SERVICE LEVEL AGREEMENT

This Agreement is executed on -----of ………….

BY AND BETWEEN

National Internet Exchange of India having its registered office at Flat no. 6B, Uppals M6 Plaza, 6 Jasola District Centre, New Delhi-110025 -- hereinafter called "Customer"

AND

……………………………………….hereinafter referred to as "Service Provider."

WHEREAS the Customer is a not for profit organization, facilitating exchange of domestic internet traffic, between the members of peering internet service providers.

WHEREAS the Service Provider is engaged in providing IT enabled services including hosting, managed servers, server racks & cages, co-location and system security.

WHEREAS the Service Provider represents that it has requisite expertise and knowledge in providing the Services mentioned herein and has expressed interest in providing the Services to the Customer.

WHEREAS the Customer engages the Service Provider for availing the Services defined herein.

This Agreement provides the right under certain circumstances specified below, for the Customer to receive Services Credits in the event of failure to provide Services by the   to the Customer as mentioned in Purchase Order (PO) in accordance with this SLA, which is incorporated herein by reference and made a part hereof (collectively the "Documents")

The terms of this Agreement shall apply only to those Services which are referred in the Purchase Order (PO) and any Supplemental Services agreed by both the Parties.

Service Provider and the Customer shall be referred individually as "Party" and collectively as "Parties".

The Customer reserves the right to change the terms and conditions of this Agreement with respect to the Services to be provided by Service Provider to Customer, subject to mutual approval.

Service Provider agrees to provide the services to Customer as detailed in PO for an Initial Period as mentioned in PO and for said period the Customer has agreed to pay the amount as agreed in the PO.

DEFINITIONS:

Commencement Date: This Agreement will commence on ……….

"Services": means providing the services by the Service Provider as agreed in the PO.

"Customer Area": means the rack or any space provided by Service Provider to Customer where the server of the Service Provider is located for the purpose of providing Services.

"Downtime" ("D") shall mean the duration of the Service Outage, calculated in aggregate number of hours in respective month. Downtime begins upon start of Service Outage and ends when the Trouble Ticket is closed by Service Provider subject to due confirmation from the Customer on resolution of the outage. The time periods are calculated on basis on the number of outages per respective month and excluding the events covered under headings Exceptions to this SLA which shall not for the purposes of this SLA be included while measuring Downtime.

"Exceptions" all the events as mentioned in clause 3 herein and shall mean either an event or a set of events, any occurrence and the duration of occurrence of which shall not constitute a Service Outage or Downtime for the purposes of this SLA.

"Emergency Maintenance" shall mean maintenance carried out under a condition or situation which poses danger to the system, equipment, network, facilities required for rendering the Service etc. as the case may be and has to be attended immediately. Service Provider shall try to notify the Customer about the emergency maintenance in advance, whenever feasible.

"Facility": The facility is located at office of Service Provider .

"Fees": means the amount invoiced by Service Provider other than the Initial Term fees to be paid to by the Customer for use of services provided by Service Provider.

"Network": means the portion internal computer network owned or operated on behalf of Service Provider that extends from the outbound port on a Customer's cabinet switch to the outbound port on the border router and includes all redundant internet connectivity, bandwidth, routers, cabling and switches.

"Actual Uptime" ("A"): is the aggregate percentage of Total Uptime Hours in respective month during which the Services is actually made available for use by Customer.

"Representatives": means any person who is nominated or appointed by the Customer to visit the Facility center.

"Service Credits" shall mean services which the Customer would be entitled on account of failure of the Service Provider to provide Services as per the standards mentioned in this Agreement. Service Credit shall mean a reimbursement of

calculated portion of monthly payment from the Services as set out in section 2 hereunder.

"Service Catalogue" shall contain all or any of services/facilities viz., back up facility, dedicated firewall facility, hardware monitoring facility, help desk support, load balance server, network and power uptime, OS management, shared firewall service and Version Control described in this SLA which may be availed by the Customer along with the Services as mentioned in the PO from the Service Provider.

"Service Outage" shall mean an unscheduled disruption/failure in any Service offered by Service Provider as per this Agreement, due to which Customer's server is un-accessible to Customer. The outage of Services due to, but not limited to the following shall be a Service Outage; Customer is unable to transmit to or receive information from his network equipment because Service Provider failed to provide facility services to its equipment including, virtual / physical servers, switch, router, firewall etc. Failure of Services like Internet connectivity, IDC LAN etc. shall also be treated as Service Outage.

"Setup Charges": means all charges which may be incurred by Service Provider for installing the server or any other expenses incurred for the commencement of Services to the Customer.

"Support Desk" shall be the location where the Customer should report a fault. Details of the same are mentioned in the clause 9 of this SLA, or if changed, may be intimated immediately by the Service Provider to the Customer.

"Total Uptime Hours" shall mean 24 hours 365 days a year (year is defined as period of 365 days)

"Trouble Ticket" means issuing a ticket with a unique identification number confirming the customer complaint logging in with Service Provider in relation to a Service Outage faced by the Customer.

2. DURATION: This Agreement shall be for an initial period of 1 year with option to auto-renew the Agreement for a further period of 2 (two years) subject to satisfactory performance of the Service Provider.

3. SCOPE OF THE SERVICES

3.1 Service Provider will provide the Services as per the services opted by the Customer in the PO, including details of all the services are provided in the Service Catalogue which is provided in PO along with this SLA.

3.2 Service Provider assures that it shall provide its immediate support and assistance in the event of any disruption in the Services being provided by Service Provider. The manner and time frame for troubleshooting and the timelines for the resolution of the problems are mentioned in this Agreement.

3.3 Services will be provided to the Customer by the Service Provider with the infrastructure available at its data center which consists of the following:

- Dual active power sources from two different power generation plants (One active + Captive power source like DG set.
  - Tier III or more - (system) + (system) Architecture - Fault Tolerant with No Single Point of Failure
  - Capability to provide 99.995 % SLA
  - Carrier Neutral Datacenter
  - ISO 20000-1 & 27001 Certified

3.4 Service Provider assures the Customer 99.995 % uptime availability of the Infrastructure including Power* and Cooling** covered by this SLA. Hardware* Uptimes SLA would be 4 hours resolution from the time of detection of hardware problem either by the Service Provider help desk or by the Customer. Subject to clause 3 of this Agreement, in the event the Service Provider fails to provide the Customer with the Services required by the Customer in accordance with this Agreement, such failure resulting from complete unavailability of Network, such events will be treated as "Qualified Network Downtime Event" for which Service Provider will issue the Customer a Service Credit - calculated as per method provided in clause 3.5.

** Service Provider assures 24*7 support to provide cooling @ 19°C (+/-) 2°C and Humidity levels @ 50 % (+/-) 5%.

3.5 The Actual Uptime (A) calculated in the respective month and it will be measured (compared) against the total uptime hours of the year 99.995%. If the outages exceeds total uptime hours the following service credits shall be due to Customer:

A >= 99.995% No Credits

A= 99.995% < 99.00% 7 days equivalent service credit for the Service period affected calculated on a prorate basis.

A= 99.00% < 98.00% 15 days equivalent service credit for the Service period affected calculated on a prorate basis.

A= 98% < 30 days equivalent service credit for the Service period affected calculated on a prorate basis

A < 98% < 60days equivalent service credit for the Service period affected calculated on a prorate basis and Customer will have the option to terminate the services being unacceptable without giving notice to the Service Provider. This shall be without prejudice and in addition to the provisions of termination available in this Agreement mentioned below.

$$\text{Calculation of Actual Uptime \%} = \frac{\text{Total Uptime Hours} - \text{Actual Downtime} \times 100}{\text{Total Uptime Hours}}$$

3.6 To install and do monitoring of virtual machine (VM) and its applications and if

any issue intimate in writing.

3.7 To provide user name and password for login in the virtual network of VMs and maintaining the security of these VMs. (Number of VPN users : 10)

3.8 To provide DNS services for irinn.in and myirinn.in with DNSsec. To Install and maintain the green URL with SSL certificates. The SSL certificates will be provided by the Customer to the Service Provider.

3.9 To provide VM services in dual stack (IPv4 & IPv6).

3.11 To take back-up of database and whois server on daily basis and easily can be retrieved if required.

3.12 To create FTP facility for whois server.

3.13 To provide VMs and its application monitoring link with username and password.

3.14 To install Cpanel, Mail server, Mail-Migration from existing mail-server, Mailman mailing list, Request-tracker, Mail Scanner, anti-spam software and integrate with each other and provide support if required.

4. EXCEPTIONS

The following events do not constitute a Downtime and shall not be eligible to be considered for any Service Credit:

4.1. Interruption due to scheduled maintenance, alteration, or implementation, where the Service Provider provides at least Seven working days prior written notice and mutually agreed by the Customer; The usual scheduled Maintenance time is the early hours of the morning i.e., between 1am to 5am (IST). The usual maintenance time would not be more than two hours

4.2. Failure of the Customer links, Internet connectivity or end user software, access circuits, local loop or any network not owned or managed by Service Provider.

4.3. Negligence or other conduct of Customer or its Authorized Persons, including a failure or malfunction resulting from applications or services provided by Customer or its Authorized Persons;

4.4. A shut down due to circumstances reasonably believed by Service Provider to be a significant threat to the normal operation of the Services, the Service Provider's facility, or access to or integrity of Customer data (e.g., hacker or virus attack);

4.5. Failure or malfunction of any equipment or services not provided by Service

Provider;

4.6. Any abuse or fraud failure to comply with the Acceptable User Policy on the part of Customer and its Authorized Persons.

5. **SERVICE CREDIT**

5.1 Service Provider agrees that it shall provide for the requisite service credits to the Customer in the event of it not being able to provide the Services for which it had already received the payments.

5.2 Service Provider agrees that on occurrence of any event as mentioned in clause 2.2 the Customer would be eligible to request a Service Credit on compliance of the terms as mentioned in clause 9.1.(a) of this SLA.

5.3 Customer shall be eligible for Service Credit for only that Downtime which has occurred quarterly prior to the date of claim and the maximum Service Credit to which Customer shall be entitled is as mentioned in clause 9.1(c).

6. **CONFIDENTIAL INFORMATION AND NON DISCLOSURE**:

It is mutually agreed between the Parties that Customer owns certain confidential and proprietary information which Customer is willing to disclose to the Service Provider for the purposes of this Agreement and the Service Provider is willing to accept the same and to use the same only for the following purposes (The Permitted Purpose).

6. 1 "Confidential Information" means any and all information whether commercial or technical relating to the organization of the Owner, including without limitation, know-how, data, processes, designs, passwords, source code(s), drawings, specifications, software programs, and samples, which is marked with an indicator such as "Confidential" or "Proprietary", but excluding information which:

6. 1.1 is or comes into the public domain otherwise than by disclosure or default by the Customer;

6. 1.2 was or is lawfully obtained or available from a third party who was lawfully in possession of the same and free to disclose it; or

6. 1.3 was already known to the Service Provider as evidenced by written record pre-dating such disclosure.

6. 2 The Service Provider agrees not to disclose the Proprietary Information for a period of 5 years from the date of this Agreement without prejudice to the term of this Agreement and undertakes to perform the following:-

6. 2.1   to keep confidential all Proprietary Information and not to disclose such Proprietary Information to anybody, except to its authorised personnel

or agents for performing their duties for the purpose of Permitted Purpose and not otherwise;

6.2.2 to use the Proprietary Information exclusively for the Permitted Purpose and not for its own purposes and to ensure that confidentiality is maintained to whomsoever it had been disclosed;

6.2.3 ensure safety of all documents including but not limited to drawings, sketches, samples or materials or information in any medium provided Customer, and further ensure not to change or modify or copy or reproduce, or deal with it in any manner whatsoever with such items and return the same immediately upon the request of the Customer without any delay;

6.2.4 to immediately inform the Customer in case of any breach of confidence by any staff of it or anybody to whom the Service Provider has disclosed the Information and provide all necessary assistance including legal assistance to the Customer to rectify the breach or prevent the recurrence of the breach and obtain compensation for such breach or anticipated breach.

6. 3. The Service Provider hereby confirms that no right of licence to any existing or future Patents, Trademarks or any other Intellectual Property Rights in this Agreement and all such existing and future rights of Patents, Trademarks or any other Intellectual Property shall absolutely vest in the Customer with exclusive ownership. The Recipient will not apply for or obtain any intellectual property protection in respect of the Proprietary Information. All intellectual property rights relating to any drawings, documents and work carried out by the Service Provider (whether past, present or future) using the Proprietary Information will belong to and will vest in Owner. The Service Provider will render necessary support and execute necessary documents to assist the Customer to obtain, protect, defend or enforce its rights in Proprietary Information.

7. PAYMENT TERMS

7.1 The Customer shall pay all the charges for the term as opted by the Customer in the PO on ending of the quarter after receiving the invoice from Service Provider. It will include Quarterly recurring charges and other supplemental charges for any Supplemental Services provided during the Initial Term on or before the Service Commencement Date.

7.2 The details of the charges are mentioned in the PO which forms part of this Agreement.

8. **REVIEW PROCEDURE:** This Agreement will be procedurally reviewed every 12 months once and will be conducted on a date mutually agreed between the Parties. Any changes or amendments to the coverage of Services, Service levels or Service Procedures shall be in writing and mutually agreed between the Parties signed by authorized signatories from both the Parties.

The Service Provider is required to keep all log details and issues in place during

review meetings for detailed discussion and necessary action.

9. PROCEDURE FOR AVAILING SERVICE CREDITS

9.1 Whenever the Customer encounters Service Outage, the following procedure should be followed;

a. The Customer should contact the Service Provider "Support Desk" 24*7 support without undue delay and shall request for a Trouble Ticket number immediately and can track the Trouble Ticket number till the Trouble Ticket is closed on resolution of the outage.

b. The Service Provider on the receipt of the issue of Trouble Ticket to the Customer shall have a background check to verify if the Customer is eligible for the Service Credit.

c. When the Services Provider fails to provide Services in accordance with this Agreement the Customer is entitled for Service Credits, the Service Provider shall credit the Customer's account the prorated base charges.

9.2 Service Credits will be adjusted in the next quarterly billing or will be refunded to the Customer if it is for the last quarter of this Agreement.

10. WARRANTIES OF SERVICE PROVIDER

10.1 The Warranties of Service Provider are as below:-

10.1.1 Service Provider warrants that it shall perform and provide Services in a professional and workmanlike manner in accordance with this Agreement.

10.1.2 Service Provider warrants that its Data Centre shall always maintain high levels of both physical and network security and follow security advisories issued by CERT-IN (Indian Computer Emergency Response Team) from time-to-time.

11. TROUBLESHOOTING & RESOLUTION TIMES

Service Provider assures that it shall provide its immediate support and assistance in the event of any disruption in the Services being provided. The manner and time frame for troubleshooting and the timelines for the resolution of the problems are to be provided by the Service Provider and the same shall form part of this Agreement.

Service Provider shall carry out annual/ routine maintenance only on Saturdays or Sundays. Planned Maintenance will be scheduled at times in consultation with the Customer with at least 1 week written notice in advance.   In case of any incident happens, Service Provider shall send an incident report to the Customer within 3 days of occurrence of such incidence.

24*7 support will include VM monitoring, troubleshooting the issue and will include assistance in rebooting and reconfiguring.

12. **Support Desk**

The Service Provider will provide the details to lock a complain to the Customer and also provide the escalation matrix to the customer.

13. Termination for breach: Either Party shall at any stage during the term of this Agreement is entitled to terminate this Agreement for breach of terms and conditions of this Agreement committed by one Party to the other Party, provided the affected Party shall provide a reasonable opportunity by issuing a 30 (thirty) day's written notice specifying the nature of breach and calling upon the Party in breach to rectify the breach within the said 30 days time period. If after receipt of such notice, the Party in breach has not rectified the breach, then the affected Party who has issued the notice is at its option to place the Party in breach in default and shall terminate this Agreement on the date specified in the notice.

Notwithstanding anything to the contrary of the above, the Customer is entitled to terminate this Agreement anytime during the pendency of this Agreement for any valid cause and the Customer shall retain all rights of ownership of the documents, data, intellectual property, files and information.

14. Damages: The Service Provider agrees that service credits provided to Customer will not be sufficient to satisfy or compensate any other loss or damage that will be suffered by the Customer caused due to the breach of this Agreement by the Service Provider. In such circumstances the Service Provider agrees to pay actual damages to the Customer as compensation and as a penalty.

15. Indemnity:

The Service Provider shall keep the Customer fully indemnified against all actions, claims, proceedings, costs, damages and all legal costs or other expenses and losses incurred or suffered by the Customer arising directly or indirectly out of or in relation to:

(a) any breach of any terms of this Agreement (including but not limited to any claim or action by a third party alleging infringement of any intellectual property rights of such third party); or

(b) any claim by third party (including without limitation claims by any employee or agent of the Service Provider or the general public) for any damage, injury, loss or accident sustained in relation to the Service Provider's performance of the Contract, provided such damage, injury, loss or accident is not caused by the gross negligence or willful default of the Service Provider.

15. Notice

The Service Provider to send written notice, if any at the following address;

Name: Designation: CEO

NIXI, Flat no. 6B,Uppals M6 Plaza, 6 Jasola District Centre, New Delhi-110 025

The Customer to send written notice, if any at the following address;

Name: Designation:
……………………………………………………………………………….

Any change of address or email shall be duly informed by one Party to the other Party.

General Provisions:

(a) Severability: If any provision of this Agreement is declared by a court to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision of this Agreement.

(b) Entire Agreement: This Agreement and the Purchase Order annexed together forms and represent the entire agreement and complete understanding of the Parties and this Agreement supersedes any other previous discussions, understanding, or agreement, oral or written, between the parties.

(c) Waiver: No failure by either party to exercise any right to for remedy or enforce any term of condition of this Agreement shall constitute a waiver of such right or remedy.

(d) Assignment: This Agreement may not be assigned by either Party except with the written permission obtained by one Party from another Party.

(e) Binding Nature: This Agreement will be binding on the Parties and their respective successors and permitted assigns.

(f) Amendments: This Agreement may not be modified or amended except in by writing by mutual consent of both the Parties.

(g) Relationship: It is understood by both the Parties that the Service Provider is engaged as Independent contractor only and not as a partner or agent or servant or employee of the Customer.

(h) Counterparts: This Agreement may be signed in one or more counterpart copies, all of which together shall constitute one Agreement and each of which shall constitute an original.

(i) Governing Law: This Agreement shall be governed by the laws of India.

(j) Any dispute or differences relating to this Agreement shall be resolved amicably involving management personnel of the Customer and the Service Provider. In case amicable settlement is not arrived Parties may refer the matter to arbitration as stated in clause below.

(k) Arbitration: All disputes, controversies or claims arising out of or relating to this Agreement including any question regarding its validity, existence or termination shall be referred to arbitration under the Arbitration and Conciliation Act, 1996. There shall be one arbitrator with one Party proposing the appointment of an arbitrator with the other Party's consent. In case if the other Party does not consent for the appointment of arbitrator then both Parties shall appoint one arbitrator each and the two appointed arbitrators shall appoint a third arbitrator. The seat of arbitration shall be in New Delhi. The language of arbitration is English. The decision or award so given is binding on the Parties.

In witness of the above, the respective parties have signed this agreement on the dates mentioned herein below.

(Service Provider's Name)	National Internet Exchange of India
Signature:_____	Signature:_____
Name: Title: Date:	Name: Title: Date:

Witnesses:

1. _____   2. _____

PRICE FORMAT

To,

We hereby certify that we are established M/s. _____

Registered at _____

We hereby offer to supply the following items/network at the prices and within the period indicated below:

Sr. No.	Description	Qty	Price Yearly excluding taxes (Rs.)
1	Web +Front Office +Back Office +Chat Server VM with Redundancy CPU:6vCPU, RAM:10 GB, Disk Space:85 GB, Cent O.S. (64 bit Linux Jboss, Apache Tomcat, Apache, MySQL)	2	
2	Database +Whois Server VM with HA CPU:6vCPU, RAM:10 GB, Disk Space:55 GB,Cent O.S. (32 bit Linux Jboss, Apache Tomcat, Apache, MySQL)	2	
3	Mail Server as per clause 3.14 of Scope of Services (Attached). CPU:6vCPU, RAM:12 GB, Disk Space:200 GB, Cent O.S.	1	
4	Load Balancing - Hardware Load Balancer(if any cost involved)		
5	Security -Virtual Firewall for VMs (if any cost involved)		
6	Storage Additional Storage 10 GB(if any cost involved)		
7	Backup Service -Backup Space 100 GB + One Agent(if any cost involved)		
8	Public IP and Unmetered Internet Bandwidth for above VMs(if any cost involved)		

Total One Time Installation Charges (INR) if applicable:
Grand Total:
Price for Second Year:
Price for Third Year   :
Price for IV Year:
Price for V Year   :

It is hereby confirmed that we have understood the terms and conditions of the SLA and have thoroughly examined specifications and are thoroughly aware of the nature of services required and our offer is to supply services strictly in accordance with the requirement and terms and conditions of the SLA. We agree to abide by the terms and conditions of the SLA if the contract is awarded to us.

_____
(Signature and seal of Bidder)

Dated _____