

SERVICE PROVIDER AGREEMENT

This Service Provider Agreement is made and entered as of ___ day of 2022

BETWEEN

CARE India Solutions for Sustainable Development a company registered under section 25 of the Companies Act, 1956 (now section 8 of the Companies Act, 2013) having its corporate office at Module No. 411 | 4th Floor | NSIC-MDBP Building | Okhla Industrial Estate, Phase-III, New Delhi – 110020 through its Authorized Signatory (hereinafter called “**CISSD**” which expression unless repugnant to the context and/or expressly excluded shall include its assigns) party of the first part;

And

_____, a Company/ firm, situated at _____ (hereinafter referred to as the “**Service Provider**” which expression shall unless repugnant to the context hereof, be deemed to mean and include its successors and assigns) party of the second;

Both CISSD and the Service Provider are also referred to individually as “party” and collectively as “parties”;

WHEREAS the Service Provider is desirous of providing its professional services in accordance with the requirements of CISSD;

AND WHEREAS CISSD and the Service Provider duly represent and warrant that the parties have the legal right and competence to enter into this Agreement and perform the obligations listed herein.

NOW THEREFORE IN CONSIDERATION OF MUTUAL PROMISES, IT IS HEREBY AGREED BETWEEN THE PARTIES AS UNDER:

- 1) **GOVERNING LAW:** This Agreement shall be construed and enforced in accordance with, and governed by the laws of Republic of India, and within the exclusive jurisdiction of courts in Delhi unless agreed otherwise in writing by parties without regard to its choice of law /rules.
- 2) **SCOPE OF SERVICES:** The Service Provider shall provide the services as set out in the Purchase Order issued by CISSD to the Service Provider which shall be read in conjunction with this Agreement. The placement of the Purchase Order with the Service Provider is expressly conditioned on the Service Providers acceptance of the terms contained in this Agreement. Any additional or different terms or conditions in any communication from the Service Provider are expressly objected to and are not effective or binding; unless CISSD agrees to the same in writing. Each Purchase Order terminates sixty (60) days after the Delivery Date, except as set forth herein or as CISSD shall notify the Service Provider in writing. **The Purchase Order Number above shall be shown on all invoices, communications and other similar documents.**

- 3) **PRICE:** The prices stated in the Purchase Order are complete; the Service Provider shall add no additional charges. The Service Provider warrants that the prices charged are competitive with prevailing market rates and do not exceed prices charged to other customers for a similar quantity and quality of Services. The Service Provider shall specify all applicable costs, including taxes, duty, export and transportation fees and other charges on its invoice as separate items, and shall bear such costs as part of total Price charged. If the Service Provider's travel reimbursement shall be made under this Agreement, then the Service Provider shall follow CISSD's travel policies and be subject to CISSD's per diem rates. Invoices in duplicate are required. CISSD will pay the Service Provider as specified in the Purchase Order, including pursuant to any discount terms; if no time of payment is indicated, payment shall be made no later than thirty (30) days after the later of: CISSD's availing of the Services or CISSD's receipt of the relevant invoice for proper performance. The Service Provider shall be paid full compensation for services properly performed subsequent to the termination date and handing over of materials relating thereto approved by CISSD, such as work-in-progress, plans, drawings, and specifications; and subject to the Service Provider returning all CISSD property, advances and other related materials in the possession of Service Provider to the satisfaction of CISSD. The title shall vest in CISSD for any such materials for which CISSD has paid the Service Provider in accordance with this Agreement. Any adjustments in the Service Provider's invoices due to shortages, late deliveries, rejection or other failure to comply with the requirements of this Agreement and/or Purchase Order including any agreed penalty for the same may, at CISSD's option, be made by CISSD before payment; but failure to do so shall not deprive CISSD of the right to do so later. CISSD may withhold ten percent (10%) from payment of the final invoice to ensure that all Services conform to this Agreement and Purchase Order and all necessary documentation has been properly received.
- 4) **QUALITY:** The Service Provider warrants that the Services are (a) free of all deficiencies and defects (b) all materials created for CISSD in accordance with this Agreement and Purchase Order [other than materials preexisting this Agreement and prepared for other customers] shall be original work, shall be deemed work for hire and shall not infringe the rights of any third parties, and (c) are free of any lien or encumbrance. The Service Provider warrants that it shall vest all title and rights to the Services in CISSD and provide CISSD any documentation that CISSD may request relating to its ownership of the work. If no quality is specified in this Agreement and/or Purchase Order, then the Services delivered must be of the best quality as recognized by market standards and conforming to or exceeding all specifications provided by the Service Provider.
- 5) **CONDUCT:** The Service Provider undertakes to avoid exploitation of child labor and shall not discriminate on the basis of race, ethnicity, religion, gender, disability with respect to the Services provided to CISSD either at its premises or otherwise. The Service Provider shall comply with: (a) the office and security policies and directives of CISSD; (b) CISSD's policy prohibiting harassment and discrimination; and (c) such other policies as CISSD may make known to the Service Provider. The parties are independent contractors of each other, and: (a) each party is responsible for all payments relating to its Services, including without limitation, social security, income tax withholding, and insurance; (b) both parties are solely responsible to comply with all statutory provisions pertaining to their own employees and resources; (c) neither party is an agent of the other, has the authority to enter into any contract or obligation on behalf of the other party; and (d) nothing herein shall create an employer/employee relationship, partnership or joint venture between the parties, or between one party and any employee of the other.
- 6) **ANTI CORRUPTION:** The Service Provider shall comply with all laws and regulations applicable to its performance hereunder. The Service Provider and its employees shall maintain and comply with a written code of conduct that prohibits giving anything of value, directly or indirectly, to any person or entity, including government officials or CISSD staff, in the form of a bribe or kickback; establishes appropriate limitations on

transactions with relatives of Service Provider's employees or businesses or ventures related to the Service provider or its employees; and otherwise properly governs the performance of its employees engaged in soliciting, awarding or administering contracts, and receiving gifts.

- 7) **TIMELY DELIVERY OF SERVICE:** Time is of the essence and delivery of Services shall be strictly in accordance with this Agreement and the Purchase Order. Delay in providing Service or otherwise, for whatsoever reason shall be reported immediately to CISSD, and the Purchase Order payment shall be subject to a late arrival penalty. Partial performance of Service may not be accepted; immediately inform and communicate to CISSD in advance if a partial performance of Service is requested.
- 8) **ASSIGNMENT AND SUB-CONTRACTING:** The Service Provider shall not assign its responsibilities under this Agreement and/ or Purchase Order to any third party, without prior written permission from CISSD. Similarly, the Service Provider shall not sub-contract the Services it is required to provide under this Agreement and/ or Purchase Order to a third party, without receiving prior written permission from CISSD. Further, if CISSD does grant the Service Provider to sub-contract the Services to be performed under this Agreement and/or Purchase Order or part thereof, then the said sub-contractor must be apprised and bound by the same covenants as are mentioned in this Agreement and the Purchase Order issued to the Service Provider.
- 9) **INSPECTION AND ACCEPTANCE:** All Services shall be subject to CISSD audit and inspection; and, if applicable, test at any time and place. The Service Provider will make available to CISSD copies of applicable drawings, specifications, and processes and shall promptly provide CISSD any resulting certificates to establish bona fides. Further, all Services are subject to final inspection and acceptance by CISSD notwithstanding any payment or other prior inspections. CISSD may reject and/or stop all Services not conforming to this Agreement and/or the Purchase Order or other applicable specifications, descriptions or requirements of CISSD.
- 10) **DEFICIENCY IN SERVICE:** If any Services are found to be deficient or otherwise does not conform to this Agreement and/or Purchase Order, then CISSD may: (a) require the Service Provider to remedy and rectify the deficiency at the Service Provider's cost any such non-conforming Services within 10 days of notification for the same; (b) require the Service Provider to refund the price of any such Services within 15 days of notification for the same; or (c) opt to retain the said deficiency in Service with an appropriate price reduction to offset CISSD's costs of making correction(s). Nothing, including any final inspection, shall relieve the Service Provider from its responsibility to correct or remedy the defective Services as a result of fraud, recklessness or latent defects. All these are without prejudice to any other remedies available to CISSD under the law.
- 11) **CANCELLATION AND DEFAULT:** In addition to any other remedies available, CISSD may cancel/terminate this Agreement and/or Purchase Order, in whole or in part, at any time by written notice to the Service Provider, including without limitation in any of the following circumstances: (a) The Service Provider fails to provide the Services as specified herein; (b) in CISSD's good faith judgment, the Service provider failed to perform, or jeopardized performance of, this Agreement and/or Purchase Order in compliance with its terms, and failed to cure such failure within ten (10) days after notice from CISSD; (c) The Service Provider files for bankruptcy, reorganization, readjustment of debt or has insolvency proceedings instituted against it under law of any jurisdiction. On receipt of such notice, the Service Provider shall discontinue all work, cancel all pending orders and terminate any subcontracts relating to the Services to be provided under this Agreement and/or Purchase Order. Upon such termination, full and complete settlement of all Service Provider's claims shall be made as follows: a) The Service Provider shall be paid for the Services conforming to this Agreement and Purchase Order till the date of termination; and b) title shall vest in CISSD for all such Services for which CISSD has paid.

- 12) **CHANGES:** Changes or amendments to this Agreement and/or Purchase Order may only be made by CISSD by its written authorization. CISSD shall communicate the desired changes by written communication prior to availing of the Services. If any such change by CISSD affects the cost or delivery schedules as mentioned in this Agreement and/or Purchase Order, an equitable adjustment shall be made, provided the Service Provider makes a written claim therefore, within thirty (30) days from the date of CISSD's communication of the change.
- 13) **INDEMNIFICATION:** The Service Provider shall indemnify and hold harmless CISSD and its related entities from and against any claims, losses, damages, expenses, penalties, causes of action or liabilities arising from: (a) the Service Provider's breach of any obligations or warranties hereunder, or violation of trade secrets, patent, trademark or other intellectual property rights, or (b) any other acts or omissions of the Service provider, its agents, employees, sub-contractors, or guests, relating to this Agreement and/or Purchase Order. In no event shall CISSD be liable for the Service Provider's lost profits or consequential or incidental damages. Any action by the Service Provider against CISSD arising in connection with this Agreement and/or Purchase Order must be commenced within one (1) year from the date the cause of action accrued; or else the same shall be deemed to be waived.
- 14) **CONFIDENTIALITY:** During the term of this Agreement and subsequent to its termination, except as specifically set forth herein to perform the terms of this Agreement, neither party shall disclose any confidential information of the other party to any third-party or make use of such confidential information for its own purposes without the owner's prior written consent. Confidential information shall mean any information (written, oral or observed) relating to: (a) donors or potential donors; (b) operations and private contacts; (c) CISSD employees; (d) business or strategic plans; (e) finances; or (f) a relationship with any governmental entity; and shall also include information specifically designated confidential by the owner or that the disclosing party knows or reasonably should know is not public. Confidential information does not include any information generally known to the public or readily obtainable from public sources. Further, confidential information may be disclosed to government authorities if the disclosure is required by law and the disclosing party has provided the owner notice and, if practicable, a reasonable opportunity to defend against such disclosure. Upon the termination or expiration of this Agreement, both parties shall destroy or return such information of the other party in its possession, including copies and notes, and in the case of destruction, at the owner's request shall certify to such destruction. Neither party shall use the other party's name or marks in any form of publicity or publicly disclose information relating to its Services without the other party's prior written consent. Neither party shall publicly disparage the other.
- 15) **COMPLIANCE WITH LAW AND DISPUTES:** The Service Provider shall comply with all laws, regulations, and orders applicable to its performance hereunder. The parties shall first try to resolve any controversy or claim arising out of or relating to this Agreement and/or Purchase Order, or the breach or alleged breach thereof, by good faith negotiation among senior managers unrelated to the dispute, and failing that, by arbitration. The parties shall select a mutually acceptable arbitrator and work in good faith with the arbitrator to resolve the dispute. The location of the arbitration shall be New Delhi, India. To the extent permitted by law, the arbitrator's decision shall be final and binding and may be entered in any court having competent jurisdiction. The Service Provider shall keep complete and accurate records that provide a basis for its invoices hereunder. During the term hereof and for three (3) years thereafter, CISSD, and its Donor(s), if applicable, or their agents, may inspect and make extracts from such records, provided that CISSD/Donor gives the Service Provider at least seven (7) days prior written notice.
- 16) **ENTIRE AGREEMENT:** This Agreement, together with its attachments and the Purchase Order contains the entire agreement between the parties related to the subject matter hereof, and no other representation, inducements, promises, understandings, arrangements or agreements, oral or otherwise,

shall be of any force or effect. Each attachment is incorporated by reference herein and forms a part of this Agreement. The Service Provider shall not assign its obligations hereunder, without the prior written consent of CISSD. If any provision of this Agreement is declared to be invalid, illegal, or unenforceable to any extent, the remainder of this Agreement shall not be affected and shall be enforceable to the fullest extent permitted by law. The parties are independent contractors. This Agreement creates no employer/employee relationship, partnership or joint venture between the parties, or between one party and any employee of the other. Certain obligations hereunder by their content shall survive the completion or termination of this Order, including those in Clauses 4, 5, 9 through and including 15.

17) **ANTI TERRORISM CERTIFICATION:** Each Party certifies that it has not provided and will not provide material support or resources to any individual or organization with the knowledge or intent that the support or resources be used to prepare for or carry out an act of terrorism in violation of applicable laws.

18) **DONOR REQUIREMENTS:** If this Agreement is funded with donor funds, certain donor requirements may apply. For the purpose of this agreement, it is as follow:

(a) These provisions must be communicated and complied with by the Service Provider's Subcontractors.

(b) At CISSD's request, the Service Provider shall sign any certificates or documents and such take actions as are required by the donor.

Signed by:
CISSD

Signed by
Service Provider

Name:
Designation:
Date:

Name
Designation
Date: