute either party as the agent of the other and neither party shall hold itself out as such.

42.9 Severability

If any provision of this Agreement shall be declared illegal, void or unenforceable, the same shall not affect the other provisions herein which shall be considered severable from such provision and shall remain in full force and effect.

42.10 Representation and Warranties

42.10.1 Representation and Warranties of the Authority

The Authority hereby represents, assures, confirms and undertakes to the Operator as follows:

- i) That it is duly incorporated under the laws of India and has the power to conduct its business as presently conducted, and to enter into this Agreement;
- ii) That it has full power, capacity and Authority to execute, deliver and perform this Agreement and has taken all necessary sanctions and approvals and followed all the procedure required to authorise the execution, delivery and performance of this Agreement;
- iii) Nothing in this Agreement conflicts with its constitutional Authority, mandate, or any law or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and
- iv) All approvals and permissions as are necessary for the execution of this Agreement have been obtained, all the required procedure for the due execution of this Agreement have been adhered to, and this Agreement will be valid, legal and binding against it under the Applicable Law.

42.10.2 Representation and Warranties of the Operator

The Operator hereby represents, assures, confirms and undertakes to the Authority as follows:

- i) That it is duly incorporated under the laws of India, and has the power to conduct its business as presently conducted and to enter into this Agreement;
- ii) That it has full power, capacity and Authority to execute, deliver and perform this Agreement, and has taken all necessary sanctions and approvals (corporate, statutory or otherwise) to authorise the execution, delivery and performance of this Agreement;
- iii) Nothing in this Agreement conflicts with its Memorandum and Articles of Association or any other agreement, understanding or arrangement or any judgment, decree or order or any statute, rule or regulation applicable to it; and
- iv) this Agreement will be valid, legal and binding against it under the Applicable Law.

42.10.3 Exclusion of Consequential Losses

Notwithstanding anything to the contrary contained in this Agreement, the indemnities herein provided shall not include any claim or recovery in respect of; any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

IN WITNESS WHEREOF the Parties hereto have placed their respective hands and seals hereto on the day and year first herein above mentioned.

Signed for and on behalf of Motor Vehicle Department, Government of Odisha	Signed for and on behalf of (Operator)
Name: Designation: Stamp: Dated:	Name: Designation: Stamp: Dated:

<i>In the presence of:</i>	<i>In the presence of:</i>
Name: Designation: Organisation: Dated:	Name: Designation: Organisation: Dated:

ANNEXURES

1. ADTS LOCATIONS & SITEWISE REQUIREMENTS

1. The Site

The RFP is aimed at selecting Operator for sites at 37 locations in Odisha for 2-Wheelers and LMVs which shall include establishment of civil infrastructure and design, develop & install ADTS, carrying out operations and maintenance as per the provisions of the RFP to make them fully functional and meet the requirements of MVD. An inventory of the Sites including the land, buildings, structures, road works, trees and any other immovable property thereon, or attached to, the sites shall be inspected/ prepared jointly by the Procuring entity/Authority or its Representative and the Operator, and such inventory shall form part of the memorandum referred to in the Agreement. The details of the locations along with number of testing centres to be provided are given in the table below.

Sr.No.	RTO	No. of two-wheeler tracks	No. of LMV tracks
1.	Angul	1	1
2.	Baripada	1	1
3.	Bhadrak	1	1
4.	Bolangir	1	1
5.	Bhanjanagar	1	1
6.	Deogarh	1	1
7.	Dhenkanal	1	1
8.	Ganjam	1	1
9.	Keonjhar	1	1
10.	Nayagarh	1	1
11.	Phulbani	1	1
12.	Rairangpur	1	1
13.	Rourkela	1	1
14.	Sundergarh	1	1
15.	Talcher	1	1
16.	Sonpur	1	1
17.	Malkangiri	1	1
18.	Nuapada	1	1
19.	Nawrangpur	1	1
20.	Cuttack	1	1
21.	Chandikhole	1	1
22.	Kalahandi	1	1

Sr.No.	RTO	No. of two-wheeler tracks	No. of LMV tracks
23.	Sambalpur	1	1
24.	Bargarh	1	1
25.	Jagatsinghpur	1	1
26.	Jharsuguda	1	1
27.	Boudh	1	1
28.	Balasore	1	1
29.	Koraput	1	1
30.	Rayagada	1	1
31.	Kendrapada	1	1
32.	Gajapati	1	1
33.	Barbil	1	1
34.	Khurda	1	1
35.	Puri	1	1
36.	Jajpur	1	1
37.	Bhubaneswar I & II	1	1

2. Tentative Test Track Dimensions

The tentative test track dimensions are provided below. The Operator shall be completely responsible for any adequacies in the dimensions mentioned below. The minimum dimensions given below are only indicative in nature. The Bidders are encouraged to examine and familiarize themselves fully about the local site conditions and any other matters considered relevant by them before submitting the Eligibility and Qualification Submission/Bid by paying visit(s) to the RTOs. The Bidders are responsible for ascertaining themselves the condition & status of civil infrastructure available at each location (including test tracks, training & waiting area and control room), applicable laws and regulations, and any other matter considered relevant by them. The site wise drawings of the available test tracks with various RTOs are provided as an Appendix to Annexure 1 of Volume 2 of the RFP.

LMV Track	Suggested Dimensions (in meters)
8-Track	
Road width	4.65
Internal radius	5.00
Outer radius	11.15
Length	38.95
Width	22.3
Inter circle distance	6.65

LMV Track	Suggested Dimensions (in meters)
Reverse S Track	
Road width	4.65
Internal radius	5.00
Outer radius	11.15
Length	38.23
Width	25.11
Upgradient	
Length	20.00
Width	4.65
Parallel Parking	
Length	5.00
Width	4.00
2-Wheeler Track	
Road width	1.20
Internal radius	1.90
Outer radius	3.10
Length	25.00
Width	6.20

3. Clusters

Authority shall appoint two Operators for the ADTS project in Odisha through this bidding process as defined in Volume 1 of RFP. All 37 locations covering the entire state of Odisha shall be divided into 2 clusters as detailed below. The entire project would be completed in two phases throughout the state of Odisha. The locations where the driving test tracks are readily available shall be taken up for implementation of ADTS in Phase I. The locations where the driving test tracks shall be made available as and when they are ready shall be taken up for implementation of ADTS in Phase II. Cluster wise details of the locations grouped under both the phases are provided in the table given below.

Sr. No.	Phase	Cluster 1	Cluster 2
1.	Phase I	Angul	Bhanjanagar
2.		Baripada	Ganjam
3.		Bhadrak	Malkangiri
4.		Bolangir	Nabarangapur
5.		Deogarh	Nayagarh
6.		Dhenkanal	Nuapada
7.		Keonjhar	Phulbani
8.		Rourkela	Rairangpur
9.		Sonepur	
10.		Sundargarh	
11.		Talcher	
12.	Phase II	Balasore	Bhubaneswar I & II
13.		Barbil	Boudh
14.		Bargarh	Gajapati
15.		Chandikhole	Kalahandi
16.		Cuttack	Khurda
17.		Jagatsinghpur	Koraput
18.		Jajpur	Puri
19.		Jharsuguda	Rayagada
20.		Kendrapada	
21.		Sambalpur	

4. Available Facilities

Details of the driving test tracks and infrastructure available at the RTO locations under Phase I are indicated in the table given below. All types of tracks as detailed in Volume 3 of RFP shall be provided at the RTO locations under Phase II.

Sr. No.	RTO	Tracks Provision							Infrastructure provision	
		8	S	Overtaking Track	Traffic Signal	Parallel Parking	Gradient	Serpentine	Waiting area	Control room
1.	Angul	✓	✓	✓	✓	✓	✓	✓	✓	✓
2.	Baripada	✓	✓	✓	✓	✓	✓	✓	✓	✓
3.	Bhadrak	✓	✓	✓	✓	x	✓	✓	✓	Within Building
4.	Bolangir	✓	✓	✓	✓	✓	✓	✓	✓	✓
5.	Bhanjanagar	✓	✓	✓	✓	✓	✓	✓	✓	✓
6.	Deogarh	✓	✓	✓	✓	✓	✓	✓	✓	✓
7.	Dhenkanal	✓	✓	✓	✓	✓	✓	✓	✓	✓
8.	Ganjam	✓	✓	x	✓	✓	✓	✓	x	✓
9.	Keonjhar	✓	✓	✓	✓	✓	✓	✓	✓	✓
10.	Nayagarh	✓	✓	✓	✓	✓	✓	✓	✓	✓
11.	Phulbani	✓	✓	✓	✓	✓	✓	✓	✓	✓
12.	Rairangpur									
13.	Rourkela	✓	✓	✓	✓	✓	✓	✓	✓	✓
14.	Sundergarh	✓	✓	✓	✓	✓	✓	✓	✓	✓
15.	Talcher	✓	✓	✓	✓	✓	✓	✓	✓	✓
16.	Sonpur	✓	✓	✓	✓	✓	✓	✓	✓	✓
17.	Malkangiri	✓	✓	✓	✓	✓	✓	✓	✓	✓
18.	Nuapada	✓	✓	✓	✓	✓	✓	✓	✓	✓
19.	Nawrangpur	✓	✓	✓	✓	✓	✓	✓	✓	✓

* The above details are indicative. Bidders are required to physically verify and confirm the track details at each RTO offices

2. DRIVER LICENSES ISSUED & TRACK CAPACITIES

Sr. No.	Locations	Vehicle class	DL Data for last 10 Years									
			2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Phase I												
1	Angul	LMV	366	63	5796	12186	8874	7817	6551	5930	6751	4280
		2W	199	59	6702	14505	10022	8819	7770	7044	6312	12901
2	Baripada	LMV	2457	2729	2617	2528	2185	2256	3092	1831	1596	1885
		2W	5715	5608	5066	5225	4999	5477	6261	3428	3452	7991
3	Bhadrak	LMV	14164	13342	12627	14957	4589	5535	3041	2717	2920	5074
		2W					7434	9523	7026	6476	10030	15484
4	Bolangir	LMV	18	21	1141	2949	2068	2796	2741	2371	3561	3860
		2W	10	26	2039	4663	3504	4833	4850	3960	5500	8637
5	Bhanjanagar	LMV					6646	6880	5998	2636	3286	3092
		2W					9447	10108	10238	5715	5964	9208
6	Deogarh	LMV	20	87	538	963	1628	1478	1434	1079	1121	1661
		2W	9	28	708	1199	1886	1523	1494	1200	1326	4072
7	Dhenkanal	LMV	96	51	1694	4515	4261	4411	2624	1543	1442	1521
		2W	84	50	2403	5354	5102	5426	4354	2810	2711	10311
8	Ganjam	LMV	1763	1783	13693	24103	19323	17202	19848	11365	15978	16060
		2W	633	585	18012	32569	27542	22923	26818	15196	19527	36159
9	Keonjhar	LMV	1938	1936	1720	4589	3383	3300	3065	3391	5254	6125
		2W	4318	4098	4278	4589	3966	3300	3624	4420	6070	10959
10	Nayagarh	LMV	124	159	1310	3689	2234	2687	1940	1213	1486	2417
		2W	219	175	1925	4411	3569	4416	5078	2588	2954	14393
11	Phulbani	LMV			1450	3589	4352	5695	6245	4355	6085	4695
		2W			1508	3619	4793	5675	6032	4474	6271	12424
12	Rairangpur	LMV	3331	3493	2784	2434	2292	2730	2325	1950	1964	2711
		2W	3715	3736	3764	3457	3367	3769	3271	3021	2926	5343
13	Rourkela	LMV	157	141	6043	12861	7917	6144	6595	4470	2986	5195

Sr. No.	Locations	Vehicle class	DL Data for last 10 Years									
			2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
14	Sundergarh	2W	102	123	6815	14971	9376	9176	10783	8269	5681	16206
		LMV	116	65	2365	4431	3641	3507	3045	2021	2879	4941
		2W	51	154	3239	4289	3493	3003	2060	1434	1953	1564
15	Talcher	LMV					4550	4262	4074	2770	2432	2587
		2W					4129	4562	4484	3188	3095	9096
16	Sonpur	LMV					1228	1279	1358			
		2W					1357	1611	955			
17	Malkangiri	LMV	13	10	488	1108	706	1122	827	771	1290	1547
		2W	31	18	1091	2259	1898	2067	1322	1097	1989	4037
18	Nuapada	LMV	1404	1755	288	606	566	495	784	791	921	1400
		2W			674	1227	1041	906	1423	1046	1135	2979
19	Nawrangpur	LMV	9	4	682	1710	1347	1096	1264	1295	1208	1476
		2W	10	3	1148	2514	2054	1498	1688	1632	1606	5131
Phase 2												
20	Bhubaneswar	LMV	5494	5778	11753	15521	14962	17897	17269	15305	15819	76999
		2W	7879	8589	15688	22069	20077	19177	16194	17716	20487	
21	Cuttack	LMV	7195	7837	8299	7872	5474	9423	6112	5690	6575	8421
		2W	11381	13130	15791	15702	11096	15923	11180	9698	10215	24581
22	Chandikhole	LMV	4693	5330	5279	6310	6218	8234	5046	3911	8989	3650
		2W	7080	7995	7919	9465	9328	12353	7570	5868	13485	5475
23	Kalahandi	LMV	2990	3400	3274	3505	2362	2408	1719	1953	2522	4470
		2W	4416	5696	5108	4491	3519	2916	2625	2761	4423	15241
24	Sambalpur	LMV	9935	10601	11020	10918	12500	11867	6996	3108	2129	6189
		2W	8873	9449	9554	9269	11365	12324	7837	3194	2508	11904
25	Bargarh	LMV	114	114	1137	1536	1350	1248	695	1297	2201	3855
		2W	65	83	1981	2340	2418	3161	1021	1573	2610	11082
26	Jagatsinghpur	LMV	3575	4069	4513	6015	2549	2178	1172	1332	1199	1797
		2W	5789	5606	6044	8042	4880	6280	5226	4346	4216	14292

Sr. No.	Locations	Vehicle class	DL Data for last 10 Years									
			2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
27	Jharsuguda	LMV					1066	671	797			
		2W					1663	1006	1046			
28	Boudh	LMV					650	911	1188			
		2W					1297	1944	2379			
29	Balasore	LMV					7254	6658	5627			
		2W					14187	13717	15323			
30	Koraput	LMV					1414	1632	1355			
		2W					1350	1540	1400			
31	Rayagada	LMV					641	667	428			
		2W					919	1023	852			
32	Kendrapada	LMV					5829	5999	5148			
		2W					7710	8670	8102			
33	Gajapati	LMV					1359	1069	729			
		2W					2996	2650	2634			
34	Barbil	LMV					708	631	519			
		2W					1234	817	704			
35	Khurda	LMV					3457	4055	1798			
		2W					4779	5086	1355			
36	Puri	LMV					4140	5373	1724			
		2W					7743	10733	5373			
37	Jajpur	LMV						2197	3231			
		2W						7906	7495			
38	Bhubaneswar II	LMV					1946	6483	3122			
		2W					2752	8403	5678			

Notes:

1. The figures shown above are for reference purpose only and tentative in nature.
2. Authority does not ensure business as shown in the above table.
3. Authority will not compensate for any drop in the actual driving tests conducted.

A) EXPECTED DRIVING TRACK TESTING CAPACITIES

Annual Track Capacities	2 Wheeler	LMV
No. of Persons checked/hour/Track	30	25
No. of Working Hours/Day	8	8
No. of Persons checked/day/Track	240	200
No. of Working Days/Year	294	294
Operating Efficiency (%)	90%	90%
Capacity of single Track/Annum	63504	52920
Occupancy (%)	90%	90%
No. of Persons checked/Track/Annum	57154	47628

3. STANDARD OPERATING PROCEDURES

TEST RESULTS GENERATED ARE TO BE INTEGRATED WITH SARATHI OR ANY OTHER THIRD-PARTY SOFTWARE PROVIDED BY THE OPERATOR.

1) TESTING PROCESS

Please refer Volume 3 for detailed Testing Process

2) REPORT FORMATS

List of reports to be generated through the system are indicated in Volume 3 of RFP.

4. UNDERTAKING

(To be printed and signed by the authorized signatory of the Operator on a stamp paper of Rs 500/-).

We, M/s (Name of the Operator) in consideration of the rights, privileges and benefits conferred upon us, and other good and valuable consideration expressed herein, hereby accept this Agreement and agree and undertake to perform/discharge all of our obligations in accordance with the provisions hereof, and bear and pay all costs, expenses and charges in connection with, or incidental to the performance of its obligations in accordance with the terms contained herein for Establishment, Operations and Maintenance of Automated Driving Testing Center at Driving Testing Centers of RTO in Odisha wrt the following documents:

- 1) Tender No:
- 2) Contract Agreement Details:

We hereby confirm that after completion of Contract Period or upon termination of contract by the Authority for reasons attributable to the Operator, the entire infrastructure established at RTO offices for implementation of Automated Driving Test Systems including but not limited to Driving test tracks, Cameras, Poles, Traffic Signals, Networking Cables, Servers, Workstations, AC, Furniture etc will become the property of the State Transport Commissioner cum Chairman, Government of Odisha solely for its further usage. _____ (Name of the Bidder) will not have any right on this Infrastructure after completion of Contract Period or upon termination of contract by the Authority. Similarly, all the Civil Infrastructure established will also become the property of the State Transport Commissioner cum Chairman, Government of Odisha solely for its further usage and the _____ (Name of the Bidder) will not have any right on civil Infrastructure. The ownership of the infrastructure created at RTO offices by _____ (Name of the Bidder) shall suo moto gets transferred to the State Transport Commissioner cum Chairman, Government of Odisha. _____ (Name of the Bidder) shall handover all the above facilities in sound and working condition on completion of the Contract Period.

This letter will serve as our confirmation of contract agreement of various aspects respecting the handover.

.....
(Signature of Authorised Signatory)

.....
(Name)

.....
(Designation)

.....
(Name of the Operator)

Date:

Place:

5. PROJECT SCHEDULE

		Project Timelines																																																
Sr. No.	Milestone ADTS Project	Weeks	Month 1				Month 2				Month 3				Month 4				Month 5				Month 6				Month 7				Month 8				Month 9				Month 10				Month 11							
			1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4				
	LOI Issue & Contract Sign	4	█	█	█	█																																												
1	ADTS Software Development						█	█	█	█	█	█	█	█	█	█	█	█																																
	Registration Module & Mobile						█	█	█	█	█	█	█	█	█	█	█	█																																
1.1	App.	10					█	█	█	█	█	█	█	█	█	█	█	█																																
	CMS Module, Billing Module &						█	█	█	█	█	█	█	█	█	█	█	█																																
1.2	MIS	20					█	█	█	█	█	█	█	█	█	█	█	█																																
	Procurement of Computer						█	█	█	█	█	█	█	█																																				
1.3	Hardware, Networking, Cameras, Traffic Signal, Servers etc.	8					█	█	█	█	█	█	█	█																																				
	Civil - Installation of Video Analytics Camera Poles, Traffic Signal, Surveillance Poles,						█	█	█	█	█	█	█	█																																				
2	Electrical wiring, Networking	8					█	█	█	█	█	█	█	█																																				
	Software Development / Customization										█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█																				
4	ADTS Software LMV, Two Wheeler, Three wheeler & Testing	20									█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█																				
	Software Functional Testing By CIRT, Computer Hardware										█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█																				
6	Inspection										█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█	█																				
	Software Code Testing & Certification by Third Party	6																													█	█	█	█	█	█	█	█												
	Software Training & System																																																	
8	Ready for Live	1																																									█							

Approx. Project Timeline 10 Months	
	LOI & Agreement Sign
	Procurement Process by Vendor
	Civil Work & Installation of Poles and other accessories
	Software Development / Customization
	CIRT Testing Team
	Software Audit Certification by Approved Govt. Test Labs
	Ready for Live

- Above listed activities are indicative only Operator to complete task as per project timeline mentioned in RFP.
- CIRT Team will visit in between to review the Hardware & Software, the project review will be Online, offline testing will be done to save on Time & Cost. Bidder to setup lease line connection to do the smooth testing.

6. DEFICIENCY AND INCIDENT WISE DAMAGES/ FINES

1. Penalty for categorywise non-commencement of operations of ADTS

Sl. No.	Offence	Penalty
1	Delay in Handing over ADTS at each location for Commencement of Operations of ADTS beyond COD	As per Clause 16 of Volume 2 of RFP
2	2W/LMV testing center at each location not operational for more than 16 hours per month during the working hours of the ADTS	Rs 1000 per non-operational hour per 2W/LMV testing center

2. Penalty for Incident Wise Deficiencies

In addition to the above penalties detailed in Table 1 of Annexure 6, the incident wise deficiencies and the penalties to be levied by the Authority on the Operator are given below. The counting of offences shall be done for both testing centers at each location every month to decide the penalty amount to be levied.

Sr. No.	Deficiencies	Fine (in INR / day / testing center) per month			
		1 st Offence	2 nd Offence	3 rd Offence	4 th Offence onwards
1	Not providing adequate manpower as per the contractual terms	500	1000	2000	5000
2	Not providing MIS data as per the contractual terms	500	1000	2000	3000
3	ACs in control room not running up to design capacity and /or any stoppages and/or leakages of water. *	500	1000	2000	2500
4	Not updating the Software as per the directives of Authority/CIRT *	2000	4000	8000	12000
5	Insurance policy not in force	2000	4000	8000	12000
6	Not attending to repairs related to civil works erected by the Operator on driving test tracks and control room *	500	1000	2000	5000

3. Other Penalties

Sr. No.	Deficiencies	Penalty	
1	Attempt to Change/ unauthorised changes in test procedure, test mechanism, marking scheme/breach of contract	Authority will issue warning letter for respective location based on any such incident and impose penalty on the Operator as listed below: <ul style="list-style-type: none"> ○ INR 1 lakh on 1st incident ○ INR 2 lakhs on 2nd incident ○ INR 5 lakhs on 3rd incident ○ Upon 4th such incident, show cause with 30 days' notice will be issued. 2nd notice will be issued with 15 days' notice. For any incident thereafter, the Authority can terminate the contract as per defined process through a committee. 	
2	Event of malpractice/additional charging		
3	Non-compliance of SLAs	Uptime per location (%)	Penalty
		> 80 – 92.2	0.5% of billing amount
		> 70 – 80	1.0% of billing amount
		> 60 – 70	2.0% of billing amount
		> 50 – 60	3.0% of billing amount
< 50%	As per clause 35.1.4 and Annexure 7 of Volume 2 of RFP		

Notes:

- The levying of above penalties doesn't forbid the Authority to take action as per the rules and laws applicable.
- * All repairs and updation requests indicated shall be attended within 7 days of reporting/notice issued to the Operator beyond which the above-mentioned fines will be levied.
- The penalty indicated in the above tables is in addition to the applicable legal action against the staff/Operator.
- Penalties shall be capped at 10% of monthly billing per location.

7. INDICATIVE DEPLOYMENT PLAN

(To be Attached at the time of Signing of the agreement)

Details of the business plan of the Operator in respect of the following are to be provided along with tentative timelines:

- 1) Manpower Details
 - i) No. of persons
 - ii) Responsibilities
 - iii) Qualification
 - iv) Experience
- 2) Timelines/Milestones
 - i) Infrastructure Creation
 - ii) ADTS
 - a) Hardware Installation
 - b) Software Development
 - c) System Integration
 - d) Software Testing
 - e) Inspection for Final Acceptance
- 3) Training Plan
- 4) Commencement of Operations by the Operator

8. SERVICE LEVEL BENCHMARKS

A half yearly audit would be conducted by the Authority or its nominated representative to assess the performance of the Operator at each location against the benchmarks as defined below in addition to 28.1.2 (xv) of Volume 2 of RFP. The audit observations should be noted by the Operator and necessary corrective actions suggested by the Authority or its nominated representative should be complied by the Operator. The necessary action taken report should be submitted to the Authority by the Operator within 15 days of receipt of the report. If the corrective actions suggested by the Authority aren't adhered by the Operator, the Authority reserves the right to invoke provisions under clause 12.4 of Volume 1 of RFP.

SLAs

Uptime	Downtime Allowed Per Month (Downtime allowed during the Operational Hours per month)
92%	16 hours

Notes:

- Preventative Maintenance Downtime is excluded from above
- The working or operational hours of 8 hours per day only to be considered for identifying the downtimes.
- Downtime is inclusive of restoration times.
- Uptime is exclusive of Downtime Allowed Per Month
- Monthly reviews and Audits will check and verify the performance based on monthly uptime & downtime calculations

Uptime Calculation

A	No. of working days in a month	25
B	No. of working hours in a day	8
C	Total working hours in a month (C = A x B)	200
D	Downtime allowed in working hours in a month	16
E	Downtime in % (E = D/C)	8%
F	Uptime (F = 100% - E)	92%

Example for SLA Calculations

UPTIMES IN PERCENTAGE for LMV / TWO-WHEELER TESTING CENTER

		Uptime Required – 92%					
↓ Month	RTO →	OD01	OD03	OD04	OD10	OD18	OD27
	1		45.50	44.90	45.60	45.80	45.80
2		46.20	46.10	45.90	44.90	44.10	44.80
3		44.90	45.80	44.30	45.30	45.90	45.60
4		39.10	44.90	45.60	45.80	45.80	45.80

Notes:

- Average uptime in 1st month for OD01 is 45.5% which is lesser than the SLA for the locations ie., 92%
- Average uptime in 2nd month for OD01 is 46.2% which is less than the SLA ie., 92%. Hence this may be cause of show cause notice with a warning to improve performance.
- Operator needs to improve his uptime in the 3rd month for OD01. However, the average uptime in the 3rd quarter for OD01 is 44.9% which is less than SLA of 92% which may be a cause of termination.
- The average uptime in the 4th month OD01 is 39.1% which is less than SLA of 92%. Since Operator hasn't improved performance during 4 successive months, Operator may be terminated.
- This procedure will be followed for both LMV and Two-Wheeler testing center at each of the locations. So, two monthly SLA compliance reports are to be generated for both testing centers (ie., Two Wheeler & LMV) at each location through the system.
- Compliance with SLAs will be verified for both LMV and Two-Wheeler testing center independently.
- Non-compliance in any vehicle track category/location/zone/cluster is liable for termination.

9. DRAFT ESCROW AGREEMENT

Escrow Account Agreement

The Escrow Account Agreement (hereinafter called "This agreement") is made on this day of 2021, with the Effective date as mentioned in this agreement herein below.

Amongst

M/s a Company incorporated under the Companies act, 1956 (hereinafter called "Operator"), Which expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include successors in interest and assigns of the First PART.

AND

Transport Department, Government of Odisha (hereinafter called "Department."), Which expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include successors in interest and assigns of the Second PART.

AND

..... (Name of the Bank), a body corporate constituted under the Banking companies (Acquisition and transfer of undertaking) Act, 1970 (hereinafter referred to as the "ESCROW AGENT"), which expression shall unless excluded by or repugnant to the subject or context be deemed to mean and include successors in interest and assigns of the Third PART.

Whereas

- A. Operator has received LOI vide No.and has entered into the Agreement dated with Transport Commissioner, Government of Odisha for development, operation & maintenance, automation of Driving Test Track centers for Two Wheelers and LMV on PPP basis in the state of Odisha as per the scope of work and terms & conditions as said forth in the RFP document dated
- B. The Parties have agreed that “user fees” arising out of the aforementioned agreement are directly deposited in the Escrow Account by Department and shall be distributed in accordance with the terms and conditions set out in this Agreement.
- C. Operator and Department have agreed to appoint the Escrow Agent to receive and distribute amounts in accordance with terms and conditions set out in this Agreement.
- D. The Escrow Agent has represented that it is willing and able to provide its services to the other parties.

Now, therefore, in consideration of the premise and for the good and valuable consideration, the receipt of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions

- a) “Applicant” shall mean any citizen apply for the driving test(s) at the designated automated driving test center under the above mentioned RFP for the purpose of obtaining driving license in the state of Odisha.
- b) “Effective date” shall mean the date on which the amount gets transferred for the first time in the Escrow account.
- c) “Escrow Account” shall mean the account opened by the Escrow Agent as per Clause 2(a).
- d) “Escrow Fees” shall have the meaning ascribed to the said term in Clause 2(c).
- e) “Operator Designated Account” shall mean the account designated by Operator in writing to the Escrow Agent to which its proportionate share of an Amount will be transferred as per Clause 4(a).
- f) “User fee” - fees in lieu of the services provided by Operator as per agreement with the Transport Department, Government of Odisha.

2. APPOINTMENT OF ESCROW AGENT

- a) Operator and Department hereby jointly appoint the Escrow Agent to act as their Escrow agent in the manner provided herein and in accordance with the terms and conditions stated in this Agreement.
- b) The Escrow Agent hereby agrees to be appointed as the Escrow Agent to perform the duties and functions as stated herein, and to provide the services and arrangements to be performed and provided by the Escrow Agent, in the manner and in accordance with the terms and conditions stated in this Agreement.
- c) In consideration of the Escrow Agent agreeing to render its services, the Escrow Agent shall charge NIL Fee as Escrow fee.
- d) The Escrow Agent undertakes that all amounts received in the Escrow account shall be dealt with in accordance with and in the manner specified in this Agreement and not in any other manner, unless express consent is given by Operator and Department.

3. OPENING OF ESCROW ACCOUNT

- a) That an Escrow account shall be opened in the joint name of Operator and Department, and (Name of the Bank) for depositing/collecting and distributing the User fee collected under the aforesaid Agreement. The Escrow account shall be opened at (Bhubaneswar/Cuttack) branch of the Escrow Agent.

4. TRANSFER OF AMOUNT

- a) Escrow agent shall electronically transfer 90% of the daily collection in the Escrow account, on next day, to the Operator Designated account i.e.
- b) On the last day of each calendar month the entire amount retained in the Escrow account shall be transferred to the vendor's account subject to deduction of any penalty levied by the department on the vendor for lapse on the services required to be provided by vender under the clause 25.3.6 of Volume 2 of the RFP.
- c) All the parties acknowledge that Operator is the majority stake holders in the said Escrow account, thus all the parties agree that the directions with respect to Escrow Account, including but not limited to, transfer of amount to the respective accounts of the parties, change of abovementioned share of revenue, change in authorized signatory etc., shall not be changed, except with the prior written approval of Transport Department
- d) The Escrow Agent shall provide to all the parties with details of monies deposited into the Escrow Account and transfers made to designated bank account of Operator on monthly basis.

5. REPRESENTATIONS & WARRANTIES

- a) Parties have power and authority to execute this Agreement and all other documents pursuant hereto (whether or not annexed) and to perform its obligations hereunder, and that the execution and delivery of this Agreement will not result in a breach of any terms and conditions of its constitutional documents, or constitute a default under or a violation of applicable laws and that the obligations under this Agreement and all other documents pursuant hereto constitute legal, valid and binding obligations enforceable in accordance with the terms of this Agreement and other documents executed pursuant hereto.

6. ESCROW AGENT'S DUTIES AND LIABILITIES

- a) The Escrow Agent shall have only those duties, obligations and responsibilities expressly referred to in this Agreement. It is understood that the Escrow Agent's only duties and responsibilities shall be to accept the amounts deposited in the Escrow Account through any of its branches with it in accordance with this Agreement, to hold, release and transfer the same in accordance with this Agreement.
- b) The Escrow Agent shall not be liable or accountable for any loss or damage whatsoever to any person caused by any action taken or omitted by the Escrow Agent except to the extent that such loss or damage is caused by fault or gross negligence or willful misconduct of the Escrow Agent.
- c) An Amount received by the Escrow Agent shall, until used or applied in accordance with this Agreement, be held in trust for the purposes for which they were received and shall be segregated from other funds of the Escrow Agent. The Escrow Agent agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, any Amount deposited in the Escrow Account shall not be considered as part of the assets of the Escrow Agent, and, being trust property shall not, in the case of a bankruptcy or liquidation of the Escrow Agent, be considered as its assets and shall not be available to the liquidator, bankruptcy trustee or any other creditor of the Escrow Agent and such Amount shall be wholly excluded from the assets of the Escrow Agent in such bankruptcy. Information to Customer that they hold lien over all the receipts due.
- d) The Escrow Agent shall furnish monthly statements of the transactions executed in the Escrow Account and shall upon demand by a Party furnish to such Party consolidated statements of all transactions in the Escrow Account.

7. TERM & TERMINATION

- a) This Agreement shall become effective on the Effective date of this agreement and shall be coterminous with the Agreement dated by and between Transport Commissioner, Government of Odisha and Operator or till

the time the Operator and Department mutually agree in writing to terminate the Agreement.

8. MISCELLANEOUS

a) No Waiver of Rights

No failure or delay by the Parties in exercising any claim, power, right, or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any such power, right or privilege preclude any further exercise thereof or any other power, right, or privilege. Any remedy or right conferred on the Parties for breach of this Agreement shall in addition to and without prejudice to all other rights and remedies available to it.

b) Severability

If any provision of this Agreement is invalid, unenforceable or prohibited by Law, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative and shall not be part of the consideration moving from any Party hereto to the other, and the remainder of this Agreement shall be valid, binding and of like effect as though such provision was not included herein.

c) Assignment

No Party shall be entitled to assign, transfer, or pledge to a third party, or create any encumbrance whatsoever, over any of its rights and obligations under this Agreement without the written consent of the other Parties.

d) Jurisdiction

Each Party submits to the exclusive jurisdiction of the competent courts of Cuttack.

e) Notices

Any notices permitted or required hereunder shall be deemed to have been duly given if delivered personally or sent by properly addressed prepaid registered mail to the parties at their respective addresses set forth in this agreement.

f) Amendment

Save and except anything written otherwise in this agreement, no change or modification of this agreement shall be valid unless the same shall be in writing and signed by all the Parties.

g) Governing Law

This Agreement shall be governed by the laws of India.

IN witness whereof the parties hereunto have set their respective hands on the day, month and year hereunder written.

(Authorized Signatory)
Operator

(Authorized Signatory)
Transport Department,
Government of Odisha

(Authorized Signatory)
State Bank of India

In Presence of:

1.

2.