

**GOVERNMENT OF ODISHA
DEPARTMENT OF AGRICULTURE AND FARMERS EMPOWERMENT
DIRECTORATE OF AGRICULTURE & FOOD PRODUCTION, ODISHA
KRUSHI BHAWAN: BHUBANESWAR**

RFP No 9676

Date- 10-03-2025

NOTICE INVITING TENDER

Director of Agriculture & Food Production, Odisha under the Department of Agriculture & F.E, Government of Odisha invites online Tenders/Bids from Bidders in two cover systems (Cover – I: Technical Bid and Cover – II: Financial Bid) for “Request for Proposal for Development, Design, Finance, Construction, Operation, Maintenance and Transfer of Agri-Tech Smart Farm (ATSF) at Designate Site(S) on PPP BASIS”.

1. Critical Data sheet: The Bidder shall download the Bidding Documents online from the website tendersodisha.gov.in. Alternatively, the Bidding Documents can also be viewed from the website agrisnetodisha.ori.nic.in and agri.odisha.gov.in, for the sole purpose of viewing and it shall not be entertained as valid download of the Bidding Documents. The Bidders are advised to pay INR 10,000/- (Rupees Ten Thousand only) towards bid processing fees inform of Demand Draft from any Scheduled Bank in India drawn in favour of “Establishment Officer-IV, O/o the Directorate of Agriculture & Food Production, Bhubaneswar, Odisha” payable at Bhubaneswar.

SN	Event Description	Date
1	Sale of Bidding Documents	11.03.2025
2	Last date for receiving queries	24.03.2025
3	Pre-Bid conference (Online and Offline)	27.03.2025 at 12.00 hrs
4	Last date for reply to the queries	02.04.2025
5	Bid Due Date	10.04.2025
6	Hard Copy Submission on or before Bid Due Date	10.04.2025 at 1600 hrs
7	Opening of Technical Bids	10.04.2025 at 1700 hrs
8	Date of Technical Presentation	Shall be intimated later
9	Announcement of qualified Bidders	Shall be intimated later
10	Opening of Financial Bids	Shall be intimated later
11	Letter of Award (LOA)	Shall be intimated later
12	Validity of Bids	180 days from bid due date
13	Signing of Concession Agreement	Within 30 days of award of LOA

2. Method of Selection

Bidder will be selected under Quality and Cost Based Selection (QCBS) and procedures described in this Bidding Documents.

3. Authority reserves the right to accept or reject any or all Bids without assigning any reason and no correspondence shall be entertained in this regard.

4. Corresponding details for clarification on Bidding Documents is following:
diragri.or@nic.in and jdafarmseeds.dag@nic.in.



**Director of Agriculture & Food Production,
Department of Agriculture & F.E, Odisha**



GOVERNMENT OF ODISHA
Department of Agriculture and Farmer's Empowerment

**DEVELOPMENT, DESIGN, FINANCE, CONSTRUCTION, OPERATION,
MAINTENANCE AND TRANSFER OF AGRI-TECH SMART FARM (ATSF)
AT DESIGNATE SITE(S) ON PPP BASIS**

REQUEST FOR PROPOSAL (RFP)

Tender Notice No-9676

BID DOCUMENT

VOLUME - I

INSTRUCTION TO BIDDER

2025

Contact Details:

Director of Agriculture & Food Production, Odisha Department of Agriculture and
Farmer's Empowerment

Address: 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House,
Bhubaneswar – 751001, Odisha

Tele Phone: 0674- 2395532/2391925

Email: diragri.or@nic.in& jdafarmseeds.dag@nic.in

Website: agrisnetodisha.ori.nic.in and agri.odisha.gov.in

TABLE OF CONTENTS

S. No.	Contents	Page No.
	Disclaimer	3
	Glossary	5
1.	Introduction	7
2.	Instructions to Bidders	16
A.	General	16
B.	Documents	34
C.	Preparation and Submission of BIDs	36
D.	Bid Security	44
3.	Evaluation of Bids	46
4.	Fraud and Corrupt Practices	52
5.	Pre-Bid Conference	54
6.	Miscellaneous	55
	Appendices	
I	Project Information Memorandum	57
IA	Letter comprising the Technical Bid	83
Ann 1	Details of Bidder	89
Ann 2	Technical Capacity of the Bidder	91
Ann 3	Financial Capacity of the Bidder	92
Ann 4	Statement of Legal capacity	94
Ann 5	Guidelines of the Department of Disinvestment	95
IB	Letter comprising the Financial Bid	97
II	Bank Guarantee for Bid Security	99
III	Format for Power of Attorney for signing of Bid	102
IV	Format for Power of Attorney for Lead Member of Consortium	104
V	Format for Joint Bidding Agreement for Consortium	107
VI	Integrity Pact	113
VII	Check List	120

DISCLAIMER

The information contained in this Request for Proposal document (the “**RFP**”) or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their application for qualification and making their financial offers (“**Bids**”) pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents, especially the Feasibility Report, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources. For avoidance of doubt, in case Bidder places reliance on any aforesaid assumptions, assessments, statements, data and information furnished by the Authority in this RFP or referred to herein, then the same shall not in any manner bind/make liable the Authority, to indemnify the Bidder in respect of any loss/damage/costs whatsoever arising out of or in connection with such reliance placed by the Bidder on the aforesaid assumptions, assessments, statements, data and information.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment,

assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP. The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

The Bidders are prohibited from any form of collusion or arrangement in an attempt to influence the selection and award process of the Bid. Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the Bidder towards any officer/employee/ advisor/ representative of Authority or to any other person in a position to influence the decision of the Authority for showing any favour in relation to this RFP or any other contract, shall render the Bidder to such liability/penalty as the Authority may deem proper, including but not limited to rejection of the Bid of the Bidder and forfeiture of its Bid Security.

Laws of the Republic of India are applicable to this RFP.

The RFP is solely for the implementation of the Project to be undertaken in accordance with this RFP on the Project Site, the owner of which is and shall always be Authority and the land shall always be deemed to be in the actual exclusive possession of Authority. The Selected Bidder shall only make use of the land to implement the Project and the land on which the proposed Project is to be undertaken shall in no way be deemed to be transferred by any mode to the Selected Bidder. Any attempt to transfer the land by any mode shall be treated as malfeasance and in that event the Concession Agreement shall be terminated forthwith without any notice and reason and Authority shall resume the land together with all structures and forfeit the Bid Security/ Performance Guarantee without any prejudice to any action taken as per law.

GLOSSARY

Annual Concession Fee	As defined in Clause 1.2(g)
Associate	As defined in Clause 2.1.18
Authority	As defined in Clause 1.1.1
Bank Guarantee	As defined in Clause 2.19.1
Bid(s)	As defined in the Disclaimer
Bidder	As defined in Clause 1.2.2
Bidding Documents	As defined in Clause 1.1.8
Bid Due Date	As defined in Clause 1.2(a)
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.5
Concession	As defined in Clause 1.1.6
Concessionaire	As defined in Clause 1.1.4
Concession Agreement	As defined in Clause 1.1.4
Conflict of Interest	As defined in Clause 2.2.1 (c)
Consortium	As defined in Clause 2.2.1(a)
Control	As defined in Clause 2.1.18
Damages	As defined in Clause 2.2.1 (c)
Demand Draft	As defined in Clause 1.2.1
Development Plan	As defined in Clause 1.2(d)
Document Fee	As defined in Clause 1.2.1
Concession Agreement	As defined in Clause 1.1.4
e-Procurement Portal	As defined in Clause 1.2(i)
Estimated Project Cost	As defined in Clause 1.1.5
Financial Bid	As defined in Clause 1.2.2
Financial Capacity	As defined in Clause 2.2.2 (B)
Government	Government of Odisha
Joint Bidding Agreement	As defined in Clause 2.1.15 (g)
Lead Member	As defined in Clause 2.1.15 (c)
LOA	As defined in Clause 3.8.5
Minimum Technical Marks	As defined in Clause 2.2.4
Project	As defined in Clause 1.1.3
PPP	As defined in Clause 1.1.3
QCBS	As defined in Clause 1.2(a)
Qualified Bidders	As defined in Clause 1.2(f)
Rs. or INR	Indian Rupee
RFP or Request for Proposal	As defined in the Disclaimer
Second Ranked Bidder	As defined in Clause 3.8.5
Selected Bidder	As defined in Clause 3.8.3
SPV	As defined in Clause 1.1.4
Subject Person	As defined in Clause 2.2.1 (c) (i)
Technical Bid	As defined in Clause 1.2.(a)
Technical Capacity	As defined in Clause 2.2.2 (A)

Technical Marks	As defined in Clause 1.2(c)
Technical Presentation	As defined in Clause 1.2(c)
Tie Bidder	As defined in Clause 3.8.5
Turnover	As defined in Clause 2.2.2 (B)

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

SECTION 1

INTRODUCTION

1.1. Background

The Governor of Odisha represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmer's Empowerment, Government of Odisha (“**Authority**”) having office at 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House, Bhubaneswar – 751001, Odisha, India invites Bids for the purpose of this Project in accordance with the terms and conditions of this RFP.

- 1.1.1 Agri-Tech Smart Farm (ATSF) represents a cutting-edge initiative aimed at transforming the agricultural landscape through the integration of advanced technologies and sustainable practices. ATSF, planned to be implemented at each site namely- Semiliguda in Koraput, Sukinda in Jajpur, and Sakhigopal in Puri (hereinafter individually referred to as “**Designated Site**”), focuses on enhancing agricultural productivity, fostering economic empowerment, and promoting environmental stewardship. The ATSF is designed to achieve its objectives through four key modules: Tech-Driven Agricultural Production, Technology Demonstration, Post-Harvest Management, and Agri-Tourism. Each module is designed to synergize with the others, ensuring a holistic approach to modern farming.
- 1.1.2 The Authority has proposed to develop, design, construct, finance, operate, maintain and transfer ATSF at each Designated Site for demonstrating an economically sustainable integration of advanced technologies with agricultural practices.
- 1.1.3 In order to achieve such objective, the Authority intends to handover each Designated Site to a private service provider to undertake development, design, construction, finance, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) through Public Private Partnership mode (“**Project**”). For avoidance of doubt, it is clarified that each Designated Site will be considered as distinct Project. Bidders are permitted to apply for one or more Designated Site(s); however, the evaluation of each Project will be carried out independently. The Authority has decided to carry out a single stage two steps, online Bidding Process for selection of the Bidder to whom the Project may be awarded.

Brief particulars of the Project are as follows:

Designated Site	Scope of Project & Concession Period	Approx. Total area (in Ha.)	Estimated Project Cost(INR Cr.)*
Semiliguda in Koraput	Scope of the Project would include develop, design, finance, construct, operate, maintain and transfer of Agri-Tech Smart Farm (ATSF) at each Designated Site. The Project Information Memorandum of each Project is briefly given in Appendix I. Concession Period – 25 years	352.587	12.77 Cr.
Sukinda in Jajpur		230	21.00 Cr.
Sakhigopal in Puri		29.6	10.74 Cr.

* For avoidance of doubt, it is clarified that the abovementioned estimated cost of the respective Project only includes the cost of the mandatory components as prescribed in Appendix I. The Bidder is required to identify four (4) mandatory optional components out of total optional components mentioned in Appendix-I, along with their respective costs, in its Development Plan. These selected components of the Selected Bidder will be used to update/increase the Estimated Project Cost. While the Bidder may, at its discretion, include additional optional components from the list in Appendix-I or otherwise, the costs of these additional components, as provided in the Development Plan, will not be considered in the determination of the Estimated Project Cost.

- 1.1.4 The Selected Bidder (defined hereinafter) undertakes to incorporate a special purpose vehicle (the “SPV”) company (the "**Concessionaire**") under the Companies Act 2013 (including all the rules and regulations made there under) prior to execution of the concession agreement, which shall be responsible for, development, design, construct, finance, operation, maintenance and transfer of the Project under and in accordance with the provisions of a concession agreement (the "**Concession Agreement**") to be entered into between the Concessionaire and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto. For avoidance of doubt, it is clarified that for each Project, a distinct SPV will be incorporated and, a separate Concession Agreement will be executed. Further, in case the Selected Bidder is

a Consortium, it shall also adhere to the shareholding requirements in respect of its Members as set out in this RFP.

- 1.1.5 The estimated cost of the respective Project (the "**Estimated Project Cost**") has been specified in Clause 1.1.3 above. The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.6 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "**Concession**").
- 1.1.7 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims in this regard on any account shall be entertained by the Authority.
- 1.1.8 The Authority shall receive Bids pursuant to and in accordance with the terms set forth in this RFP, as modified, altered, amended and clarified from time to time by the Authority and other documents to be provided by the Authority pursuant to this RFP (collectively the "**Bidding Documents**") and all Bids shall be prepared and submitted in accordance with the terms of this RFP on or before the bid due date specified in Clause 1.3 for submission of Bids (the "**Bid Due Date**").

1.2. Brief description of Bidding Process

- a) The Authority has adopted a single stage two envelope selection process on Quality Cum Cost Based Selection ("**QCBS**") mode as detailed in Clause 3.8 of this RFP, consisting of submission of a technical bid ("**Technical Bid**") and a financial bid ("**Financial Bid**") (collectively the "**Bidding Process**") for selection of the Bidder for award of the Project. The weightages under this Bidding Process for the technical and financial bids shall be (70:30), respectively.
- b) The Bidders will be examined to check if their Bid is responsive as per the terms of Clause 3.2.1 of this RFP. The Bids found to be responsive will be evaluated to check whether they fulfil the Minimum Eligibility Criteria as set forth in Clause 2.2.2 of this RFP for undertaking the Project.

- c) The Bidders meeting the Minimum Eligibility Criteria (Technical Capacity and Financial Capacity) shall be called upon to make a technical presentation (“**Technical Presentation**”) of development plan as per the terms of the RFP and shall be provided marks as per the criteria and respective allotted marks as particularly set out in clause 2.2.4 based on their Technical Bid and Technical Presentation (“**Technical Marks**”). The time and place of the Technical Presentation shall be posted on e-Procurement Portal.

The Bidders will inter alia be required to present their development plan submitted with their Technical Bid in Technical Presentation. The “**Development Plan**” shall mean, a plan prepared and submitted along with Bid in regard to the development of Project Assets/components or groupings of Project Assets/components, which sets out the detail of the proposed development along with the functional specification, approach and methodology, costs, financing plan, timetable for construction, service level requirements (at least Five) with respective liquidated damages, capacity enhancement plan to meet service requirement of the users, ensure at least 20% of total area of Designated Site is allocated for development of mandatory components and if, Agro Tourism is selected by the Bidder as optional component, in that case, the maximum area for development of Agro Tourism will be up to 25% of total area of Designated Site. The Development Plan is to be based on the project requirements of development of Mandatory Capital Works (*as defined in Concession Agreement*) by Scheduled COD, and provisions of Mandatory Project Services (*as defined in Concession Agreement*). The Development Plan shall also include any other optional components selected by the Bidder, without being limited to those listed in Appendix-I. The Bidders applying for more than one Project is required to submit Development Plan for each Project.

- d) Pursuant to completion of the Technical Presentation, the Technical Bid of such Bidder shall be allocated score out of 100 marks as per the specified scoring criteria.
- e) The Financial Bid of the Bidders whose Bids are considered responsive, meet the Minimum Eligibility Criteria, and have scored in aggregate minimum 60 (sixty) marks would be eligible for financial bid opening and evaluation for the purpose of identifying the Selected Bidder (the “**Qualified Bidders**”).
- f) Under this RFP, Financial Bid shall be invited based on the highest annual concession fee (“**Annual Concession Fee**”) offered to be paid to the Authority by the Concessionaire from the beginning of the sixth year following the Commercial Operation Date of whole of the Mandatory Capital Works (*as defined in the Concession Agreement*) in the manner set out in Concession

Agreement. The Annual Concession Fee offered by the Bidder shall be the sole financial criteria for the purpose of evaluation of Financial Bids in respect of each Project. It is clarified that if Bidder is submitting bid for more than one (1) Project, in that case, the Bidder is required to separately submit Financial Bid for each Project as per the terms of this RFP. The scores for the Financial Bid shall be computed in a proportionate manner with the Bidder quoting the highest Annual Concession Fee (in respect for each Project) obtaining the maximum financial score of 100, and other Bidders getting pro-rata scores accordingly.

- g) Pursuant to opening and evaluation of Financial Bid, the aggregate score of the Bidder as per the allocated weightages of (70:30) will be computed as per the terms set out in Clause 3.8 of this RFP for identification of Selected Bidder in respect to each Project.
- h) The Bidding Documents in its entirety will be available for download from the website tendersodisha.gov.in (“e-Procurement Portal”) from the date mentioned in the Clause 1.3.

For purpose of tender submission, only Public e-Procurement portal to be accessed by tenderer at tendersodisha.gov.in. Alternatively, the Bidding Documents can also be viewed from the website agrisnetodisha.ori.nic.in and agri.odisha.gov.in, for the sole purpose of viewing and it shall not be entertained as valid download of the Bidding Document. To participate in the Bidding Process, the Bidder should complete all stages of registration, download from the e-Procurement Portal and final bid submission through the e-Procurement Portal. Bids which are submitted on the e-Procurement Portal alone will be accepted by the Authority. The Bidders are advised to download the Bidding Documents at least one day prior to the Bid Due Date so as to safeguard their participation and avoid any delay. The Bidders are advised to upload the Bid sufficiently before the specified time on the Bid Due Date to avoid any technical issues or malfunction in the network caused by heavy internet traffic on the Bid Due Date. The Authority shall not be responsible for any failure, malfunction or breakdown of the e-Procurement Portal during the Bidding Process, or for any sort of delay or difficulties faced during submission of the Bid on the e-Procurement Portal. The Bidders are required to register on e-Procurement Portal. Bidders are required to obtain digital signature to upload the Technical and Financial bid. Bidders are requested to visit e-Procurement Portal for the details related to online registration and submission of Bids.

- 1.2.1. The Bidder shall pay to the Authority a non-refundable sum of Rs. 10,000 (Rupees Ten Thousand) by way of demand draft issued by a Scheduled Bank in India, drawn in favour of “Establishment Officer-IV O/o the Directorate of Agriculture & Food Production”, Bhubaneswar, Odisha and payable at

Bhubaneswar, Odisha (the “**Demand Draft**”), as the cost of downloading the Bidding Documents (“**Document Fee**”).

For the avoidance of doubt, no exemption from payment of Document Fee is permitted. Further, a scanned copy of the Demand Draft of payment of the Document Fees shall be uploaded by the Bidder along with its Technical Bid on the e-Procurement Portal and the hard copy of the same shall also be submitted along with the physical submission of the Technical Bid.

- 1.2.2 All interested parties/consortia who want to submit a Bid in accordance with the provisions of this RFP (“**Bidder**”, which expression shall, unless repugnant to the context, includes the Members of the Consortium) shall simultaneously submit their Technical Bid and Financial Bid. For avoidance of doubt, it is clarified that Financial Bid has to be submitted online only. No physical hard copy of Financial Bid is to be submitted by the Bidders. In case a bidder submits Financial Bid in hard copy, its bid shall be liable for rejection.

GOI has issued guidelines (see Annexure 5 of Appendix-IA of RFP) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply *mutatis mutandis* to this Bidding Process as applicable. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process.

Bidder must follow the server time that is being displayed on bidder’s dashboard at the top of the e-Procurement Portal, which shall be considered valid for all actions of requesting, bid submission and bid opening etc.

- 1.2.3 Interested bidders are being called upon to submit their Bid in accordance with the terms specified in this Bidding Document. The Bid shall be valid for a period of 180 days from the Bid Due Date.
- 1.2.4 The complete Bidding Documents also include the Concession Agreement for the Project which is enclosed herewith in Volume II and Schedules for the Project which is enclosed herewith in Volume III. Any addenda issued subsequent to this RFP, will be deemed to form part of the Bidding Documents.
- 1.2.5 In terms of RFP, the Bidder is required to deposit, along with its Bid, a bid security of an amount given in below table (the "**Bid Security**"), refundable not later than 240 (two hundred and forty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the respective Concession Agreement.

Sr. No.	Designated Site	Estimated Project Cost	Bid Security
1.	Semiliguda in Koraput	12.77 Cr.	25 Lakhs
2.	Sukinda in Jajpur	21.00 Cr.	40 Lakhs
3.	Sakhigopal in Puri	10.74 Cr.	20 Lakhs

Subject to terms of this RFP, the Bidders are hereby expressly informed that in the event the Bidder submits Bid for “n” number of Projects, the Bidder shall be required to submit along with its Bid a separate Bid Security(ies) of an amount as per above table for each of the “n” Project; OR alternatively, one Bid Security instrument of a value equivalent to the aggregate amount of bid security(ies) as per above table, corresponding to the “n” number for Project for which Bidder is submitting its Bid.

The foregoing shall be applicable as per the hereafter specified formula:

$1 \leq n \leq [3]$; where ‘n’ denotes the number of Project(s) for which the Bidder submits its Bid.

The Bidders will have an option to provide Bid Security in the form of a bank guarantee acceptable to the Authority in the format provided at Appendix-II of this RFP. In case a bank guarantee is provided, its validity period shall not be less than 240 (two hundred and forty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected, if it is not accompanied by the Bid Security. It is hereby instructed that the Bidders are to submit a scanned copy of the Bid Security along with the soft copy submission of the Technical Bid on the e-Procurement Portal. The Bidder(s) shall also submit the original Bid Security (as per the format prescribed in this RFP) in hard copy on or before Bid Due Date.

- 1.2.6 The Bidders are advised to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the contract including implementation of the Project.

1.2.7 Bid Parameter

Under this RFP, Financial Bid shall be invited on the basis of the highest annual concession fee (“**Annual Concession Fee**”) offered to be paid to the Authority by the Concessionaire from the beginning of the sixth year following the Commercial Operation Date of whole of the Mandatory Capital Works (*as defined in the Concession Agreement*) in the manner set out in Concession Agreement.

- 1.2.8 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid. Further, other details of the process to be followed under this Bidding Process and the terms thereof are spelt out in this RFP.
- 1.2.9 Any queries or request for additional information concerning this RFP shall be submitted through e-mail to the officer designated in Clause 2.11.5 below. The e-mail shall clearly bear the following subject:

“Queries/Request for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at Designated Site(s) on PPP basis”.

The pre-bid queries should be submitted in the format specified below to be considered for response and they should be submitted in MS-Excel format. Pre-bid queries not submitted in the prescribed format shall not be responded to:

S. No.	Page No.	Part of RFP	Clause No.	Text provided in RFP	Clarification sought with justification, if any

1.3. Schedule of e-Procurement Activities

The Authority shall endeavour to adhere to the following schedule. However, the Authority may, at its own discretion, revise or extend any of the timelines set out in this schedule.

SN	Event Description	Date
1.	Sale of Bidding Documents	11.03.2025
2.	Last date for receiving queries	24.03.2025
3.	Pre-Bid conference (Online and Offline)	27.03.2025 at 1200 hrs
4.	Last date for reply to the queries	02.04.2025
5.	Bid Due Date	10.04.2025

6.	Hard Copy Submission on or before Bid Due Date	10.04.2025 at 1600 hrs
7.	Opening of Technical Bids	10.04.2025 at 1700 hrs
8.	Date of Technical Presentation	Shall be intimated later
9.	Announcement of qualified Bidders	Shall be intimated later
10.	Opening of Financial Bids	Shall be intimated later
11.	Letter of Award (LOA)	Shall be intimated later
12.	Validity of Bids	180 days from bid due date
13.	Signing of Concession Agreement	Within 30 days of award of LOA

1.4. Pre-Bid Conference

The Pre-Bid Conference will be conducted in physical and virtual modes via video conference. The link for joining the Pre-Bid Conference on 27.03.2025 at 1200 hrs is as follows:

https://teams.microsoft.com/l/meetup-join/19%3ameeting_OTNiOTRjYzItZGIzNy00YTdmLWJlYTQtMDYyOTIwYWYzMDUw%40thread.v2/0?context=%7b%22id%22%3a%22c960cea4-3100-498f-a2b9-99d2c00c2e6c%22%2c%22oid%22%3a%22cb8b1c19-3085-44ba-aadc-649f6494d4e7%22%7d

The date, time and venue of the Pre-Bid Conference shall be:

Date: 27.03.2025

Time: 1200 hrs

Venue: 1st floor board room, Department Of Agriculture And Farmers' Empowerment, Krushi Bhavan, Gopabandhu Marg, Bhubaneswar, Odisha, India, Pin-Code: 751001

SECTION-2

INSTRUCTION TO BIDDERS

A. GENERAL

2.1 General terms of Bidding

- 2.1.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.
- 2.1.2 Intentionally left blank
- 2.1.3 Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Concession Agreement shall have meaning assigned thereto in the Concession Agreement.
- 2.1.4 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Concession Agreement shall have an overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 2.1.5 The Bid shall be furnished in the format prescribed in this RFP. The Technical Bid shall be as per Appendix IA and the Financial Bid shall (be filled and uploaded in the BOQ on the e-Procurement Portal only along with Appendix IB). Financial Bid amount shall be indicated clearly in both figures and words, in Indian Rupees, in prescribed format of Financial Bid and shall be signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be considered.
- 2.1.6 As mentioned in Clause 1.2.5 above, the Bidder shall deposit Bid Security in accordance with the provisions of this RFP. The Bidder has to provide the Bid Security either in the form of a bank guarantee, acceptable to the Authority, as per format at Appendix-II.
- 2.1.7 The validity period of the Bank Guarantee shall not be less than 240 (Two Hundred and Forty) days from the Bid Due Date inclusive of a claim period of 60 (Sixty) days and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable not later than 240 (two hundred and forty) days from the Bid Due

Date except in the case of the Selected Bidder, who's Bid Security shall be retained till the Selected Bidder has provided the Performance Security under the Concession Agreement.

- 2.1.8 The Bidder should submit a power of attorney as per the format as specified in Appendix-III, duly supported by a charter document and/or board resolution in favour of executant authorizing the signatory of the Bid to commit the Bidder.
- 2.1.9 In case the Bidder is a Consortium, the members thereof should furnish a power of attorney in favour of any member, which member shall thereafter be identified as the Lead Member, in the format as specified in Appendix – IV¹, duly supported by a charter document and/or board resolution in favour of executant. In case the Bidder is a Consortium, Joint Bidding Agreement in the format as specified in Appendix V shall be submitted by the Bidder.
- 2.1.10 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.1.11 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.1.12 The Bidding Documents including this RFP and all attached documents, provided by the Authority are and shall remain or become the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.12 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.
- 2.1.13 This RFP is not transferable.
- 2.1.14 Any award of Project pursuant to this RFP shall be subject to the terms of Bidding Documents.
- 2.1.15 A Bidder shall be any entity other than natural person or any combination of them with a formal intent to enter into an agreement or under an existing

¹In case of a Consortium, the Members should submit a Power of Attorney in favour of the any Member as per the format as Appendix-IV. Such Member shall thereafter be identified as the Lead Member. The Lead Member should submit a power of Attorney as per the format in Appendix-III, authorising the signatory of the Application. Other Members of the Consortium do not need to submit Power of Attorney as per the format at Appendix-III, authorising the signatory of the Application.

agreement to form a Consortium. It is hereby, clarified that no other entity except those mentioned in the foregoing part of this Clause shall be eligible to submit the Bid under this RFP. Whether the Bidder is a single entity or consortium of entities, it shall be required to form an appropriate Special Purpose Vehicle (SPV), prior to the execution of the Concession Agreement, under the Indian Companies Act 2013 (including all the rules and regulations made there under), to act as the Concessionaire and execute the Concession Agreement and implement the Project. In case the Selected Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) number of members in a Consortium shall not exceed 3 (three). However, none of the members in a Consortium should be under any sort of ineligibility under the Bidding Documents and the information sought in the Bid should be in the order of their equity contribution.
- (b) subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 26% (twenty-six per cent) of the paid up and subscribed equity of the SPV during the Term of Concession Agreement. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-IV, signed by all the other members of the Consortium;
- (d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations (if any);
- (e) an individual Bidder cannot at the same time be a member of any other Consortium applying for RFP. Further, a member of a particular Consortium cannot be a member of any other Consortium applying for RFP;
- (f) the members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
- (g) members of the Consortium shall enter into a binding Joint Bidding Agreement, in the form specified at Appendix-V (the “**Joint Bidding Agreement**”), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the Bid, shall, inter alia:

- (i) convey the intent to form an SPV, solely for the purpose of domiciling the Project and no other purpose, with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
- (ii) clearly outline the proposed roles and responsibilities, if any, of each member;
- (iii) commit the minimum equity stake to be held by each member;
- (iv) commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation date of the whole of Mandatory Capital Work, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;
- (v) members of the Consortium undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity of the SPV at all times until the second anniversary of the commercial operation date of the whole of Mandatory Capital Works; and
- (vi) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement.
- (h) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

2.1.16 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the Bid Due Date, would not be eligible to submit a Bid, either individually or as member of a Consortium.

2.1.17 A Bidder including any Consortium member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium member or Associate.

Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.1.17 is such that it does not reflect (a) any malfeasance on its part in relation to such cause or event; (b) any wilful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

Authority would place sole reliance on the certification provided by the Bidder in this regard in its letter comprising the Technical Bid. Any misrepresentation or concealment of any information in this regard shall render the Bid liable for outright rejection at the sole discretion of the Authority.

2.1.18 In computing the Technical Capacity and Financial Capacity of the Bidder/ Consortium members under Clauses 2.2.2 (A) and 2.2.2 (B), the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

For purposes of this RFP, Associate means, in relation to the Bidder/Consortium member, a person who controls, is controlled by, or is under the common control with such Bidder/Consortium member (the “**Associate**”). As used in this definition, the expression “**control**” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty percent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium member shall be provided to

demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.

2.1.19 The following conditions shall be adhered to while submitting a Bid:

- (a) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexures is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (b) information supplied by a Bidder (or other constituent member if the Bidder is a Consortium) must apply to the Bidder, member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;
- (c) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with Section 3 below; and
- (d) in case the Bidder is a Consortium, each member should substantially satisfy the RFP requirements to the extent specified herein.

2.1.20 Without prejudice to the provisions of Clause 2.2.1A, the Bidders shall comply with the following provisions:

- (a) where, on the date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid-up equity share capital in a Bidder or its member is held by persons resident outside India or where an Bidder or its member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid-up equity share capital or control, by persons resident outside India, in or of the Bidder or its member;

then the eligibility of such Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for

themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.2 Eligibility and qualification requirements of Bidder

2.2.1 For determining the eligibility of Bidder the following shall apply:

- (a) The Bidder may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) Bidder may be a permitted entity or any combination of them with a formal intent to enter into a Joint Bidding Agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.1.15.
- (c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (the “**Damages**”), without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
 - (i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders

or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 25% (twenty-five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is not more than 25% (twenty five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in subsection (72) of section 2 of the Companies Act, 2013. For the purposes of this Clause 2.2.1(c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder, its member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through

common third party/ parties, that puts either or both of them in a position to have access to each other's information about, or to influence the Bid of either or each other; or

- (vi) such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

Explanation:

In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.2.1, shall include each member of such Consortium.

For the purposes of this RFP, the term Associate in relation to the Bidder/Consortium shall have the meaning as ascribed under Clause 2.1.18 of Section 2 of this RFP.

- (d) A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, the LOA or the Concession Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated at least 30 (thirty) days prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the Bid Due Date.
- (e) A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the

avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated at least 30 (thirty) days prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the Bid Due Date.

Provided that, in case the Authority seeks information / clarification from a Bidder related to occurrence / non-occurrence of Conflict of Interest and the Bidder fails to provide such information within a reasonable time, the Authority shall disqualify the Bidder and encash the Bid Security as per Clause 2.19.6 and further debar it from participation in any future procurement process for a minimum period of 1 (one) year.

2.2.1 A While qualification is open to persons from any country, the following provisions shall apply:

Any Bidder from a country which shares a land border with India will be eligible to bid in this tender only if the bidder is registered with the Competent Authority as provided in the Order (Public Procurement No. 1) dated 23rd July 2020 issued by the Ministry of Finance, Department of Expenditure Public Procurement Division. Provided further that the Selected Bidder shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Authority as provided in the aforesaid Order.

"Competent Authority" for the purpose of this clause means the Authority defined in Annex 1 of the Order (Public Procurement No. 1) dated 23rd July 2020 issued by the Ministry of Finance, Department of Expenditure Public Procurement Division.

"Bidder from a country which shares a land border with India" for the purpose of this clause means: -

- a. An entity incorporated, established or registered in such a country; or
- b. A subsidiary of an entity incorporated, established or registered in such a country, or
- c. An entity substantially controlled through entities incorporated, established or registered in such a country; or
- d. An entity whose beneficial owner is situated in such a country; or
- e. An Indian (or other) agent of such an entity; “agent” for the purposes of this RFP shall mean a person employed to do any act for another, or to represent another in dealings with third person; or
- f. A natural person who is a citizen of such a country, or
- g. A consortium or joint venture where any member of the consortium or joint venture falls under any of the above categories.

The “beneficial owner” for the purpose of (d) above will be as under:

1. In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more

juridical person, has a controlling ownership interest or who exercises control through other means.

Explanation –

a. "Controlling ownership interest" means ownership of or entitlement to more than twenty-five per cent. of shares or capital or profits of the company,

b. "Control" shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholders agreements or voting agreements,

2. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or more juridical person, has ownership of entitlement to more than fifteen percent of capital or profits of the partnership;
3. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individuals.
4. Where no natural person is identified under (1) or (2) or (3) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.
5. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership

2.2.2 **Pre-Qualification for Bidder - Evaluation Criteria**

A Bidder is permitted to submit bids for one or more Project(s). Each Project shall be evaluated separately and independently.

Technical and Financial Capacity - For demonstrating technical and financial capacity, the Bidder shall need to fulfil the below mentioned minimum eligibility criteria ("**Minimum Eligibility Criteria**"):

(A) **Technical Capacity:** For demonstrating technical capacity (the "**Technical Capacity**"), the Bidder shall, have following experience:

(i) The Bidder shall demonstrate experience of development of at least 1(one) Smart Agriculture Farm (*as defined hereinafter*) in agriculture or allied sectors in the last 10(ten) years immediately preceding Bid Due Date;

AND

(ii) The Bidder shall demonstrate at least 1(one) project experience of production and/or value addition of agriculture and/or horticulture crops in the same Agro-

Climatic Zone (*as defined hereinafter*) as the proposed Designated Site in the last 10(ten) years immediately preceding Bid Due Date;

Provided, however, that if the Bidder submits Bid for multiple Project(s), then the Bidder can use same project(s) one or more as required, for meeting the Technical Capacity requirement for each Project.

It is clarified that the aforesaid Technical Capacity experience will have to be fulfilled by a standalone project/assignment of the Bidder. Two or more entities cannot combine their respective project/assignment to meet requirement of 1(one) Smart Agriculture Farm. However, two different entities can fulfil the requirement under the two categories given in 2.2.2(A)(i) and 2.2.2(A)(ii).

Experience of ongoing project(s) or assignment(s) against the aforementioned criteria(s) would also be considered, provided in such projects, the Bidder submits the relevant documentary evidence as prescribed in the RFP.

The Bidder shall provide documentary evidence by way of Statutory Auditor' /Chartered Accountant's certificate (specifying their UDIN) and/or client certificate; and agreement copy or Letter of Award, as the case may be in support of the Technical Capacity as specified in this Clause. Provided, such documentary evidence, will not be required, if any project(s) or assignment(s) as mentioned in Clause 2.2.2(A) and/or Clause 2.2.4 are undertaken by the Bidder (without any third party/client) in the ordinary course of business, in that case, the Bidder shall submit an undertaking signed by authorized signatory declaring details of the activities undertaken.

The documentary evidence shall be duly signed by the authorized signatory of the single Bidder or a Member of the Consortium (whose Technical Capacity was taken into consideration for the purposes of technical qualification under and in accordance with the RFP), besides Lead Member, as the case may be. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or chartered accountant or the client.

For the purpose of this RFP, Smart Agriculture Farm shall mean agriculture or horticulture farms in an area admeasuring more than 1(one) hectare of land with at least 2 of the following technologies deployed in production:

1. Mico-irrigation
2. IoT sensors
3. Drones
4. Crop Cameras
5. Variable rate applicators
6. Farm geo-mapping

7. Protected cultivation structures including Hydroponics, Aeroponics, Greenhouse, Polyhouses and Glasshouses or other protected cultivation of similar nature but excluding Net-houses.

For the purpose of this RFP, Agro Climatic Zone shall mean one of the 15 ACZs recognised in India as per the Planning Commission, Government of India.

(iii)

(B) Financial Capacity: For demonstrating financial capacity, the Bidder shall have to fulfil the following conditions (the “**Financial Capacity**”):

- (i) The Bidder shall have an average annual turnover (*as defined hereinafter*) of INR 30 Crores (Rupees Thirty Crores) during the last 3(three) financial years immediately preceding the Bid Due Date.

In the event that a Bidder does not meet the Minimum Eligibility Criteria (Technical or /and Financial Capacity) described under this Clause 2.2.2, the Bidder shall be disqualified, and the financial bid of such Bidder shall not be opened.

For the purposes of this RFP, turnover (the “**Turnover**”) shall mean, the aggregate value of the realization of amount made by the sale, supply or distribution of goods and/or on account of services rendered by the company during a financial year. For the avoidance of doubt, it is clarified that it shall not include interest earned from financial instruments.

In case of a Consortium, the combined Technical Capacity and Financial Capacity of those Members, who shall have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of commercial operation date of the whole of Mandatory Capital Work, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement.

2.2.3 The Bidders shall enclose with its Technical Bid, to be submitted as per the format at Appendix-IA, complete with its Annexures, the following:

- (i) Certificate(s) from Statutory Auditor’ /Chartered Accountant’s certificate (specifying their UDIN) and/or client certificate; and agreement copy or Letter of Award, during the past 10 (ten) years in respect of the projects specified in paragraph 2.2.2 (A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or chartered accountant or the client; and

- (ii) Certificate(s) from Statutory Auditor’s /Chartered Accountant’s (specifying their UDIN) of the Bidder or its Associates specifying the average annual turnover of the Bidder, as mentioned in 2.2.2 (B).

2.2.4 **Technical Marks:** The Bidders shall be provided score based on their Technical Capacity, Financial Capacity, Technical Presentation and any other criteria given in table below. The Bidders shall be awarded marks out of 100 marks on the following criteria.

The Bidder shall be required to score in aggregate at least 60 Marks (“**Minimum Technical Marks**”), pursuant to marks scored based on its Technical Bid submissions, its Technical Presentation and other criteria(s) given, in accordance with terms hereof.

The Bidders shall be scored as per the terms and respective scores outlined in the table below:

Technical Marks		
Sr. No.	Criteria	Maximum Marks
1	Financial Capability of the bidder	
1.1	Average Annual Turnover of the Bidder in the last three (3) financial years preceding the Bid Due Date <ul style="list-style-type: none"> • 100Cr+: 20 Marks • 50Cr+ - 100Cr: 15 Marks • 30Cr - 50Cr: 10 Marks 	20
2	Experience of executing similar projects	
2.1	Assignment(s)/ Project(s) of development of Smart Agriculture Farms(s) in agriculture or allied sectors in the last ten(10) years preceding the Bid Due Date. <ul style="list-style-type: none"> • 3 marks per assignment, maximum 5 assignments shall be considered 	15
2.2	Assignment(s)/ Project(s) pertaining to production and/or value addition of agriculture and/or horticulture crops in the same Agro-Climatic Zone as the proposed Designated Site in the last ten(10) years preceding the Bid Due Date. <ul style="list-style-type: none"> • 3 marks per assignment, maximum 5 assignments shall be considered 	15
3	Proposed Investment/ CAPEX	
3.1	Proposed Investment in Mandatory Components (Scored on Pro-rata basis)	7.5

3.2	Proposed Investment in Optional Components (Scored on Pro-rata basis)	7.5
4	Development Plan	
4.1	Presentation on Development Plan <ul style="list-style-type: none"> • Proposed innovation (Including but not limited to innovation in climate smart agriculture technologies, precision agriculture, agriculture financing, value addition etc.) – 7 marks • Approach and methodology – 7 marks • Timetable for construction – 6 marks • Service Level Requirements/ KPIs proposed – 5 marks • Financing Plan – 5 marks 	30
5	Case Study	
5.1	A case study demonstrating a successfully executed project (completed/ ongoing) encompassing the development of agriculture/ horticulture farms with precision technologies, value addition and agro-tourism.	5
	TOTAL	100

Note:

1. For any additional eligible project/assignment experience required as per 2.1 and 2.2 of table of Technical Marks, the Bidder, subject to fulfilling the relevant Minimum Eligibility Criteria, may use same eligible project(s)/assignment(s) experience, to attain additional marks for each Project(s) applied for individually.
2. Bidders applying for more than one Project is required to present technical presentation for each Project as per the details in table above.
3. For each additional eligible project/assignment experience required as per 2.1 and 2.2 of table of Technical Marks, the Bidder shall submit supporting documents prescribed in Clause 2.2.2.

In computing the Technical & Financial Capacity and Technical marks of the Bidder/ Consortium Members under Clause 2.2.2, the Technical & Financial Capacity and experience proof of their respective Associates would also be eligible hereunder.

2.3 Proprietary data

All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority.

Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid, or any information provided along therewith.

2.3(A) Change in Control

The aggregate equity shareholding of the Selected Bidder (whether a single entity or a Consortium) in the issued and paid-up equity capital of the Concessionaire shall not be less than 100% (one hundred percent) at all times commencing from the date of incorporation of the Concessionaire, until and including the date of execution of the Concession Agreement, and thereafter, subject to the terms of this RFP and the Concession Agreement, the aggregate equity shareholding of the Selected Bidder (whether a single entity or a Consortium) in the issued and paid up equity capital of the Concessionaire shall not be less than 51% (fifty one percent) until the second anniversary of the commercial operation date of the whole of Mandatory Capital Works;

By submitting the Bid, the Bidder acknowledges that it will be qualified on the basis of Technical and Financial Capacity of those of its Consortium Members (in case of Bidder being a Consortium) who shall, at all times commencing from the date of incorporation of the SPV and until the second anniversary of the commercial operation date of the whole Mandatory Capital Works, hold equity share capital representing not less than: (i) 26% (twenty-six per cent) of the subscribed and paid-up equity of the Concessionaire and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement.

Provided further that after second anniversary of the commercial operation date of the whole Mandatory Capital Works, the Selected Bidder shall hold at least 26% of subscribed and paid-up equity of the Concessionaire for the remaining period of the Term.

The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder.

By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in the control of a Consortium Member whose Technical Capacity and Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with this RFP, the Bidder shall be deemed to have the knowledge of the same, and shall inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control

occurs after signing of the Concession Agreement but prior to the Effective Date under the Concession Agreement, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall, at the discretion of the Authority, be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall, at its sole discretion, be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

2.4 Number of Bids and Cost of Bidding

- 2.4.1 No Bidder shall submit more than one Bid for the Project. A Bidder applying individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.
- 2.4.2 The Bidders shall be responsible for all the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.5 Site visit and verification of information

- 2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, demand, location, surroundings, climate, availability of power, water & other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them. Bidders are advised to visit the site and familiarise themselves with the Project within the stipulated time of submission of the Bid. No extension of time is likely to be considered for submission of Bids.
- 2.5.2 It shall be deemed that by submitting a Bid, the Bidder has:
- (a) made a complete and careful examination of the Bidding Documents;
 - (b) received all relevant information requested from the Authority;
 - (c) accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;

- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
- (f) acknowledged that it does not have a Conflict of Interest; and
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.5.3 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.6 Verification and Disqualification

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

2.6.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium and each member of the Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Selected Bidder gets disqualified/ rejected, then subject to Clause 3.8.4, the Authority reserves the right to annul the Bidding Process and invites fresh Bids.

2.6.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the eligibility and /or qualification requirements have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOA or the SPV has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Concessionaire, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the Concessionaire. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under this RFP, the Bidding Documents, the Concession Agreement or otherwise.

B. DOCUMENTS

2.7 Contents of the RFP

2.7.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.9.

Invitation for BIDs

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Evaluation of Bids
- Section 4. Fraud and Corrupt Practices
- Section 5. Pre-Bid Conference
- Section 6. Miscellaneous

Appendices

- I Project Information Memorandum
- IA Letter comprising the Technical Bid including Annexures 1 to 5
- IB Letter comprising the Financial Bid
- II. Bank Guarantee for Bid Security

- III. Power of Attorney for signing of Bid
- IV. Power of Attorney for Lead Member of Consortium
- V. Joint Bidding Agreement for Consortium
- VI. Integrity Pact
- VII. Check List

2.7.2 The Concession Agreement provided by the Authority as part of the Bidding Documents shall be deemed to be part of this RFP.

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the RFP may notify the Authority through e-mail in accordance with Clause 1.2.9. They should send in their queries before the date mentioned in the Schedule of e-Procurement Activities specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Bid Due Date. The Authority may forward all the queries and its responses thereto, to all Bidders without identifying the source of queries and shall also upload the responses on the e-Procurement Portal.

2.8.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

2.8.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by Authority, or its employees or representatives shall not in any way or manner be binding on the Authority.

2.8.4 To facilitate evaluation of the Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) may without prejudice include clarifications with respect to minor deviations found in the Bid and shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.8.5 If a Bidder does not provide clarifications sought under Clause 2.8.4 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder

shall be barred from subsequently questioning such interpretation of the Authority.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the Bid Due Date, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 2.9.2 Any Addendum thus issued hereunder shall be hosted on the website of tendersodisha.gov.in.
- 2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date.
- 2.9.4 The Bidders who have downloaded the Bidding Documents are advised to regularly check for amendments/corrigendum/clarifications, if any issued by the Authority and which shall form part and parcel of the Bidding Documents. Such amendments /corrigendum/clarifications will be posted on the e-Procurement Portal and Authority website agrisnetodisha.ori.nic.in and agri.odisha.gov.in respectively. Any ignorance on the part of the Bidder in not checking the e-Procurement Portal will not be an excuse and the Authority shall not be responsible if any Bidder omits to notice any amendments/corrigendum/clarification.

It shall be mandatory for the Bidders to get their firms registered with the e-Tender Portal, to obtain user ID and password, in order to participate in this Bidding Process. For the avoidance of doubt, it is clarified that all the Bidders to have class-III Digital Signature Certificate (DSC) (in the name of Authorized Signatory / firm or organization / owner of the firm or organisation) from any of the licensed Certifying Agency (Bidders can see the list of licensed CAs from the link www.cca.gov.in) to participate in e-tendering of the Authority. DSC should be in the name of the authorized signatory of the Bidder. It should be in corporate capacity (that is in Bidder capacity / in case of Consortium in the Lead Member capacity, as applicable).

C. PREPARATION AND SUBMISSION OF BIDS

2.10 Format and Signing of Bid

- 2.10.1 The Bidder shall provide all the information sought under this RFP and upload the same on the e-Procurement Portal as a part of its online submission of Bid as well as by way of physical submission of hard copies (one original copy and

two photo copies) of the Technical Bid to the Authority. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects and which are submitted on the e-procurement portal and in hard copy on or prior to the Bid Due Date. Incomplete and /or conditional Bids or not submitted online on e-procurement portal and in hard copy shall be rejected.

- 2.10.2 The Bidders shall submit both the Technical Bid as well as the Financial Bid, along with all the annexures thereto, on the e-Procurement Portal. The Bid shall bear the digital signature of the Bidder. The Bidders shall sign their Bids using Class III - Digital Certificates, issued from any agency authorized by Controller of Certifying Authority (CCA), Government. of India, upon uploading the soft copy of the Technical Bid to the e-Procurement Portal. In case of the Bidder being a Consortium, the Lead Member shall sign each page of the Bid using Class III DSC only.

Bidders shall note that the very act of using DSC for downloading the tender document and thereafter uploading their Bids shall be deemed to be a confirmation that they have read all sections and pages of the Bidding Documents without any exception and have understood the complete Bidding Documents and are clear about the requirements herein.

While submitting the Bids online, the Bidder shall read the terms & conditions of the e-Procurement Portal and accepts the same in order to proceed further to submit their Bid.

Bidders must get ready in advance the bid documents to be submitted as indicated in this RFP in PDF/xls/rar/zip/dwf formats.

- 2.10.3 After the bid submission, the Bidders shall take print out of system generated acknowledgement number and keep it as a record of evidence for online submission of Bid.
- 2.10.4 Bidder must follow the server time that is being displayed on Bidder's dashboard at the top of the e-Procurement Portal, which shall be considered valid for all actions of requesting, bid submission and bid opening etc., in the e-tender system.
- 2.10.5 All the documents being submitted by the Bidders would be encrypted to ensure the secrecy of the data. The data entered cannot be viewed by unauthorized persons until the time of bid opening.
- 2.10.6 The Bidders shall also be required to submit hard copies (one original copy and two photo copies) of the Technical Bid documents prescribed in Clause 2.11.1, in a sealed envelope on or before the Bid Due Date, failing which the Bid shall

be rejected. For the avoidance of any doubt, it is clarified that all supporting documents required to demonstrate Technical and Financial Capacity as per Clause 2.2.2 and 2.2.3 needs to be submitted in original, except the letter of award, copy of agreement and client certificate.

The hard copies of the Technical Bid shall be typed and signed in indelible blue ink by the authorized signatory of the Bidder who shall initial every page. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid. For avoidance of doubt, no hard copy of Financial Bid shall be submitted. The Bid shall contain page numbers.

- 2.10.7 Financial Bid shall be submitted/uploaded online in the BOQ provided on the e-Procurement Portal along with letter comprising financial bid (Appendix-IB). Bidders shall download the Bill of Quantity (BOQ), in xls format and save it without changing the name of the file. Bidder shall quote their rates in figures only in the green background cells, thereafter, save and upload the file along with the submission of the Financial Bid only. The Bidders are cautioned that while uploading of the Financial Bid, Macros in .xls must be enabled to see the word representation of figures.

2.11 Documents comprising Technical and Financial Bid

- 2.11.1 The Bidder shall submit the Technical Bid, both online as well as physical hard copies (one original copy and two photo copies) on or prior to the Bid Due Date. **The Financial Bid shall be submitted online only.** There shall be no physical hard copy submission of the Financial Bid under any circumstance.

The Technical Bid shall comprise of the following documents along with supporting documents as appropriate:

Technical Bid

- (a) Appendix-IA (Letter comprising the Technical Bid) including Annexure 1 to 5 and supporting certificates / documents.
- (b) Power of Attorney for signing the Bid as per the format at Appendix-III supported with charter document and/or board resolution in favour of executant;
- (c) if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV supported with charter document and/or board resolution in favour of executant;
- (d) if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V;
- (e) copy of the certificate of incorporation.

- (f) copies of Bidder's duly audited annual reports for preceding 3 years;
- (g) Bid Security in the form of a Bank Guarantee in the format at Appendix-II;
- (h) Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of Concession Agreement;
- (i) copy of the Demand Draft towards payment of the Document Fee, in accordance with Clause 1.2.1;
- (j) Development Plan as per Clause 1.2(d);
- (k) Case study as per table given in Clause 2.2.4; and
- (l) Duly completed checklist as per the format provided in Appendix-VII.

Financial Bid

The Financial Bid, which shall be uploaded online (no hard copy submission), shall consist of the following particulars:

- (i) Appendix-IB (Letter comprising the Financial Bid)
- (ii) Bill of Quantities (BOQ) as provided in the e-Procurement Portal.

2.11.2 The Technical Bid shall be submitted online and uploaded on the e-Procurement Portal. The Bidder shall also provide physical hard copies of the Technical Bid in accordance with the terms provided in this RFP. For the online submission, each page of the Technical Bid, including the annexures thereto, shall bear the signature of the Bidder. The Bidders are required to sign their Bids using Class III - Digital Certificates at the time of uploading the soft copy of the Technical Bid. In case of a Consortium, the signature of the Lead Member shall be affixed to every page of the Technical Bid and all annexures thereof. The scanned copy of documents, mentioned above in Clause 2.11.1, comprising of the Technical Bid shall be uploaded online in proper resolution.

2.11.3 The hard copies of the Technical Bid consisting of the documents listed at Clause 2.11.1 shall be placed in an envelope bearing "**Technical Bid for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at Designated Site (s) on PPP basis**" and shall clearly indicate the name and address of the Bidder.

2.11.4 The Financial Bid shall be submitted online only on the e-Procurement Portal. The Financial Bid shall not be submitted physically in hard copy. Any submission of Financial Bid in hard copy shall lead to the Bid being rejected in its entirety and declared as non-responsive. The Financial Bid shall bear the digital signature of the Bidder. The Bidders are required to sign their Bids using Class III DSC only. In case of a Consortium, the digital signature of the Lead Member shall be affixed to the Financial Bid.

2.11.5 The hard copies (one original copy and two photo copies) of the Technical Bid shall be addressed and submitted on or before Bid Due Date at the following address:

DESIGNATION: Director of Agriculture & Food Production,
Odisha
ADDRESS: 2nd Floor, Krushi Bhawan, Gopabandhu Marg,
Near State Guest House, Bhubaneswar – 751001,
Odisha
TELEPHONE NO: 0674- 2395532/2391925
E-MAIL ADDRESS: diragri.or@nic.in and jdafarmseeds.dag@nic.in

2.11.6 If the envelope containing the hard copies of the Technical Bid is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Technical Bid submitted and consequent losses, if any, suffered by the Bidder.

2.11.7 In the event of any discrepancy between the soft copy/scanned copy of the Technical Bid uploaded to the e-Procurement Portal and the hard copy of the same, the hard copy will prevail for the purpose hereof..

2.11.8 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and will be rejected.

2.12 Bid Due Date

Technical & Financial Bid comprising of the documents listed at Clause 2.11.1 of the RFP shall be submitted online on or before the Bid Due Date in the manner and form as detailed in this RFP.

2.12.1 For the purpose of submission of the Bid on the official website, registration of the Bidder with official website is mandatory. For any assistance regarding e- tendering, the Bidder may go to the helpdesk on the official website. A Bidder who is already registered need not register again. However, the Bidder is required to have a Class-III Digital Certificate issued by a licensed Certifying Authority (CA).

2.12.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.12.3 Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.13 Late Bids

Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.14 Procedure for tendering

2.14.1 Submission of Bids:

2.14.1.1 The Bidder shall submit the Technical Bid online on the e-Procurement Portal on or prior to the Bid Due Date. The Bidder shall also submit a hard copies of the Technical Bid in the manner specified in this Bid Document in Clause 2.10.6, a receipt thereof should be obtained from the person specified at Clause 2.11.5.

2.14.1.1.1 The Bidder shall submit the Bid no later than the date and time specified as the Bid Due Date, on the e-procurement platform of the Authority at the official website, duly signed in digital form by the authorised signatory of the Bidder, by uploading the complete and legible scanned/digital copies of the Technical and Financial Bids in pdf/digital format (i.e. scanned copy of original signed documents and the supporting documents). The documents submitted in the Bid should be scanned in at least 100 dpi with black and white option.

2.14.1.1.2 The Bid is to be submitted on the document downloaded from official website, the Bidder shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the document used for submission by the Bidder and the version uploaded by the Authority, the latter shall prevail.

2.14.1.2 The Bidder shall upload the Financial Bid only on the e-Procurement Portal on or prior to the Bid Due Date. The Authority shall not entertain any physical submission of the Financial Bid. Any physical submission of the Financial Bid shall lead to the rejection of the Bid as being non-responsive.

2.14.1.3 The Bidder will receive a system generated acknowledgement of its Bid submission on the e-Procurement Portal to confirm successful uploading of its Bid.

2.14.2 Modifications/ Substitution and Withdrawal of Bids

2.14.2.1 The Bidder may modify, substitute, or withdraw its Bid after submission, provided that the modification, substitution or withdrawal is received by the Authority prior to the closing time on the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the closing time on the Bid Due Date.

2.14.2.2 Any alteration/ modification in the Bid or additional information or material supplied subsequent to the closing time on the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.15 Rejection of Bids

2.15.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.15.2 The Authority reserves the right to reject any Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium may be disqualified/ rejected.

2.15.3 Intentionally Left Blank

2.15.4 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof that one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder/SPV has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder. The Authority shall be

entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, and without prejudice to any other right or remedy which the Authority may have under this RFP, the Bidding Documents, the Concession Agreement or otherwise.

2.15.5 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2.15.6 The Authority may, in its sole discretion and on grounds of reciprocity, disqualify a Bidder, if any or all of its constituents are entities incorporated in a country where an entity incorporated in India does not have similar rights of bidding for contracts contemplated hereunder.

2.16 Validity of Bids

The Bids shall be valid for a period of not less than 180 (One hundred and eighty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.17 Confidentiality

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.18 Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

D. Bid Security

2.19 Bid Security

2.19.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clauses 2.1.6 and 2.1.7 in the form of a Bank Guarantee issued by a nationalized bank, or a Scheduled Bank in India having a net worth of at least Rs. 1,000 Crore (Rupees One Thousand Crore Only), in favour of “Establishment Officer- IV O/o the Directorate of Agriculture & Food Production”, Bhubaneswar, Odisha, payable at Bhubaneshwar, Odisha, in the format at Appendix-II (“**Bank Guarantee**”) and having a validity period of not less than 240 (two hundred and forty) days from the Bid Due Date, inclusive of the claim period of 60 (sixty) days and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

2.19.2 Any Bid not accompanied by the Bid Security shall be summarily rejected by the Authority as non-responsive. As part of the Bidding Process and for the avoidance of any confusion, the Bidder shall submit a scanned copy of the Bid Security along with online submission of the Technical Bid.

2.19.3 Save and except as provided in Clause 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding process is cancelled by the Authority, and in any case within 240 (two hundred and forty) days from the Bid Due Date.

2.19.4 The Selected Bidder’s Bid Security will be returned, without any interest, upon the Concessionaire signing the Concession Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder’s option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Concession Agreement.

2.19.5 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages inter alia in any of the events specified in Clause 2.19.6 herein below. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on

account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity as specified in this RFP.

2.19.6 The entire Bid Security shall be forfeited and appropriated by the Authority as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise under the following conditions:

- a) If a Bidder submits a non-responsive Bid;

Subject however that in the event of encashment of Bid Security occurring due to operation of para 2.19.6 (a), the Damage so claimed by the Authority shall be restricted to 5% (five percent) of the value of the Bid Security.
- b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
- d) In the case of Selected Bidder, if it fails within the specified time limit–
 - i) to sign and return the duplicate copy of LOA; or
 - ii) to sign the Concession Agreement; or
 - iii) to furnish the Performance Security within the period prescribed thereof in the Concession Agreement; or
 - iv) If a Bidder fails to provide any clarification or explanation as may be sought by the Authority from such Bidder within the time specified for the same; or
 - v) If a Bidder makes a misrepresentation as to any facts or figures regarding its Bid or during the Bidding Process in order to get the LOA/ Concession;
- e) Any other conditions, with respect to the Bidder as well as the Selected Bidder, for which forfeiture of Bid Security has been provided under this RFP;
- f) In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

SECTION-3

EVALUATION OF BIDS

3.1 Opening and Evaluation of Technical Bids

- 3.1.1 The Authority shall open the Technical Bids at a time specified by the Authority on the date specified in Clause 1.3 and at the place specified in Clause 2.11.5 and in the presence of the Bidders and their authorized representatives who choose to attend.
- 3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.
- 3.1.3 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid within a prescribed time period.
- 3.1.4 Bidders are advised that qualification of Bids will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 3.1.5 Any information contained in the Bid submitted shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.
- 3.1.6 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant information from consideration of eligibility and qualification of the Bidder.
- 3.1.7 In the event that a Bidder claims credit for an eligible project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same from its experience. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid in accordance with the applicable provisions of this RFP.

3.2 Tests of responsiveness

- 3.2.1 As a first step towards evaluation of Technical Bids, the Authority shall determine whether each Technical Bid is substantially responsive to the

requirements of this RFP. A Technical Bid shall be considered substantially responsive only if it conforms to all the below-mentioned requirements without any material deviation or reservation:

- (a) Technical Bid is received as per the format at Appendix-IA including Annexure 1 to 5;
- (b) Technical Bid is received on or before the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;
- (c) Technical Bid is accompanied by the Bid Security as specified in Clause 2.1.6 and 2.1.7;
- (d) Technical Bid is accompanied by the Power of Attorney as specified in Clauses 2.1.8;
- (e) Technical Bid is accompanied by Power of Attorney for Lead Member of Consortium and the Joint Bidding Agreement as specified in Clause 2.1.9, if so required;
- (f) Technical Bid is accompanied by Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of the Concession Agreement;
- (g) Technical Bid contain all the information (complete in all respects) required in this RFP and/or Bidding Documents (in formats same as those specified);
- (h) Technical Bid does not contain any condition or qualification;
- (i) Technical Bid contains an Demand Draft towards the payment of Document Fee, as specified in Clause 1.2.1;
- (j) Development Plan as per Clause 1.2(d);
- (k) Case study as per table given in Clause 2.2.4;
- (l) Technical Bid is not non-responsive in terms hereof; and
- (m) the hard copies of the Technical Bid is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.10 and 2.11.

3.2.2 The Authority reserves the right to reject any Technical Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

3.3 Evaluation parameters

3.3.1 Only those Bidders who meet the Minimum Eligibility Criteria (Technical Capacity and Financial Capacity) specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3. Bids of the Bidder who do not meet these criteria shall be rejected.

3.3.2 Experience for any activity relating to an eligible project/assignment under Clause 2.2.2(A) and 2.2.4, shall not be claimed by two or more members of the

Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

3.4 Technical capacity for purpose of evaluation

Subject to the provisions of Clause 2.2.2(A), the Bidder's experience shall be measured and stated in terms of its Technical Capacity.

3.5 Details of Experience

The Bidder should furnish the details of eligible project/assignment experience for the last 10 (ten) years immediately preceding the Bid Due Date. The Bidders must provide the necessary information relating to Technical Capacity as per format at Annexure-II of Appendix-IA.

3.6 Financial information for purposes of evaluation

3.6.1 The Bids must be accompanied by the audited annual reports of the Bidder (of each member in case of a Consortium) for the last 3 (three) financial years, preceding the year in which the Bid is made.

3.6.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make the same available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the audited annual reports for 3 (three) years preceding the year for which the audited annual report is not being provided.

3.6.3 The Bidder must establish the minimum average annual turnover as specified in Clause 2.2.2 (B), and provide details as per format at Annexure-III of Appendix-IA.

3.7 Opening and Evaluation of Financial Bids

The Financial Bids shall be opened online on the e-Procurement Portal. The Authority shall open the Financial Bids on date and time mentioned in Clause 1.3 in the presence of the authorized representatives of the Bidders who may choose to attend. The Authority shall publicly announce the Financial Bid for each of the technically responsive Bidders.

3.8 Selection of Bidder

3.8.1 The Bidders considered as responsive in terms of Clause 3.2.1 and fulfilling the Minimum Eligibility Criteria as set forth in Clause 2.2.2 shall be further evaluated based on the evaluation criteria set forth in the RFP.

- 3.8.2 Financial Bids of only Qualified Bidders shall be considered for evaluation and shall be invited for the opening of Financial Bids. For avoidance of doubt, it is clarified that the Bidder, must also meet the Minimum Technical Marks as mentioned in Clause 2.2.4 to be considered as a Qualified Bidder, and to be eligible for opening and evaluation of Financial Bids in terms hereof.
- 3.8.3 The Authority shall select the Bidder through QCBS. Technical and Financial Bids shall be evaluated based on parameters specified in the RFP document.

Based on the Technical Bid, Technical Presentation and other criteria, the Bidder will be awarded Technical Marks as per the criteria given in Clause 2.2.4.

In the Financial Bid, the Bidder shall quote Annual Concession Fee to be paid to the Authority by the Concessionaire from the beginning of the sixth year following Commercial Operation Date of whole of the Mandatory Capital Works in the manner set out in Concession Agreement.

The scores for the Financial Bid shall be computed in a proportionate manner, with the Bidder quoting the highest Annual Concession Fee obtaining the maximum financial score of 100.

70% weightage shall be assigned to the Technical Score and 30% weightage shall be assigned to the Financial Score. Total Score shall be calculated as:

$$\text{Total Score} = 70\% \times \text{Technical Score} + 30\% \times \text{Financial Score}$$

Where Technical Score = $100 \times (\text{Technical Marks of the Bidder} / \text{Highest Technical Marks})$

Where Financial Score of a Bidder = $100 \times (\text{Bidder Financial Bid} / \text{Highest Financial Bid})$

The Project will be awarded to the Bidder with highest Total Score (hereinafter referred to as “**Selected Bidder**”).

- 3.8.4 The remaining Qualified Bidders shall be kept in reserve and the second ranked bidder i.e., Qualified Bidder scoring second highest Total Score (“**Second Ranked Bidder**”) may be declared as the Selected Bidder, in case the Selected Bidder withdraws or is not selected for reasons set out in the RFP. In the event that such Second Ranked Bidder withdraws or is not selected for any reason, the Authority may invite fresh Bids from all Qualified Bidders or annul the Bidding Process.

- 3.8.5 In the event that 2 (two) or more Qualified Bidders have the same overall Total Score (the “**Tie Bidders**”) for the Project, the Selected Bidder shall be identified as the bidder which has the higher Technical Score among the bids in the tie. In the event that again 2 (two) or more Qualified Bidders have the same overall Total Score and Technical Score, the Selected Bidder shall be identified as the bidder which has higher Financial Score.
- 3.8.6 The Authority reserves the right to call the Selected Bidder for the Negotiations.
- 3.8.7 After selection of Selected Bidder, a Letter of Award (the “**LOA**”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7(seven)days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA and next eligible bidder may be considered.
- 3.8.8 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

3.9 Contact during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Bidding Documents, from contacting by any means with the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

3.10 Correspondence with Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

- 3.11 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding

against the Bidder if the Project is subsequently awarded to it on the basis of such information.

- 3.12 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.

SECTION-4

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or the Concessionaire, as the case may be, if it determines that the Bidder Concessionaire, as the case may be, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or the Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or the Concessionaire, as the case may be, at the sole and absolute discretion of the Authority, shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder, or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Section 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official

of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.2.1(d) of this RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- (c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

SECTION-5

5. PRE-BID CONFERENCE

- 5.1 Pre-Bid conference of the Bidders shall be convened in physical and virtual modes at the designated date as mentioned in Clause 1.3 of this RFP and at the time and place as specified by the Authority. A maximum of three representatives of prospective Bidders shall be allowed to participate on production of authority letter from the Bidder.

- 5.2 During the course of Pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

SECTION-6

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) qualify or not to qualify any Bidder and/ or to consult with any Bidder in order to receive clarification or further information;
 - (d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.
- 6.4 The Concession Agreement and RFP are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them the priority shall be in the following order:
- (a) Concession Agreement;
 - (b) the RFP.

i.e., the Concession Agreement at (a) above shall prevail over the RFP at (b) above.

APPENDIX I
PROJECT INFORMATION MEMORANDUM

1. Project Background

The average land holding in Odisha is **0.95 ha** (or 2.47 acre) with **93% of farmers being small and marginal**. The agriculture sector contributes about 22.5% to the state's Gross State Value Added and grew by 6.3% in 2020-21². However, it is highly **susceptible to climate change**. Innovations in agriculture often fail to progress beyond the laboratory. Around 49% of agricultural and 73% of horticultural innovations had low commercial potential³. Adopting technologies like integrated farming systems, AI, input tracking sensors, and yield guarantee mechanisms can improve rural livelihoods. Technologies such as 5G and satellite imagery can enhance crop and soil health, addressing productivity challenges. Efficient use of inputs, particularly water, is crucial. Soil moisture sensors and automated irrigation can enhance water efficiency, while optimized use of insecticides and pesticides can reduce cultivation costs and increase profit margins, even at constant farm gate prices.

Various initiatives have been undertaken in Odisha through Samrudhi: Agriculture Policy (2020), State Water Policy (2007), State Action Plan on Climate Change (2018-23), Odisha Integrated Irrigation Project on Climate Resilient Agriculture (OIIPCRA) for improving farm level income, increase technology adoption and provide a safeguard against climate change. In addition, the **Department of Agriculture & Farmers' Empowerment**, is currently undertaking rice fallow management programme, mechanisation for agricultural development, promotion of integrated farming among other initiatives. Agri-tech initiatives undertaken include Krushak Odisha database, credit access through Simplified Application for Agricultural Loans (SAFAL), seed pre-booking, Krishi Samikhya Kendra for progress monitoring, mobile phone-based extension system called Ama Krushi are to name a few. However, there is a need to integrate emerging technology in the agriculture fabric of the state, **hence the Department of Agriculture & Farmers' Empowerment seeks to implement Agri-Tech Smart Farm across various locations in Odisha in PPP mode.**

1.1 Agri-Tech Smart Farms

An Agri-tech smart farm represents a modern and innovative approach to farming. This system incorporates advanced technologies and data-driven solutions to improve the efficiency, productivity, and sustainability of agricultural operations. This may include :

- **On-farm Demonstration** to promote activities involved in the dryland horticulture like solar powered micro-irrigation techniques, innovative technologies for optimising water usage like wick irrigation, cultivation techniques of drought resistant crop varieties as per local climatic condition, soil conservation techniques, moisture conservation techniques, enhancement of crop productivity in dryland areas, incorporation of organic matter to improve soil fertility, etc.
- Incorporation of technology for the enhancement of agriculture & allied sector like **Precision Farming, Smart Irrigation Systems, Vertical Farming, Hydroponics &**

² Odisha Economic Survey 2022-23, Planning and Convergence Department, Government of Odisha

³ Human Development Report 2020, United Nations

Aquaponics, Drones & Satellite Imaging, Robotics & Automation, Biotechnology, Biological Pest Control, Greenhouse Farming etc.

- **Extension support** – both traditional and digital -for technology transfer.
- **Ensuring marketing opportunities** for farmers to obtain better prices for their products.
- **Ensuring appropriate post-harvest management technologies** (as per crop – wise value chain) like Integrated Processing Unit, Pack houses, Ripening Chambers, Dehydration Unit, End to End Cold Chain Solution etc.
- **Rural resurgence** initiatives like Agro-tourism, center for experiential learning etc.

To accelerate technology adoption, private partner may provide services like sensor deployment, drones etc, on service fee model. Further, to develop end-to-end model, post-harvest infrastructure may be developed. This may be monetised through fee-for-service model. Moreover, the private player may leverage the demonstration blocks for emerging technology which may be monetised through Agri-tourism as a source of revenue. Additionally, automated machinery deployed at the smart farm may be monetised on a lease model.

1.2 Goals

- **Innovation in Agri-products and Practices:** Demonstrating and scaling high-tech Agri-horticulture models and integrated farming systems to showcase the potential of modern agriculture. This also includes the demonstration of new, high-value crops and improved plant varieties that are better suited to local climatic conditions and market demands.
- **Sustainability and Environmental Stewardship:** A pivotal goal is to promote sustainable agricultural practices that minimize environmental impact. This includes the adoption of organic farming, water recycling, and the use of renewable energy sources to power farm operations, thereby reducing the carbon footprint and conserving natural resources.
- **Economic Empowerment and Rural Development:** By improving farm profitability and introducing high-tech agricultural practices, the projects strive to foster economic growth and create sustainable employment opportunities in rural areas. This includes developing the agricultural value chain and enhancing the marketability of farm produce through better storage, processing, and direct market access.
- **Enhancement of Agricultural Productivity:** The objective is to significantly increase agricultural output through precision farming and advanced crop management technologies. Utilizing IoT sensors, data analytics, and remote monitoring, the ATSF projects can enhance & optimize resource usage and crop health, ensuring higher yields and efficient farming operations.
- **Education and Capacity Building:** Establishing training centres and research labs to educate farmers and agronomists on the latest agricultural technologies and management practices. These facilities will serve as the backbone for continuous learning and adaptation of new agricultural techniques among the local farming community.
- **Integration of Agri/Eco Tourism:** The goal is to create educational platforms where tourists can learn about sustainable farming practices, participate in farm activities, and

understand the farm-to-table process. This integration aims to promote sustainable tourism, increase farm income through diversified revenue streams, and foster greater appreciation for agriculture within the broader community.

2. Site details

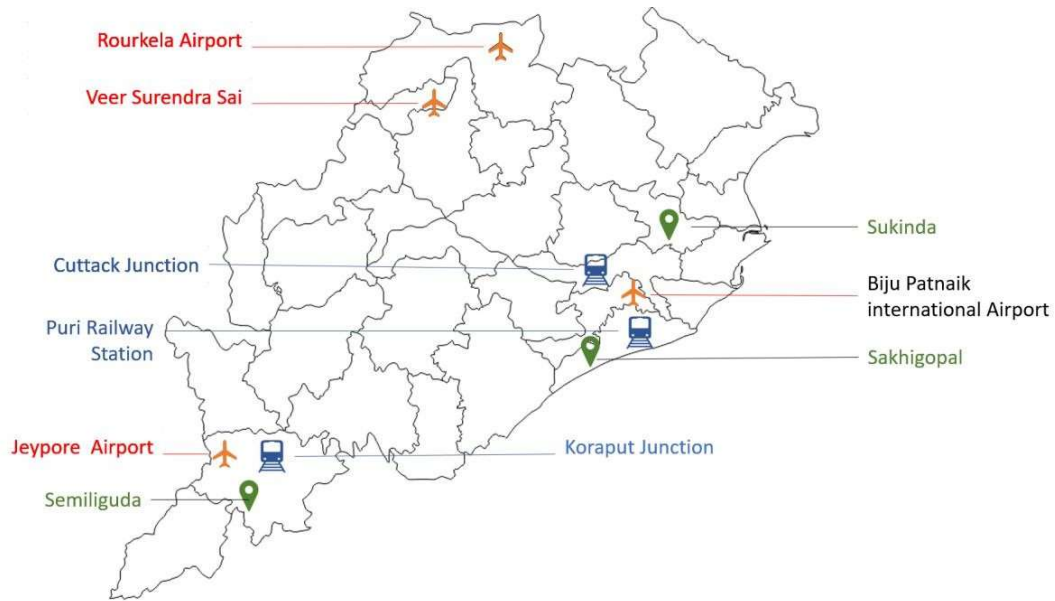


Figure 1: Site Locations

The Agri-Tech Smart Farm projects are set to be implemented across three strategic sites in Odisha. Sukinda, Jaipur, spanning 230 ha (or 568.34 acre), is favourable for plantation crops and floriculture, tailored for export-oriented production. Semiliguda, Koraput, covering 352.59 ha (or 871.26 acre), offers a tropical savanna climate. Sakhigopal, Puri, the smallest site of the three at 29.6 ha (or 73.14 acre), is well-suited for specialty horticulture like Kagazi lime and coconuts.

Site 1: Semiliguda

The Semiliguda site also known as Mixed Farm, Semiliguda is located in the Koraput district of Odisha, India. This region is known for its rich biodiversity and varied topography.



Figure 2: Snapshot of Semiliguda site (Source: Google earth)

Accessibility

The total geographical area of the Semiliguda site is **352.6 hectares**.

Geographic Coordinates

- **Latitude:** 18.6919° N
- **Longitude:** 82.8310° E

Proximity to Key Areas

- **Nearest Town:** Semiliguda town, which is approximately 5 kilometres from the site.
- **District Headquarters:** Koraput, located about 30 kilometres away.
- **Major City:** Visakhapatnam, a major port city, is about 180 kilometres away.

Transportation and Connectivity

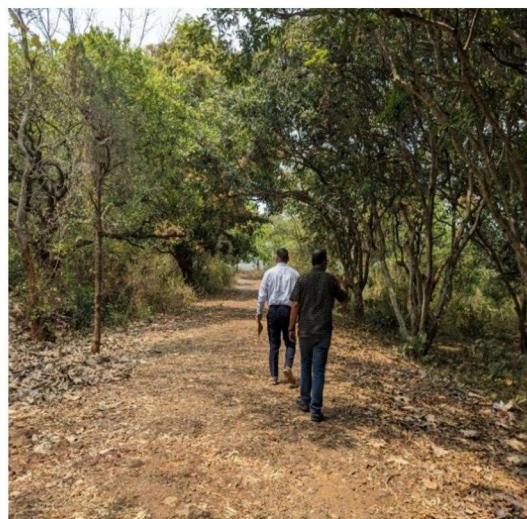
- **Road Access:** The NH-26, which runs through Koraput district, provides direct access to the site.
- **Rail Connectivity:** The nearest railway station is in Koraput, which is connected to major cities like Bhubaneswar, Visakhapatnam, and Raipur through regular train service.
- **Air Connectivity:** The nearest airport is located in Visakhapatnam. A smaller airstrip in Jey pore, approximately 40 kilometres away.

Existing Infrastructure

Table 1: Existing Infrastructure at Semiliguda site

Category	Detail	Description
Structures on Site	Main Office Building	On Site, may require upgradation
	Training Halls	Inside the Main office building, no dedicated space
	Processing Units	Millet processing unit
Water Bodies & Irrigation	Ponds	1-2
	Reservoirs	Large reservoir located to the north
	Irrigation Systems	Mostly Rainfed
Connectivity and Mobility	Internal Roads	Yes, Asphalt Road across the site
	Accessibility	4 km from Semiliguda bus stand 16 km from Koraput
Power and Utilities	Power Supply	Yes
	Green Power Initiatives	No
	Waste Management	No dedicated unit
Miscellaneous	Communication/ Digital Connectivity	Yes, Network available for major service providers

Site Images





Site 2: Sukinda

Accessibility

The Sukinda site is located in the Jajpur district of Odisha.



Figure 3: Snapshot of Sukinda Site (Source: Google earth)

Geographical coordinates

- **Latitude:** 20.9894° N
- **Longitude:** 85.9937° E

Proximity to Major Areas

- **Nearest Town:** The closest major town to the Sukinda site is Jajpur.
- **District Headquarters:** Jajpur, around 40 kilometres from Sukinda
- **Major City:** The nearest major city is Bhubaneswar, the capital of Odisha, situated approximately 100 kilometres from Sukinda.

Transportation and Connectivity

- **Road Access:** Site is located next to National Highway 53 (NH-53)
- **Rail Connectivity:** The nearest railway station is in Jaipur, providing connections to major cities like Bhubaneswar, Kolkata, and others.
- **Air Connectivity:** The closest airport is in Bhubaneswar, offering domestic flights to major cities across India.

Table 2: Accessibility for Sukinda Site

Type	Name	Distance
Nearest Airport	Biju Patnaik International Airport, Bhubaneswar	120
Nearest Railway Station	Sukinda Railway Station	4
	Cuttack Junction	90
	Bhubaneswar New Junction	115
Nearest Bus	Sukinda Bus Stand	14

Stand	Interstate Bus Terminal, Baramuda	120
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Existing Infrastructure

Table 3: existing infrastructure at Sukinda

Category	Detail	Description
Structures on Site	Administrative Office Building	On Site, may require renovation
	Storage Facilities	Warehouses present may require renovation
	Seed Processing Units	Present but not operational
Water Bodies & Irrigation	Ponds	Four ponds (two perennial, two seasonal)
	Reservoirs	NA
	Bore-wells	2
	Irrigation Systems	Irrigation channels available
Connectivity and Mobility	Internal Roads	Yes, <i>Kutch</i> Road
Power and Utilities	Power Supply	Yes
	Waste Management	No dedicated units
Miscellaneous	Communication/Digital Connectivity	Yes, Network available for major service providers
	Fencing	No

Site Images





Site 3: Sakhigopal

Accessibility

The Sakhigopal site is situated in the Puri district of Odisha, India, known for its cultural and religious significance.

Geographical Coordinates

- **Latitude:** 19.948397° N
- **Longitude:** 85.809132° E

Figure 4: Snapshot of Sakhigopal site (Source: Google earth)



Area and Land Utilization

- **Total Area:** The Sakhigopal site encompasses a total area of 50.22 hectares. Out of this, 29.6 hectares are available for development.

Proximity to Major Areas

- **Puri:** The site is ~19 kilometres from Puri, which is a major religious and tourist destination, renowned for the Jagannath Temple and Puri Beach.
- **Bhubaneswar:** The site is ~50 kilometres from Bhubaneswar, the capital city of Odisha.

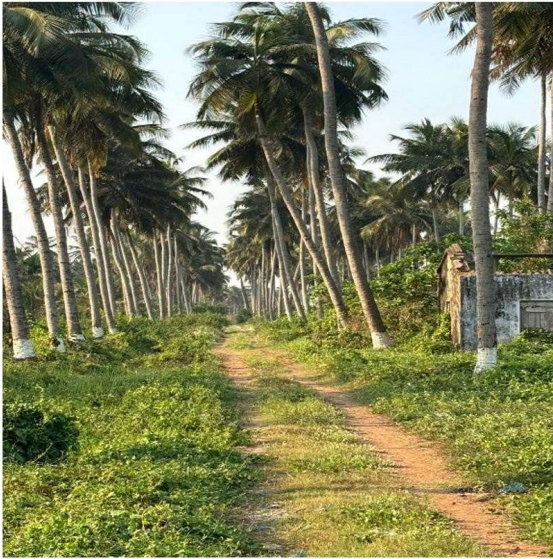
Transportation and Connectivity

- **Road Access:** The site is connected by all-weather road to the Bhubaneswar-Puri Highway (NH-316).
- **Rail Connectivity:** Sakhigopal town has a railway station on the East Coast Railway line, connecting it to major cities like Bhubaneswar and Puri.
- **Air Connectivity:** The nearest airport is Biju Patnaik International Airport in Bhubaneswar, located ~57 kilometres from the site.

Table 4: Accessibility for Sakhigopal Site

Type	Name	Distance (km)
Airport	Biju Patnaik Airport, Bhubaneswar	49
Railway Station	Bir Purushottam Railway Station	4
	Puri Railway Station	23
Bus stand	Sakhigopal Bus Stand	5
	Puri Bus Stand	23

Site Images



3. General Infrastructure development

Sukinda

Fencing: The Sukinda site is vast, covering approximately 230 hectares. It has a boundary wall in part of the perimeter. While the south-easter road facing side of the plot and the south western side has a boundary wall, the remaining sides are surrounded by open fields that are not currently fenced.

Road: The site lacks paved roads, with only kutchra (unpaved) paths currently present.

Drainage: The site has a natural drainage and there have been no reports of severe waterlogging. However, with the development of the site, the drainage in lowland areas may be affected.

Electricity: The site previously used by the National Seeds Corporation (NSC) has an existing power line in the area dedicated to seed processing, which may need renovation.

Water Bodies and Ponds: The site includes several ponds and tanks, with two of them being perennial and three supplied by an irrigation channel that crosses the site.

Existing Buildings: The site contains a warehouse that is operational but may require minor renovations, covering an area of 0.3 hectares. There is also a seed production facility that includes small buildings, a storage unit, and threshing floors, which spans 1.8 hectares.

Semiliguda

Fencing: The Semiliguda site has a boundary wall in parts, with certain sections demarcated by natural features like the Reservoir in the north and the side facing the Road has a boundary, but much of it is not properly fenced.

Road Infrastructure: The site currently has basic road infrastructure, with a mix of kutchra (unpaved) and paved paths.

Drainage: The site has a natural drainage system supported by the hilly terrain, which generally prevents waterlogging.

Water Bodies and Ponds: The Semiliguda site features a large water reservoir on the north side, and it supplies smaller bodies inside the site during inundation that are integral to the site's irrigation and water management systems. Some of these water bodies may be in need of desilting.

Existing Buildings: The site includes several buildings, including small administrative units, Cold storage unit and millet processing unit.

Sakhigopal

Fencing: The Sakhigopal site has a boundary wall on all sides, providing clear demarcation.

Road Infrastructure: The site includes ~2.3 km of roads, with a mix of paved and unpaved sections.

Drainage: The site features natural slopes, but a significant portion, approximately 26 hectares, lies in lowland areas.

Water Bodies and Ponds: The site has several ponds, with the largest one covering approximately 0.87 hectares.

Existing Buildings: There are four existing buildings on the site, each covering an area between ~0.2 and ~0.3 hectares.

4. Project Components

Various project components have been envisioned at the proposed sites. The following table provides a list of the proposed mandatory and optional components for the three sites.

S.No.	Component	Sukinda	Semiliguda	Sakhigopal
1	Agricultural Production (Priority Crop)	Mandatory (Horticulture Crops - ICAR ACZ Recommended)	Mandatory (Coffee, Ginger)	Mandatory (Coconut)
1.1	Precision agriculture farm (IoT driven)	Mandatory	Mandatory	Mandatory
1.2	Tech-enabled Seed farm	Optional	Optional	Optional
1.3	Hi-Tech Nursery	Optional	Optional	Optional
1.4	Tech-enabled Dairy	Optional	Optional	Optional
1.5	Sericulture (Arjuna Plantations)	Optional	Optional	Optional
1.6	Tulsi, lotus & marigold production	Optional	Optional	Optional
2	Technology Demonstration			
2.1	Drone Demonstration Unit	Optional	Optional	Optional
2.2	Smart Greenhouses	Mandatory	Mandatory	Mandatory
2.3	Recirculatory Aquaculture System	Optional	Optional	Optional
3	Post Harvest Management			
3.1	Primary Processing Unit	Optional	Optional	Optional
3.2	Solar Power Cold Storage	Mandatory	Optional	Optional
3.3	Cocopeat Production Unit	Optional	Optional	Mandatory
3.4	Oil Extraction Unit (Basil)	Optional	Optional	Mandatory
3.5	Coffee Roastery	Optional	Mandatory	Optional
4	Agro Tourism	NA	Optional	Optional

A brief description of the components listed above is provided in the sections below

4.1 Precision Agriculture Farm

IoT-driven precision farming involves integrating Internet of Things (IoT) technology with traditional farming practices to enhance efficiency, productivity, and sustainability. Precision farming integrates various technologies to enhance agricultural efficiency, productivity, and sustainability. These technologies work together, creating a synergistic system for modern farming practices.

Key Components and Description

Table 5: Key components for IoT driven Precision Farm

Component	Description
Soil Sensors	Devices that monitor soil moisture, temperature, and nutrient levels, providing real-time data for crop management.
Weather Stations	Equipment that measures weather conditions such as temperature, humidity, and rainfall, aiding in environmental monitoring.
Automated Irrigation Systems	Systems that automate watering based on sensor data, optimizing water usage and improving crop yields.
Drones	UAVs equipped with cameras and sensors for aerial monitoring, mapping, and analysis of crop health.
Farm Management Software	Platforms that integrate data from various sources, providing analytics and decision support for farm operations.
GPS Systems	Tools for precision mapping and navigation, enabling accurate planting, fertilizing, and harvesting.
Crop Monitoring Cameras	Cameras that provide visual monitoring of crops, detecting issues like pest infestations and diseases.
Data Analytics Platforms	Software that processes and analyzes data from sensors and other sources to provide actionable insights.
Connectivity Solutions	Infrastructure to ensure reliable communication between sensors, devices, and management systems.

4.2 Tech-enabled Seed Farm

A tech-driven seed farm leverages advanced technologies to enhance the quality, yield, and efficiency of seed production. By integrating modern tools such as IoT sensors, automation systems, data analytics, and precision farming techniques, these farms ensure the production of high-quality seeds while reducing labour dependency.

Key Components and Description

Table 6: Key components for Tech enabled seed farm

Component	Description
IoT Sensors	Devices that monitor environmental conditions such as soil moisture, temperature, and humidity.
Automated Irrigation Systems	Systems that automate watering based on sensor data, ensuring optimal water usage.
Weather Stations	Equipment that measures local weather conditions, aiding in environmental monitoring and decision-making.
Drone Surveillance	UAVs equipped with cameras for aerial monitoring and analysis of crop health and field conditions.
Data Analytics Platforms	Software that processes and analyzes data from various sources, providing actionable insights.

Farm Management Software	Platforms that integrate data and facilitate efficient farm operations management.
GPS Systems	Tools for precision mapping and navigation, enabling accurate planting, fertilizing, and harvesting.
Automated Seeders	Machines that ensure precise seeding, enhancing planting efficiency and uniformity.
Soil Testing Kits	Tools for regular monitoring of soil health, including nutrient levels and pH.
Connectivity Solutions	Infrastructure to ensure reliable communication between sensors, devices, and management systems.

4.3 Hi-tech Nursery

The concept of high-tech nurseries involves the cultivation and production of quality planting material for various horticultural crops, leveraging advanced techniques and technologies to ensure high productivity and quality. These nurseries play a critical role in the horticulture sector by providing disease-free, high-yielding plantlets, which are essential for achieving high productivity and sustainability in horticulture.

Timely availability quality planting material for perennial horticulture crops and absence of standardization and certification are the major issues in the promotion of area expansion under these crops across the States. While several state governments have established nursery production facilities under respective line departments, the demand far exceeds the production from the government nursery units.

The primary components of a high-tech nursery include mother plant gardens, propagation structures such as mist chambers and poly houses, irrigation infrastructure, and the necessary tools and implements for nursery operations.

Key Components and Description

Setting up a high-tech nursery involves several key components. Below is a table summarizing these components along with their descriptions:

Table 7: Key components for Hi-Tech nursery

Component	Description
Mother Plant Garden	A dedicated area for maintaining true-to-type, disease-free mother plants from which scion material is sourced for propagation.
Propagation Structures	Includes mist chambers and poly houses for ensuring optimal growth conditions for grafting and budding.
Irrigation Infrastructure	Drip irrigation systems, water storage tanks, and micro-sprinklers to ensure adequate water supply to the nursery.
Rootstock Nurseries	Beds or polybags for raising rootstock seedlings, which are used for grafting or budding.
Potting Yard	An area for preparing potting mixtures and conducting potting operations.
Tools and Implements	Specialized tools for grafting, budding, and nursery maintenance, including sprayers and wheelbarrows.
Fencing	To protect the nursery from stray animals and unauthorized access.
Shade Net Area	Provides necessary microclimate for acclimatization and hardening of grafted plants.
Store Room	For storing inputs like fertilizers, pots, and other nursery supplies.

4.4 Tulsi, Lotus and Marigold production units

The production unit for Tulsi, Lotus, and Marigold may be designed to cultivate these essential flowers and leaves, which hold significant cultural and economic value. Tulsi (Holy Basil) is highly regarded for its medicinal properties and is commonly used in religious ceremonies. Lotus is a symbol of purity and is widely used in religious offerings. Marigold is a popular flower used for decorative purposes and religious garlands.

4.5 Tech-enabled Dairy

Tech-enabled dairy farming is an innovative approach that leverages modern technologies to enhance productivity, efficiency, and profitability in dairy farming. The integration of technologies such as automated milking systems, RFID tags, IoT devices, and bulk milk coolers helps streamline operations, reduce labor costs, and improve milk yield and quality. The adoption of these technologies can address challenges such as labor shortages, inconsistent milk quality, and inefficiencies in farm management, thereby contributing to higher incomes for dairy farmers and ensuring a stable supply of dairy products to the market.

Key Components

The following components are essential for setting up a high-tech dairy farming unit

- **Automated Milking Systems:** Equipment for automatic extraction of milk.
- **RFID Tags:** For tracking and monitoring cattle.
- **Bulk Milk Coolers:** For immediate cooling and storage of milk.
- **IoT Devices:** For monitoring environmental and milk parameters.
- **Feed Mixers and Dispensers:** For efficient feeding processes.
- **Health Monitoring Systems:** To track the health and well-being of cattle.
- **Housing Structures:** Comfortable and hygienic shelters for cattle.

Table 8: Key components for Tech enabled dairy

Item	Description
Automated Milking Systems	Equipment for automatic extraction of milk without human intervention.
RFID Tags	Electronic tags for tracking and monitoring the health and productivity of cattle.
Bulk Milk Coolers	Equipment to cool and store milk immediately after milking to maintain quality.
IoT Devices	Sensors and devices for monitoring environmental conditions and milk quality.
Feed Mixers and Dispensers	Machinery for mixing and dispensing feed to ensure proper nutrition.

Health Monitoring Systems	Devices for monitoring the health parameters of cattle.
Housing Structures	Shelters designed to provide a comfortable and hygienic environment for cattle.

4.6 Sericulture

Tasar silk is a unique type of wild silk produced by silkworms that primarily feed on the leaves of specific host plants like *Terminalia arjuna*, *Terminalia tomentosa*, and *Shorea robusta*. Unlike the more widely known mulberry silk, Tasar silk has a coarser texture and a natural golden-brown color. It is predominantly produced in India, particularly in states such as Jharkhand, Chhattisgarh, Odisha, and West Bengal. Tasar silk is known for its cultural significance, ecological sustainability, and its role in providing livelihoods to rural and tribal communities.

Key components

Table 9: Key components and technical specifications for Tasar Silk Production

Component	Description
Host Plant Cultivation	Cultivation and management of host plants such as <i>Terminalia arjuna</i> , <i>Terminalia tomentosa</i> , and <i>Shore robusta</i> .
Silkworm Rearing	Rearing of Tasar silkworms on the host plants.
Cocoon Harvesting	Collection and sorting of cocoons after silkworms have spun them.
Silk Reeling	Reeling silk from cocoons to produce raw silk yarn.
Spinning and Weaving	Spinning raw silk into yarn and weaving it into fabric.
Dyeing and Finishing	Dyeing the silk fabric and finishing processes such as washing and softening.

4.7 Drone Application in Agriculture

The demonstration unit for drones in agriculture may be designed to showcase the application of drone technology for various agricultural practices such as crop monitoring, spraying of pesticides and fertilizers, and precision agriculture. Drones offer significant advantages in terms of efficiency, cost reduction, and improved accuracy in agricultural operations. Establishing a demonstration unit will help in educating farmers, agricultural professionals, and students about the practical benefits and operational aspects of using drones in farming.

Key Components and Description

Table 10: Key components for Drone demo

Component	Description
Drones for Monitoring	UAVs equipped with high-resolution cameras and multispectral sensors for monitoring crops.
Drones for Spraying	UAVs equipped with spraying systems for pesticides, fertilizers, and other agricultural inputs.

Ground Control Station	The control system for operating drones, including software and hardware.
Charging and Maintenance Station	Facility for charging drone batteries and performing routine maintenance.
Training Modules	Educational resources and hands-on training materials for operating drones.
Data Processing Unit	Systems for analyzing the data collected by drones, such as crop health, soil moisture, and pest detection.
Safety Gear and Equipment	Includes helmets, gloves, and other protective gear for drone operators.

4.8 Smart Greenhouses

Smart-automated greenhouses integrate advanced technologies to create controlled environments for optimal plant growth. These greenhouses use automation and sensors to manage climate conditions, irrigation, and nutrient delivery, reducing manual labor and improving efficiency. The primary components include automated climate control systems, irrigation systems, and monitoring sensors.

Key Components for setting up Smart Greenhouses

These components have been envisioned for a standard model of Smart Greenhouse on 500 sq mt. **Technical specification may vary according to site and crop being considered.**

Table 11: Key Components of Setting up Smart Greenhouses

Component	Material	Technical Specifications
Frame	Galvanized Steel	High tensile strength, corrosion-resistant, typically 1.5-2.0 inches in diameter for structural integrity.
Covering Material	Polycarbonate Sheets	UV-resistant, double-walled for insulation, 6-10 mm thickness.
Foundation	Concrete	Depth of 1-2 feet depending on soil conditions, reinforced for stability.
Ventilation System	Automated Vents	Motorized vent openers, connected to climate control system, adjustable opening sizes.
Irrigation System	Drip Irrigation Tubes	Pressure-compensating emitters, UV-resistant tubing, flow rate of 2-4 liters per hour per emitter.
Climate Control	HVAC System	Automated heating and cooling units, temperature sensors, energy-efficient with programmable settings.
Shading System	Retractable Shade Cloth	UV-resistant, manual or automated control, 30-50% shading capacity.
Lighting System	LED Grow Lights	Full spectrum, energy-efficient, adjustable height and intensity, 40-60 watts per square meter.
Monitoring Sensors	Multi-parameter Sensors	Temperature, humidity, soil moisture, light intensity, and CO2 levels, wireless connectivity.
Control System	Smart Controller	Centralized control unit, programmable via software, integrates all sensors and automated systems.

4.9 Recirculatory Aquaculture System

The Recirculating Aquaculture System (RAS) is a pioneering technology that may be integrated into the ATSF project, offering interested farmers a first-hand experience of the state-of-the-art practices in fish farming. Recirculating Aquaculture System (RAS) is an innovative and environmentally friendly technology used in aquaculture for the intensive cultivation of fish and other aquatic organisms. In a RAS, water is continuously circulated through a closed-loop system, undergoing various filtration and treatment processes to maintain optimal conditions for fish growth. Unlike traditional open pond systems, RAS minimizes water usage and waste discharge, making it a highly sustainable and efficient method of aquaculture.

In all RAS setups, careful monitoring and control of pH are essential. Lime (CaCO_3) or sodium hydroxide (NaOH) are typically added to control pH, preventing high levels of dissolved carbon dioxide (CO_2), which can be toxic to fish. Additionally, temperature control is crucial, and fish health can be negatively affected by deviations from their preferred temperature range. Temperature regulation also influences dissolved oxygen concentrations and can be achieved using submerged heaters, heat pumps, chillers, or heat exchangers. Finally, the water is disinfected using UV radiation or ozone treatments before being reused in the culture units.

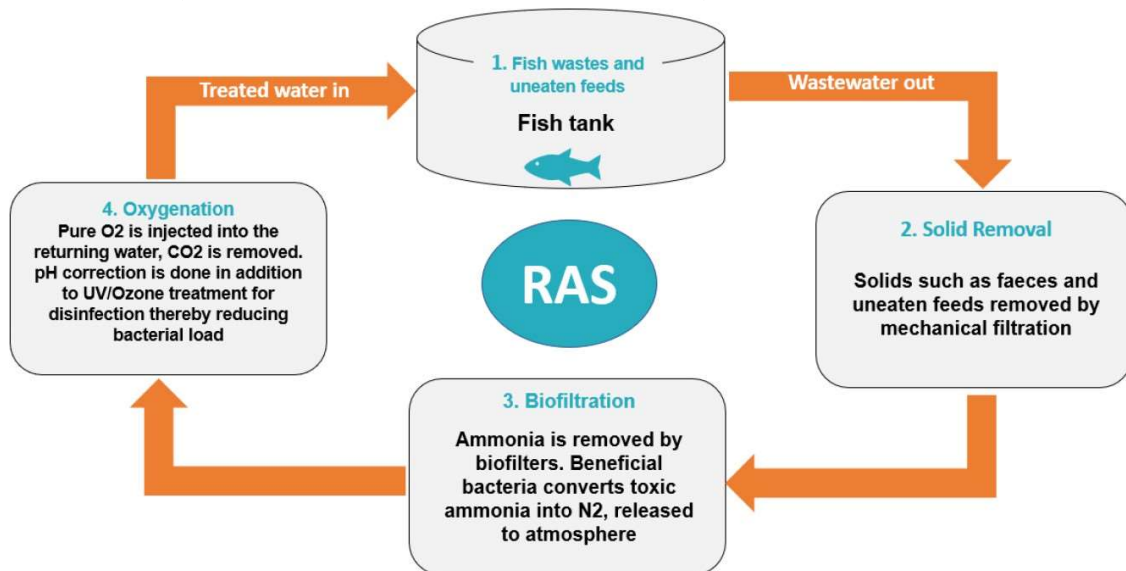


Figure 5: Process flow of fish production in RAS

4.10 Primary Processing Unit

Primary processing units are essential for adding value to agricultural produce and ensuring its marketability. These units focus on the initial stages of processing, including cleaning, grading, sorting, and packaging of raw produce. Establishing primary processing units can significantly reduce post-harvest losses, enhance the shelf life of perishable goods, and improve the overall income of farmers and entrepreneurs.

4.11 Solar Powered Cold Storage

Cold storages play a crucial role in the agricultural supply chain by preserving the quality and extending the shelf life of perishable produce, thereby reducing post-harvest losses and ensuring a steady supply of fresh products to the market. In Odisha, the need for cold storages is significant due to the state's diverse agricultural output, including fruits, vegetables, and other perishable commodities. The lack of adequate cold storage facilities often results in substantial wastage and financial losses for farmers, highlighting the urgent requirement for enhanced infrastructure to support the state's agrarian economy.

As of date the state has a total cold storage capacity of 2,74,175 MT.

Key Components

Table 12: Key components for Solar powered cold storage

Component	Description (Indicative technical specification)
Cold Storage Chambers	4 Chambers, 20 m (L) x 17 m (W) x 12.5 m (H) each
Ammonic Compressor Motors	Essential for cooling
Condenser Pumps	Supports cooling system
Air Cooling Units	Maintains desired temperature
Overfeed System	Ensures efficient refrigeration
Internal Lighting	Provides necessary illumination
Substation	200 kW step-down transformer
D.G. Set	125 KVA and 40 KVA capacity
Solar PV Panels	75 kWp capacity
Battery Backup	Around 200 batteries for 6 hours backup

4.12 Coco Peat Production Unit

Coco peat, also known as coir pith or coir dust, is a byproduct of the coir industry, generated during the extraction of coir fiber from coconut husks. Coco peat is known for its high-water retention, excellent aeration, and nutrient-holding capacity, making it an ideal growing medium for agriculture and horticulture applications. It is widely used in greenhouses for growing flowers, fruits, vegetables, and ornamental plants.

Key Properties of Coco Peat

- High water holding capacity, retaining moisture up to 8 times its weight.
- Excellent moisture retention even after drying.
- Slow degradation due to its lignocellulose structure.
- High porosity, which allows for better root growth and oxygenation.
- Eco-friendly, 100% biodegradable, and a renewable resource.

Key Components

Table 13: Key components for cocopeat unit

Component	Description (Indicative technical specifications)
Coconut Husk	Raw material sourced from coconut trees, processed into coco peat.
Coco Peat Compacting Machine	A machine with a capacity of 20 HP for compressing coco peat into blocks.
Screener	Equipment to filter and separate fine particles from larger fibers.
Water Storage & Irrigation	Water tanks and systems for washing and processing the coco peat to reduce salt content.
Labor	Skilled and unskilled workers for handling raw material, operating machines, and managing production.
Power Supply	Electrical infrastructure to support the operation of compacting and processing equipment.
Packaging and Storage	Facilities to package and store finished coco peat products, ready for distribution or sale.
Transportation	Vehicles or means for transporting raw materials to the unit and finished products to the market.

4.13 Tulsi/Basil Oil Extraction Unit

Holy basil or Tulsi is an aromatic plant that hails from the family of Lamiaceae. Tulasi is cultivated for religious and medicinal purposes and for its essential oil. It is widely known across the Indian subcontinent as a medicinal plant and a herbal tea. It is also an essential ingredient in most Ayurvedic concoctions. Tulsi is revered as an elixir of life. The oil is obtained by the steam distillation of over ground parts of the plant, *Ocimum sanctum*. The product is pale yellow to yellowish in colour, with the sweet and pungent characteristic odour of Eugenol. Eugenol and Caryophyllene are major components in Holy Basil Oil. This oil is mainly used in medicinal and flavouring preparations.

Key Components

Table 14: Key Components for Basil Oil Extraction Unit

Component	Description
Tulsi Plantation	Land dedicated to cultivating Tulsi leaves
Steam Distillation Unit	Equipment for extracting oil through steam distillation
Water Source & Storage	Water tanks and pumps to supply the distillation unit and maintain the plantation
Power Supply	Electrical setup to power the distillation unit
Labor	-
Harvesting Tools	Basic tools for manually harvesting Tulsi leave
Storage Facilities	Containers and storage space for collected oil before packaging or sale
Packaging Materials	Bottles, labels, and other packaging supplies for the finished Tulsi oil
Transportation	Means to transport harvested leaves to the extraction unit and finished oil to market

4.14 Coffee Roastery

Coffee roasting plants are facilities where raw coffee beans are roasted to develop their flavor and aroma. These plants are responsible for converting green coffee beans into brown, fragrant beans that are used to make coffee. The roasting process involves heating the beans to a specific temperature and duration, which varies depending on the type of coffee being produced and the desired flavor profile. During roasting, the beans undergo chemical changes that cause them to release oils and develop their characteristic taste and aroma. Coffee roasting plants can range in size from small artisanal roasters to large-scale industrial facilities that process thousands of pounds of coffee beans per day. These plants may also include equipment for sorting, cleaning, and packaging the roasted beans.

While coffee roasting plants are primarily used to process coffee beans, they can also be used to roast other food products. Some of the food products that can be processed using coffee roasting plants include nuts, cocoa beans, grains, and spices. Nuts such as peanuts, almonds, cashews, and pistachios are commonly roasted to enhance their flavor and aroma. Spices such as cumin, coriander, and fennel can also be roasted to enhance their flavor and aroma.

The working principle of coffee roasting plants is based on the process of roasting coffee beans to bring out their unique flavors and aromas. The basic steps involved in the roasting process include loading raw coffee beans into a roasting drum or chamber, heating the drum to a specific temperature (ranging from 180°C to 250°C), and roasting the beans until they reach the desired roast level (light, medium, or dark). Once the beans have been roasted to the desired level, they are quickly cooled to stabilize their flavor and aroma, then packaged for sale as whole beans or ground coffee. Coffee roasting plants may use various types of roasting equipment, such as drum roasters, fluid bed roasters, and hot air roasters, depending on the desired roast profile and production capacity. Advanced plants may also employ computer-controlled systems to ensure consistency in the flavor and aroma of the coffee beans.

Key Components

Table 15: Key components for Coffee Roastery

Component	Description
Green Coffee Beans	Raw coffee beans
Coffee Roasting Machine	A small-scale roaster capable of consistent roasting quality
Cooling Tray	Equipment used to cool the roasted beans immediately after roasting to preserve flavor
Grading and Sorting Equipment	Machines or manual setups to sort beans by size and remove any defects
Packaging Equipment	Materials and equipment for packaging roasted beans (e.g., bags, labels)
Power Supply	Electrical setup to support the roasting equipment
Labor	-
Storage Facilities	Secure, climate-controlled storage for green and roasted coffee beans
Transportation	Means for transporting roasted coffee beans to market or storage

4.14 Agro-tourism

Site:1 Sakhigopal

Proposed Tourism Theme

Religious and Cultural Exploration: The theme for Sakhigopal's integration into Odisha's tourism circuits focuses on "Religious and Cultural Exploration." This theme emphasizes the deep spiritual and cultural roots of Odisha, allowing visitors to experience its rich traditions and practices. Sakhigopal, with its historical temple serves as a key religious site, complementing the experiences offered by nearby attractions like the Jagannath Temple and the Sun Temple.

Proposed Components for Sakhigopal Site

- **Log Huts / Cottages**
- **Recreational/Event Area**
- **Agriculture Gallery**
- **Religious/Coir-Themed Souvenir Shops**
- **Traditional Performance Area**
- **Reception Area**
- **Eatery Focusing on Traditional Odia Cuisine**

Site 2: Semiliguda

Proposed Tourism Theme

Eco and Tribal Cultural Exploration: The proposed theme for Semiliguda's integration into Odisha's tourism circuits focuses on "Eco and Tribal Cultural Exploration." This theme emphasizes the natural beauty and cultural richness of the Koraput region, offering tourists a chance to experience the pristine landscapes and vibrant tribal traditions. Semiliguda, as the gateway to these experiences, serves as a base for exploring the region's unique ecosystems and engaging with the local tribal communities.

Proposed Components for Semiliguda Site

The Semiliguda site in Koraput district, with its vast and diverse landscape, is well-suited for developing eco- and tribal-themed tourism. The following components are proposed:

- **Log Huts / Cottages**
- **Angling (Perennial Streams and Lakes)**
- **Zip-Lines**
- **Boardwalks / High Canopy Walks**
- **Coffee Roastery**

APPENDIX I(A)

LETTER COMPRISING THE TECHNICAL BID

(Refer Clause 2.11 and 3.2)

To,
Director of Agriculture & Food Production
Department of Agriculture and Farmer's Empowerment
Government of Odisha
2nd Floor, Krushi Bhawan, Gopabandhu Marg,
Near State Guest House, Bhubaneswar - 751001
Tele: 0674- 2395532/2391925
E-mail: diragri.or@nic.in and jdafarmseeds.dag@nic.in

Sub: Technical Bid for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the (*mention name of relevant Designate Site(s)*) on PPP Basis in the state of Odisha

Dear Sir,

1. With reference to your RFP document dated.....⁴, I/we, having examined the RFP document and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying such Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided in the Bid and in Annexures 1 to 5 is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as a Concessionaire for the development, design, finance, construction, operation, maintenance and transfer the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.

⁴ All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder.

5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last three years, we/ any of the Consortium members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
 - (a) I/ We have examined and have no reservations to the RFP document, including any Addendum issued by the Authority.
 - (b) I/ We do not have any conflict of interest in accordance with Clauses 2.2.1(c) and 2.2.1(d) of the RFP document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 6.2 of the RFP document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the average annual turnover criteria and meet(s) all the requirements as specified in the RFP document and am/ are qualified to submit a Bid.
10. I/ We declare that we/ any Member of the Consortium, or our/ its Associates are not a Member of a/ any other Consortium submitting a Bid for this Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our directors/ managers/ employees.⁵
14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply mutatis mutandis to the Bidding Process. A copy of the aforesaid guidelines forms part of the RFP at Annexure 5 of Appendix-IA thereof. I/ We further certify that we are not disqualified in terms of the additional criteria specified by the Department of Disinvestment in their OM No. 6/4/2001-DD-II dated July 13, 2001, a copy of which forms part of the RFP at Annexure 6 of Appendix-IA thereof. thereof.
15. I/We further certify that we/ any Member of the Consortium or any of our/ their Associates are not barred by the Central Government/ State Government or any entity controlled by it, from participating in any project (PPP or otherwise), and no bar subsists as on the date of Bid.
16. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP, we shall intimate the Authority of the same immediately.

⁵ In case the Bidder is unable to provide certification regarding any pending investigation as specified in paragraph 13, it may precede the paragraph by the words viz. "Except as specified in Schedulehereto". The exceptions to the certification or any disclosures relating thereto may be clearly stated in a Schedule to be attached to the Bid. The Authority will consider the contents of such Schedule and determine whether or not the exceptions/disclosures are material to the suitability of the Bidder for award hereunder.

17. I/ We acknowledge and agree that in the event of a change in control of a Member whose Technical and Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the RFP, I/we shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/we further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to commencement of the Effective Date under the Concession Agreement , it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall, at the sole discretion of the Authority, be liable to be terminated under and in accordance with Clause 2.3A of the RFP without the Authority being liable to us in any manner whatsoever.
18. I/ We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.
19. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
20. I/ We have studied all the Bidding Documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Project.
21. The Statement of Legal Capacity as per format provided at Annex-4 in Appendix-I of the RFP document, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided at Appendix III and IV respectively of the RFP, are also enclosed.
22. In the event of my/ our being declared as the Selected Bidder, I/We agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

23. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.
24. I/ We have the required Technical Capacity in accordance with the Clause 2.2.2 (A) of the RFP.
25. We shall pay to the Authority a Lease Rent of INR 1 (Rupee One) per annum, for the (*mention name of relevant Designate Site(s)*), with respect to acres of land as mentioned in Concession Agreement for the respective Designated Site, in consideration of the leasehold right being vested in accordance with the terms of Land Lease Agreement, commencing from the Effective Date as per the provisions of Concession Agreement.
25. I/ We certify that in terms of the RFP, my/our average annual turnover is Rs. (Rupees Only).
26. I/ We offer a Bid Security of INR..... (Rupees Only)⁶ to the Authority in accordance with the RFP Document.
27. The Bid Security in the form of a Bank Guarantee has been submitted.
28. The Technical Bid, required to be submitted in hard copies (one original copy and two soft copies) as specified in this RFP, have been submitted in a separate envelope and marked as “Technical Bid for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at Designated Site(s) on PPP basis”.
29. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
30. The Financial Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, the Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Estimated Project Cost and implementation of the Project.
31. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

⁶ In case, Bidder applies for more than one Project, please mention the amount of Bid Security accordingly.

32. [We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.]⁷
33. I/We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.
34. I/ We hereby undertake to submit this Technical Bid for undertaking the aforesaid Project(s) in accordance with the Bidding Documents and the Concession Agreement.

In witness thereof, I/we submit this Bid under and in accordance with the terms of the RFP document.

Yours faithfully,

Date:

(Signature, Name and designation of the Authorised signatory)

Place:

(Name and seal of Bidder/Lead Member)

⁷To be retained in case of consortium, only.

Appendix IA
Annexure-1
Details of Bidder

- 1 (a) Name:
- (b) Country of incorporation:
- (c) Address of the corporate headquarters and its branch office(s), if any, in India:
- (d) Date of incorporation and/ or commencement of business:

2. Brief description of the company including details of its main lines of business and proposed role and responsibilities in this Project:

3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:

4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:

5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the members of the Consortium.

 - (b) A copy of the Joint Bidding Agreement, as envisaged in Clause 2.1.15 (g) and provided in Appendix V, should be attached to the Bid.

- (c) Information regarding the role of each member should be provided as per table below:

Sl. No.	Name of Member	Role*	Percentage of equity in the Consortium
1.			
2.			

3.			
----	--	--	--

- * The role of each Member, as may be determined by the Bidder, should be indicated such that LM means Lead Member and OM means Other Member. In case the eligible project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.
- (d) The following information shall also be provided for each member of the Consortium:

Name of Bidder/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by it, from participating in any project?		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% (five percent) of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

- 6. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

Appendix IA

Annexure-2

Technical Capacity of the Bidder

(Refer to Clause 2.2.2(A) of the RFP)

Details of relevant Project/ Assignment experience as per Clause 2.2.2(A).

Sr.No.	Name of the Project/ Assignment	Name of the Client	Location of the work	Value of the Project	Period of the Project
1					
2					
3					
...					

The details of each Assignment(s)/Project(s) as per criteria prescribed in Sr. No. 2.1 and 2.2 of table given in Clause 2.2.4 should be mentioned in above table. Supporting/Relevant documents of each Assignment(s)/Project(s) as prescribed in RFP should be attached by the Bidder. Assignment(s)/Project(s), which are not supported by documentary evidence, shall not be considered for evaluation.

Name of the Bidder

Signature of the authorized signatory:

Name of the Authorized Signatory:

Date:

Place:

In addition to above, Bidder shall also provide details of each Assignment(s)/Project(s) in the following format:

Name of Bidder:	
Category of Assignment/Project, 2.2.2(A)(i) or 2.2.2(A)(ii), please specify:	
Project Name:	Location of Project:
Project Brief (Narrative description of Project)	Completion Date/Current status of the Project:
Description of actual contract / services provided:	
Name of Client:	Address of Client:
	Contact phone number and e-mail of Client:
Start date (month/year):	Completion date (month/year):
Signature of Bidder	

Appendix IA

Annexure-3

Financial Capacity of the Bidder

(Refer to Clauses 2.2.2(B), 2.2.3 (ii) and 3.6 of the RFP)

(In INR. Crore)

(In Rs. Crore\$)

Applicant	Annual Turnover		
	Year 1 (2021-22)	Year 2 (2022-23)	Year 3 (2023-24)
Single entity Applicant			
Consortium Member 1			
Consortium Member 2			
Consortium Member 3			
TOTAL			

Name & address of Applicant's
Bankers:

§For conversion of US Dollars to rupees, the rate of conversion shall be Rupees [83 (eighty-three)] to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

§§A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

£ Member Code shall indicate NA for Not Applicable in case of a single entity Applicant. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In

case the Financial Capacity relates to an Associate of the Applicant or its Member, write “Associate” along with Member Code.

££The Applicant should provide details of its own Financial Capacity or of an Associate specified in Clause 2.1.18.

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets and financial statements for the 3 (three) years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate’s financials;
 - (b) be audited by a statutory auditor;
 - (c) be complete, including all notes to the financial statements; and
 - (d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Turnover shall have the meaning assigned to them in Clause 2.2.2.
3. In case the annual accounts for the latest financial year are not audited, refer to Clause 3.6.
4. In the case of a Consortium, a copy of the Joint Bidding Agreement shall be submitted in accordance with Clause 2.1.15(g) of the RFP document.
5. The Bidder shall provide an Statutory Auditor’s/Chartered Accountant Certificate specifying the average annual turnover of the Bidder.

Appendix IA
Annexure-4
Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder / Lead Member of Consortium)

Ref. Date:

To,
Director of Agriculture & Food Production
Department of Agriculture and Farmer's Empowerment
Government of Odisha
2nd Floor, Krushi Bhawan, Gopabandhu Marg,
Near State Guest House, Bhubaneswar - 751001
Tele: 0674- 2395532/2391925
E-mail: diragri.or@nic.in and jdafarmseeds.dag@nic.in

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the bid) satisfy the terms and conditions laid out in the RFP document.

We have agreed that.....(insert member's name) will act as the Lead Member of our Consortium.⁸

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the Consortium on its behalf and has been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

⁸ Please strike out sentence if this is not applicable

Annexure 5
Guidelines of the Department of Disinvestment⁹
(Refer Clause 1.2.2)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment
Block 14, CGO Complex
New Delhi.
Dated 13th July, 2001.

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge- sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

⁹These guide lines may be modified or substituted by the Government from time to time.

- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified.
The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India

[On the letter head of the Bidder/ Lead Bidder]

APPENDIX – I(B)

Letter comprising the Financial Bid

(Refer Clauses 2.1.5 and 2.11.1)

(NOT TO BE SUBMITTED IN THE TECHNICAL BID, THIS LETTER MUST BE UPLOADED ALONG WITH BOQ ON THE E-PROCUREMENT PORTAL ONLY SEPARATELY FOR EACH PROJECT)

To,

Director of Agriculture & Food Production

Department of Agriculture and Farmer's Empowerment

Government of Odisha

2nd Floor, Krushi Bhawan, Gopabandhu Marg,

Near State Guest House, Bhubaneswar - 751001

Tele: 0674- 2395532/2391925

E-mail: diragri.or@nic.in and jdafarmseeds.dag@nic.in

SUB: Financial Bid for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the(*mention name of Designate Site*) on PPP Basis in the state of Odisha

Dear Sir,

1. With reference to your RFP document dated..... , I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided in the Bid are true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. The Bid has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, Concession Agreement and its Schedules, our own estimates of costs and after a careful assessment of the site and all own the conditions that may affect the Estimated Project Cost and implementation of the Project.
4. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.

5. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
6. I/ We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.
7. I/We hereby submit our Bid and hereby offer to pay(in figure) (in words) Annual Concession Fee payable from the beginning of the sixth year following Commercial Operation Date of whole of the Mandatory Capital Works (*as defined in the Concession Agreement*) in the manner set out in Concession Agreement to the Authority for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement: -
 - a) The Annual Concession Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, the Concession Agreement, our own estimates of cost and expected revenues and after a careful assessment of the site and all the conditions that may affect the Estimated Project Cost and implementation of the Project.
 - b) I/We hereby confirm, we shall pay Annual Concession Fee and Lease Rent of INR 1 (Rupees One Only) per annum, for.....acres of land (*mention area as per details given in Concession Agreement*), in consideration of the leasehold right being vested in accordance with the terms of Land Lease Agreement, in accordance with provisions of Concession Agreement.
8. In addition the Bidder shall also submit a fully completed Bill of Quantities (BOQ) as provided in the e-Procurement Portal. In the e-Procurement Portal, an intelligent Bill of Quantity in Microsoft Excel format shall be made available to the Bidder. The Bidder shall fill in the percent rate in figures and must not leave any cell blank. He has to only write (type) his offer in figures, the words will be self generated (Enabling macros).

Yours faithfully,

Date:

Place:

**(Signature, Name and designation of the Authorised signatory)
(Name and seal of Bidder/Lead Member)**

APPENDIX - II

Bank Guarantee for Bid Security
(Refer Clauses 2.1.6, 2.1.7 and 2.19.1)

B.G. No. Dated :

1. In consideration of you, – “Establishment Officer-IV O/o the Directorate of Agriculture & Food Production”, Bhubaneswar, Odisha, having its office at 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House, Bhubaneswar - 751001, Odisha (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of(specify the nature of the entity with relevant statutory act under which such entity is registered) or any combination of them and having its registered office at (and acting on behalf of its Consortium) (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the Designate Site(s) namely(mention name of the relevant Designated Site) on PPP Basis in the State of Odisha, (hereinafter referred to as “**the Project**”) pursuant to the RFP Document dated [.....] issued in respect of the Project and other related documents including without limitation the Concession Agreement (hereinafter collectively referred to as “Bidding Documents”), we (Name of the Bank) having our registered office at and one of its branches at {.....} (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 2.1.6 read with Clause 2.1.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of INR.....(Rupees Only) (hereinafter referred to as the “**Guarantee**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and

payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to INR (Rupees Only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 240 (two hundred and forty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not

be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to of INR (RupeesOnly). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before (indicate date falling 240 days after the Bid Due Date).

Signed and Delivered by
Bank

By the hand of Mr./Ms, its.....and authorised official.

(Signature of the Authorised Signatory)
(Official Seal)

APPENDIX - III

Format for Power of Attorney for signing of Bid¹⁰

(Refer Clause 2.1.8)

(To be executed on Stamp paper of appropriate value)

Know all men by these presents, We, (name of the Bidder and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. / Ms (Name), son/daughter/wife of... and presently residing at, who is presently employed with us/ the Lead Member of our Consortium and holding the position of, as our true and lawful attorney (hereinafter referred to as the “**Attorney**”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the Designate Site(s) namely -*(mention name of the relevant Designated Site)* on PPP Basis in the State of Odisha (“**Project**”), proposed or being developed by the Governor of Odisha represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmer’s Empowerment (the “**Authority**”) including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE,, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 20.....

For

¹⁰To be submitted in original

(Signature, name, designation and address
of person authorized by Board Resolution)

Witnesses:

- 1.
- 2.

Notarised
Person identified by me/personally appeared before me
/signed before me/Attested/Authenticated*
(*Notary to specify as applicable)
(Signature, Name and Address of the Notary)
Seal of the Notary
Registration Number of the Notary
Date _____

Accepted

(Signature, name, designation and address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate issued by the designated competent authority and has been notarized by the public notary.*

APPENDIX-IV

Format for Power of Attorney for Lead Member of Consortium¹¹

(Refer Clause 2.1.9)

(To be executed on Stamp paper of appropriate value)

Whereas the Governor of Odisha represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmer’s Empowerment (the “**Authority**”) has invited bids from interested parties for the development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the Designate Site(s) namely..... *(mention name of the relevant Designated Site)* on PPP Basis in the State of Odisha (“**Project**”).

Whereas,, and (collectively the “**Consortium**”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at, M/s., having our registered office at, and M/s., having our registered office at, (hereinafter collectively referred to as the “**Principals**”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s....., having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “**Attorney**”) and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, accept the Letter of Award, participate in bidders’ and other conferences, respond to

¹¹To be submitted in original

queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 20.....

For

(Signature, Name & Title)

For

(Signature, Name & Title)

For

(Signature, Name & Title)

Witnesses:

1.

2.

(Executants)

(To be executed by all the Members of the Consortium)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*

- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate issued by the designated competent authority and has been notarized by the public notary. Apostille certificate.*

APPENDIX V
Format for Joint Bidding Agreement for Consortium
(Refer Clause 2.1.9& 2.1.15(g))
(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

1. {..... Limited, a company incorporated/registered under the and having its registered office at.....} (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated/registered under the having its registered office at..... }and (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated/registered under the and having its registered office at..... } (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above-mentioned parties of the FIRST, {SECOND and THIRD} PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

- (A) The Governor of Odisha represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmer’s Empowerment having its principal office at 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House, Bhubaneswar – 751001, Odisha (hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the “**Bids**”) by its Request for Proposal No.dated.....(the “**RFP**”) for award of contract for development, design, finance, construction, operation, maintenance and transfer of Agri-Tech Smart Farm (ATSF) at the Designate Site(s) namely.....(*mention name of the relevant Designated Site*) on PPP Basis in the State of Odisha (“**Project**”).

- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and
- (C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

- 2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.
- 2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “SPV”) under the Indian Companies Act, 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Effective Date under the Concession Agreement when all the obligations of the SPV shall become effective;

- (b) Party of the Second Part shall be {the Technical Member of the Consortium¹²;}
 - {(c) Party of the Third Part shall be {the Financial Member of the Consortium¹³; and}

5. Joint and Several Liability

- 5.1 The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till the Effective Date under and in accordance with the Concession Agreement.
- 5.2 The Parties do hereby undertake and declare that the Lead Member shall represent all the members of the Consortium and shall at all times be liable and responsible for discharging the functions and obligations of the Consortium; and that each member of the Consortium shall be bound by any decision, communication, notice, action or inaction of the Lead Member on any matter related to this Agreement and the Authority shall be entitled to rely upon any such action, decision or communication of the Lead Member.

6. Shareholding in the SPV

- 6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

Name of Party	Role*	% of Shareholding
First Party		
Second Party		
Third Party		

*Financial/Technical specialization

- 6.2 The Parties undertake that a minimum of 26% (twenty-six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the COD of whole Mandatory Capital Works, be held by the Parties of the First, {Second and Third} Part whose Technical and Financial Capacity have been reckoned for the purposes of qualification in terms of the RFP.

¹² Please fill appropriately.
¹³ Please fill appropriately.

- 6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above, shall, at all times between the commercial operation date of the whole Mandatory Capital Works and the second anniversary thereof, hold subscribed and paid-up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- 6.4 The Parties undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity share capital of the SPV at all times until the second anniversary of the commercial operation date of the whole Mandatory Capital Works; Provided further that after second anniversary of the commercial operation date of the whole Mandatory Capital Works, the Party of the First Part (Lead Member) shall hold at least 26% of subscribed and paid-up equity of the Concessionaire for the remaining period of the Term of Concession Agreement.
- 6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
- (i) require any consent or approval not already obtained;
 - (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other

- instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
- (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
 - (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
 - (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified/selected or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

- 9.1 This Joint Bidding Agreement shall be governed by laws of India.
- 9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED
For and on behalf of

SIGNED, SEALED AND DELIVERED

LEAD MEMBER by:

SECOND PART

(Signature)

(Name)

(Designation)

(Address)

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of

THIRD PART

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1. _____ 2. _____

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executants (s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.
4. However, in the countries, which are member of Hague convention, the document has to be notarized by the public notary and apostille by the designated component authority of the issuing country.

APPENDIX - VI

Integrity Pact

Governor of Odisha represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmer's Empowerment hereinafter referred to as "The Principal"

AND

**(Name of The bidders and consortium members)
..... hereinafter referred to as "The Bidder/Contractor"**

Preamble: The Principal intends to award, under laid down organizational procedures, contract/concession for Tender No. E..... The Principal values full compliance with all relevant laws and regulations, and the principles of economic use of resources, and of fairness and transparency in its relations with its Bidders. The Central Vigilance Commission (CVC) has been promoting Integrity, transparency, equity and competitiveness in Government / PSU transactions and as a part of Vigilance administration and superintendence, CVC has, recommended adoption of Integrity Pact and provided basic guidelines for its implementation in respect of major procurements in the Government Organizations in pursuance of the same, the Principal agrees to appoint an external independent Monitor who will monitor the execution of the contract for compliance with the principles mentioned above.

Section 1 - Commitments of the Principal

- (1) The Principal commits itself to take all measures necessary to prevent corruption and to observe the following principles: -
 - (a) No employee of the Principal, personally or through family members, will in connection with the execution of a contract, demand, take a promise for or accept, for him/herself or third person, any material or immaterial benefit which he/she is not legally entitled to.
 - (b) The Principal will, during the pre-contract stage, treat all BIDDERS alike, and will provide to all BIDDERS the same information and will not provide any such information to any particular BIDDER which could afford an advantage to that particular BIDDER in comparison to other BIDDERS.
 - (c) The Principal will exclude from the process all known prejudicial persons.

- (2) If the Principal obtains information on the conduct of any of its employees which is a criminal offence under the relevant Anti-Corruption Laws of India, or if there be a substantive suspicion in this regard, the Principal will inform its Vigilance Office and in addition can initiate disciplinary actions. In such a case, while an enquiry is being conducted by the Principal, the proceedings under the contract would not be stalled.

Section 2 - Commitments of the Bidder / Contractor

- (1) The Bidder/Contractor commits themselves to take all measures necessary to prevent corrupt practices, unfair means and illegal activities, during pre-contract as well as post- contract stages. He commits himself to observe the following principles during the contract execution.
 - a. The Bidder/Contractor will not, directly or through any other person or firm, offer, promise or give to any of the Principal's employees involved in the execution of the contract or to any third person any material or immaterial benefit, which he/she is not legally entitled to, in order to obtain in exchange of advantage of any kind, whatsoever during the execution of the contract.
 - b. The Bidder/Contractor will not enter with other Bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of bids, or any other actions to restrict competitiveness, or to introduce cartelization in the bidding process.
 - c. The Bidder/Contractor will not commit any offence, under the relevant Anticorruption Laws of India; further the Bidder/Contractor will not use improperly, for purposes of competition, or personal gain, or pass on to others, any information or document provided by the Principal, as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
 - d. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
 - e. The Bidder/Contractor will, when presenting his bid, disclose any and all payments he has made, is committed to or intends to make to agents, brokers or any other intermediaries, in connection with the award of the contract.
 - f. The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.

- g. The Bidder shall not lend to or borrow any money from or enter into any monetary dealings or transactions, directly or indirectly, with any employee of the Principal.
- (2) The Bidder/Contractor will not instigate third persons to commit offences outlined above or be an accessory to such offences.

Section 3 - Disqualification from or exclusion from future contracts

If the Bidder, before award of contract, has committed a transgression, through a violation of Section-2 or in any other form, such as to put his reliability as Bidder, into question, the principal is entitled to disqualify the Bidder, from the tender process, or to terminate the contract, if already signed, for such reason.

1. If the Bidder/Contractor has committed a transgression, through a violation of Section-2, such as to put his reliability, or credibility into question, the Principal is entitled to disqualify the Bidder/Contractor from the tender process, terminate the contract if already awarded and also, to exclude the Bidder/Contractor from future contract award processes. The imposition and duration of the exclusion, will be determined by the severity of the transgression. The severity will be determined, by the circumstances of the case, in particular the number of transgressions, the position of the transgressions, within the company hierarchy of the Bidder and the amount of the damage. The execution will be imposed for a minimum of 6 months and maximum of 3 years.

Note: A transgression is considered to have occurred, if in the light of available evidence, no reasonable doubt is possible.

2. The Bidder accepts and undertakes to respect and uphold, the principal's Absolute right to resort to and impose such exclusion and further accepts and undertakes, not to challenge or question such exclusion, on any ground, including the lack of any hearing before the decision, to resort to such exclusion is taken. This undertaking is given freely and after obtaining independent legal advice.
3. If the Bidder/Contractor can prove that, he has restored/recouped the Damage caused by him and has installed a suitable corruption prevention system, the Principal may revoke the exclusion prematurely.

Section 4 - Compensation for damages

1. If the Principal has disqualified the Bidder, from the tender process prior to the award, according to Section-3, the Principal is entitled to demand and recover the damages equivalent to Earnest Money Deposit/Bid Security.
2. If the Principal has terminated the contract according to Section-3, or if the Principal is entitled to terminate the contract according to Section3, the Principal shall be entitled to demand and recover from the Contractor, liquidated damages equivalent to 5% of the contract value, or the amount equivalent to Security Deposit/Performance Bank Guarantee, whichever is higher.
3. The Bidder agrees and undertakes to pay the said amounts, without protest or demur, subject only to condition that, if the Bidder/Contractor can prove and establish that the termination of the contract, after the contract award has caused no damage or less damage than the amount of the liquidated damages, the Bidder/Contractor shall compensate the principal, only to the extent of the damage in the amount proved.

Section 5 - Previous transgression

1. The Bidder declares that, no previous transgression has occurred in the last 3 years, with any other company, in any country, or with any other Public Sector Enterprises in India, that could justify his exclusion from the award of the contract.
2. If the Bidder makes incorrect statement on this subject, it can be declared disqualified for the purpose of the contract and the same can be terminated for such reason.

Section 6 – Equal treatment of all Bidders/Contractors/ Subcontractors

1. The Bidder/Contractor undertakes to demand from all subcontractors, a commitment in conformity with this Integrity Pact, and to submit it to the Principal before contract signing.
2. The Principal will enter into agreements with identical conditions as this one which all Bidders, Contractors and Subcontractors.
3. The Principal will disqualify from the tender process all Bidders, who do not sign this part or violates its provisions.

Section 7 - Criminal charges against violating Bidders/ Contractors/ Sub-contractors

If the principal obtains knowledge of conduct of a Bidder/Contractor or Subcontractor, or of an employee, or a representative, or an associate of a Bidder/Contractor, or Subcontractor, which constitutes corruption, or if the Principal has substantive suspicion, in this regard, the Principal will inform the Vigilance office.

Section 8 - External Independent Monitor

1. Pursuant to the need to implement and operate this Integrity Pact the Principal has appointed the following Independent Monitors:
 - A.
.....
.....
Mobile No.:.....
Email:

The task of the Monitors, is to review independently and objectively, whether and to what extent, the parties comply with the obligations under this agreement.

2. The Monitors are not subject to instructions, by the representative of the parties to the Chairperson of the Board of the Principal.
3. The Bidder/Contractor accepts that, the monitors have the right to access, without restriction to all Project documentation of the Principal, including that provided by the Contractor. The Bidder/Contractor will also grant the Monitors, upon his request and demonstration of a valid interest, unrestricted and unconditional access, to the project documentation. The same is applicable to Subcontractors. The monitors are under contractual obligation, to treat the information and documents of the Bidder/Contractor/Subcontractor with confidentiality.
4. The Principal will provide to the Monitors, sufficient information about all meetings, among the parties related to the Project, provided such meetings could have an impact, on the contractual relations between the Principal and the Bidder/Contractor. The parties offer to the Monitors the option to participate in such meetings.
5. As soon as the Monitors notice a violation of this agreement, he/they will so inform the Management of the Principal and request the management to discontinue, or heal the violation. Or to take other relevant action. The

Monitors can in this regard submit non-binding recommendations. Beyond this, the Monitors have no right to demand from the parties, that they act in a specific manner, refrain from action or tolerate action.

6. The Monitors will submit a written report, to the Chairperson of the Board of the Principal, within 8 to 10 weeks, from the date of reference of intimation to him by the 'Principal' and, should the occasion arise, submit proposals for correcting problematic situations.
7. If the Monitors have reported to the Chairperson of the Board, a substantiated suspension of an offence, under relevant Anti-Corruption Laws of India, and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence, or reported it to the Vigilance Office, the Monitors may also transmit this information directly to the Central Vigilance Commissioner, Government of India.

Section 9 - Pact Duration

This Pact begins when both parties have signed it. It expires 12 months after the last payment under the contract Agreement is made.

If any claim is made/lodged during this time, the same shall be binding and continue to be valid, despite the lapse of this Pact, as specified above, unless it is discharged/determined by the Chairperson of the Principal.

The Pact duration in respect of unsuccessful Bidders shall expire after 3 months of the award of the contract.

Section 10 - Other Provisions

1. This agreement is subject to Indian Law. Place of performance and jurisdiction is the Registered Office of the Principal, i.e. 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House, Bhubaneswar – 751001, Odisha, India.
2. Changes and supplements as well as termination notices, need to be made in writing, before they become effective and binding on the both parties.
3. If the Bidder / Contractor is a consortium, this agreement must be, signed by all consortium members.
4. Should one or several provisions of this agreement, turn out to be invalid, the remainder of this agreement remains valid. In this case, the parties will strive to come to an agreement, to their original intentions.

For the Principal

For the Lead Member / Bidder

Place:

Witness-1 :

Witness-2 :

Date : /_ /_____

APPENDIX - VII

CHECK LIST

(Mandatory Documents to be uploaded in the Technical bid.)

TECHNICAL BID DOCUMENTS.		
1	Appendix-IA (Letter comprising the Technical Bid) including Annexure 1 to 5 and supporting certificates / documents	Yes / No
2	Power of Attorney for signing the Bid as per the format at Appendix-III supported with charter document and/or board resolution in favour of executant	Yes / No
3	if applicable, Power of Attorney for Lead Member of Consortium as per the format at Appendix-IV supported with charter document and/or board resolution in favour of executant	Yes / No
4	if applicable, Joint Bidding Agreement for Consortium as per the format at Appendix-V	Yes / No
5	copy of the certificate of incorporation	Yes / No
6	copies of Bidder's duly audited balance sheet and profit and loss statement for preceding 3 years	Yes / No
7	Bid Security in the form of a Bank Guarantee in the format at Appendix-II	Yes / No
8	Integrity Pact as per the Format at Appendix VI duly signed by the Authorized Signatory, which shall form part of Concession Agreement	Yes / No
9	Copy of the Demand Draft towards payment of the Document Fee, in accordance with Clause 1.2.1	Yes / No
10	Copy of Check List as per Appendix VII	Yes / No
11	Copy of Development Plan as per Clause 1.2(d)	Yes / No
12	Case study as per table given in Clause 2.2.4	Yes / No
13	Any other Documents as per the requirement of RFP	Yes / No

For the avoidance of any confusion, scanned copies of the abovementioned documents shall be uploaded online on the e-Procurement Portal on or prior to the Bid Due Date.

GOVERNMENT OF ODISHA
Department of Agriculture and Farmer's
Empowerment

Concession Agreement

VOLUME - II

Development, Design, Financing, Construction,
Operation and Maintenance Agreement

Between

Department of Agriculture and Farmers Empowerment,
Government of Odisha

And

[{Name of the Concessionaire}]

2025

Contents

1.	DEFINITIONS AND INTERPRETATION	4
2.	PRIORITY OF DOCUMENTS.....	10
3.	INTERPRETATION	11
4.	SCOPE OF CONCESSION	12
5.	CONDITIONS PRECEDENT	14
6.	REPRESENTATIONS AND WARRANTIES.....	16
7.	TRANSFER OF RIGHTS ON EFFECTIVE DATE	17
8.	INDEPENDENT EXPERT	18
9.	ACCEPTANCE OF SITE/DISCLAIMER	20
10.	CONSTRUCTION/DEVELOPMENT, OPERATION AND MANAGEMENT.....	22
11.	OPERATION AND MAINTENANCE	28
12.	MONITORING AND INFORMATION	30
13.	FEES PAYABLE TO THE AUTHORITY	32
14.	USER CHARGES.....	33
15.	FINANCING ARRANGEMENTS	34
16.	CHANGE OF SCOPE	35
17.	DISPUTES.....	36
18.	FORCE MAJEURE.....	37
19.	EVENT OF DEFAULT.....	39
20.	TERM AND EXPIRY	43
21.	TRANSFER PROVISIONS	44
22.	CHANGE IN LAW.....	46
23.	GENERAL	47
	SCHEDULE 1: LEASE AREA (PROJECT SITE)	51
	SCHEDULE 2: DEVELOPMENT PLAN (SUBMITTED IN TECHNICAL BID).....	54
	SCHEDULE 3: LEASE DEED.....	55
	SCHEDULE 4: MANDATORY CAPITAL WORKS AND PROJECT SERVICES	65
	SCHEDULE 5: DEVELOPMENT STANDARDS AND REQUIREMENTS.....	65
	SCHEDULE 6: OPERATION & MAINTENANCE STANDARDS AND REQUIREMENTS	67
	SCHEDULE 7: TERMS OF REFERENCE FOR INDEPENDENT EXPERT	70
	SCHEDULE 8: PERFORMANCE BOND	73
	SCHEDULE 9: SUBSTITUTION AGREEMENT	76

Concession Agreement

This concession agreement (the “Agreement”) is made on the ___ day of _____[...], 2025.

BY AND BETWEEN:

The Governor of State of Odisha, represented herein by Director of Agriculture and Food Production, Department of Agriculture and Farmers Empowerment, Government of Odisha, having its office at 2nd Floor, Krushi Bhawan, Gopabandhu Marg, Near State Guest House, Bhubaneswar – 751001, Odisha, India (hereinafter referred to as the “**Authority**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of the FIRST PART.

AND

_____, a special purpose company incorporated by Selected Bidder under the Companies Act 2013, having its registered office at _____ (hereinafter referred to as the “**Concessionaire**”, which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the SECOND PART.

Authority and Concessionaire are hereinafter collectively referred to as “**Parties**” and individually as “**Party**”.

WHEREAS:

- A. Authority intends to undertake development of Agri-Tech Smart Farm (“ATSF”) Project (as defined herein) through the integration of advanced technologies and sustainable practices with a view to enhancing agricultural productivity, fostering economic empowerment, and promoting environmental stewardship.
- B. Authority is desirous of undertaking development of this Project (as defined herein) through the Concessionaire and for this purpose intends to lease the premises constituting the Project Site (as defined herein), in accordance with the terms and conditions set forth herein.
- C. Concessionaire is a company established by the selected bidder, inter-alia with the objectives of developing, designing, financing, constructing, upgrading, operating and managing the Project (as defined herein) subject to and in accordance with terms of this Agreement.
- D. Concessionaire is desirous and agreeable to undertake the tasks of developing, designing, financing, constructing, upgrading, operating and managing the Project (as defined herein) on and subject to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the respective covenants and agreements set forth in this Agreement, sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, unless the context otherwise requires:

“Adjusted Depreciated Value” shall mean the amount arrived at after adjusting the depreciated book value of any asset(s) (as stated in the books of account of the Concessionaire, save and except, in the case of buildings and permanent structures where the depreciated book value shall be determined by applying an annual depreciation rate of [3% (three per cent)] based on the straight line method) to reflect the variation occurring in the WPI between the date of purchase thereof and the Transfer Date.

“Applicable Law” means any and all applicable laws including rules, direction, regulations and notifications made thereunder, and judgments of the court(s) of jurisdiction of Authority and supreme court, as may be in force and effect in State of Odisha, during the subsistence of this Agreement.

“Associate” or “Affiliate” shall mean, in relation to either Party {and/or consortium members}, a person who controls, is controlled by, or is under the common control with such Party {or consortium member} (as used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than [50% (fifty per cent)] of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

“Bank Rate” means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

“Bid Security” shall mean the bid security of INR[...]_____ [...]submitted by the Selected Bidder as part of his proposal under the bid documents to the Authority during the competitive bidding procedure undertaken by Authority for the purposes of the selection of the private partners/selected bidder, in the prescribed format.

“Change in Control” shall mean transfer, directly or indirectly, of voting and/or economic interest in the Concessionaire so that the ownership of the Selected Bidder in the Concessionaire falls below:

- (i) 51% of the total voting and economic shareholding of the Concessionaire; or transfer of power to control the composition of Board of Directors of the Concessionaire; whether through ownership of voting securities, or by contract, prior to two years from the date of Commercial Operation Date of the whole of Mandatory Capital Works. Provided in case, Selected Bidder is a consortium of entities, the Selected Bidder shall also be required to adhere to specific shareholding of the members as specified in the RFP and term shall “change in control” shall be construed accordingly for such consortium members/Selected Bidder,or;
- (ii) 26% of the total voting and economic shareholding of the Concessionaire during the remaining period of the Term (i.e., after expiry of two years from the date of Commercial Operation Date of the whole of Mandatory Capital Works). Provided in case Selected bidder is consortium of entities, the Lead Member shall meet the aforesaid shareholding requirement.

“Clearance” means any consent, license, approval, permit, ruling, exemption, no objection certificate or other authorization or permission of whatsoever nature which is required to be obtained from and/or granted by any Governmental Authority and any other governmental, quasi-governmental, administrative, judicial, public or statutory body, ministry, department, instrumentality, agency, authority, board, bureau, corporation entrusted with, and carrying out, any statutory functions(s) or commission, required from time to time in connection with the performance of obligations hereunder.

“Change in Law” means the occurrence of any of the following (other than in respect of any tax laws or any environmental laws) after the last date of submission of bid by the Selected Bidder during the competitive bidding process initiated by the Authority (the “Bid Date”);

- (a) the modification, amendment, variation, alteration or repeal of any existing Indian Law or the enactment of any new Indian Law;
- (b) the commencement of any Indian Law, which has not yet come into effect prior to the Bid Date;
- (c) a change in the interpretation, application or enforcement of any Indian Law by the court of record in India having jurisdiction on Project;
- (d) after the date of grant of any Clearance a change in the terms and conditions attaching to such Clearance or the attachment of any new terms or conditions or such Clearance ceasing in part or in whole to remain in full force and effect otherwise than on account of any action or inaction of the Concessionaire.

Provided however that the creation or introduction of a regulatory authority (including the framing of rules and regulations in relation thereto or thereunder) having jurisdiction over the Project shall not constitute a Change in Law. Provided further an event, the adverse effect of which has been insured against or could have been insured against in accordance with Good Industry Practice, shall not constitute Change in Law.

“Conditions Precedent” shall mean collectively the Authority Conditions Precedent, and the Concessionaire Conditions Precedent.

“Commercial Operation Date” shall have the meaning ascribed thereto in Clause 10.8 hereof.

“Completion Certificate” shall have the meaning ascribed thereto in Clause 10.8 hereof.

“Development Plan” shall mean a plan prepared and submitted by the Selected Bidder along with its technical bid in accordance with the terms of RFP, as evaluated and approved by the Authority, and as particularly annexed as Schedule 2 of this Agreement. The Concessionaire is required to undertake the development of the Project including the minimum four (4) mandatory optional components as selected under the Development Plan.

“Debt” means the quantum of outstanding principal, interest thereon, financial charges, payable to Lenders as of Transfer Date, in respect of financial assistance provided by the Lenders on an arms-length basis by way of loans, guarantees (to the extent invoked), subscription to non-convertible debentures, subscription to convertible debentures (to the extent not converted into equity) and other debt instruments secured by a first charge (including pari-passu charge) including loan agreements, notes, bonds and other debt instruments, security agreements, and other documents relating to the financing of capital expenditure for the development of the Mandatory Capital Works pursuant to the terms hereof. It is clarified that the following shall not constitute Debt: (i) debt repayments (principal, interest, levies, charges, penal charges, penalties and/or damages) payable prior to Transfer Date, on which the Concessionaire has defaulted; (ii) any working capital facilities relating to Mandatory Capital Works; (iii) Sub-ordinate Debt.

“Development Standards and Requirements” mean the standards and requirements set forth in Schedule 5 hereof.

“Dispute” shall mean any dispute, difference, question or controversy between the Parties arising out of, in connection with or in relation to this Agreement.

“Effective Date” means the date on which the Conditions Precedent have been satisfied or waived according to the terms hereof.

“Encumbrance” means any mortgage, right of way, pledge, equitable interest, prior assignment, conditional sales contract, hypothecation, right of others, claim, security interest, title retention agreement, voting trust agreement, interest, option, lien, charge, easement, encroachment or other condition, commitment, restriction or limitation of any nature whatsoever, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership. The word “Encumber” shall be construed accordingly.

“Entity” means any person, body corporate, trust, partnership firm or other association of persons/ individuals whether registered or not.

“Equity” shall mean the paid-up share capital of the Concessionaire used to meet the Total Project Cost and shall include any securities compulsorily convertible into equity shares; provided however that notwithstanding the foregoing, any amounts that have been infused in the Concessionaire as paid-up share capital would not be classified as ‘Equity’ to the extent that such amounts do not relate to Mandatory Capital Works.

“Financing Documents” means the documents executed by the Concessionaire (and its identified sub-lessee, if any) with Lenders for raising debt to meet the Total Project Cost.

“Financial Close” shall mean that the condition precedents to the availability and drawdown of funds under the Financing Documents have been fulfilled and the funds are ready and available for draw down by exercise of power by Concessionaire (and/or its sub-lessee(s), if any) exercisable at the discretion of the Concessionaire (and/or its sub-lessee(s), if any); however, in case Concessionaire (and/or its sub-lessee(s), if any) doesn’t enter into lending transaction with Lender, and decides to fund the Total Project Cost through Equity only, then in such case the Financial Close shall be said to be achieved subject to the Concessionaire (and/or its Sub-lessees, if any) fulfilling any one of the following pre-condition:

1. Furnishing equity bank guarantee for securing an amount equivalent to 30% of the Equity.
2. Infusion of 30% of Equity upfront in the Concessionaire.
3. Demonstrate the funding commitment through certified documents issued by any financial institutions (as defined under Section 2(39) of the Companies Act, 2013) clearly identifying the current/liquidated assets of the Selected Bidder (including any of its Associates/Affiliates) which is ready and available to be committed for application/liquidation towards Equity infusion. In addition to the commitment letters issued by the financial institutions the relevant Equity investor shall also provide respective corporate guarantee for securing their Equity Commitment.

“Force Majeure” shall mean events as described in Article 18.

“Good Industry Practice” means the exercise of that degree of skill, diligence efficiency, reliability and prudence and those practices, methods, specifications and standards of equipment, safety, services and performance, as may change from time to time and which would reasonably and

ordinarily be expected to be used by a skilled and experienced international operator / contractor engaged in designing, construction, operation and maintenance of a world class international project of a capacity similar to the capacity of the Project.

“Governmental Authority” means the Government of India, Government of Odisha, and/or any local government in the State of Odisha.

“Group Entity” with respect to a specified Entity, means any other Entity directly or indirectly controlling, controlled by or under common control with such specified Entity; provided however, that, for purposes of this definition, the terms “controlling”, “controlled by” or “under common control with” mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an Entity, whether through the ownership of voting securities, by contract or otherwise, or the power to elect or appoint at least 50% of the directors, managers, partners or other individuals exercising similar authority with respect to such Entity.

“Independent Expert” shall mean the independent expert appointed by Authority in accordance with Article 8 hereof.

“Long Stop Date” shall have the meaning ascribed in Clause 10.2 hereof

“Lease Deed” shall mean the lease deed to be entered into between the Parties for the Demised Premises (as defined therein) as enclosed in Schedule 3 hereof.

“Lenders” means the financing institutions, banks, multilateral funding agencies and similar bodies undertaking lending business or their trustees/ agents including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Documents for meeting costs of all or any part of the development of the Mandatory Capital Works as per the terms hereof.

“Mandatory Capital Works and Project Services” means the minimum works/components and mandatory Project services that Concessionaire is required to undertake/provide, as particularly described in Schedule 4 hereof and shall also include four (4) mandatory optional components identified in Development Plan by the Selected Bidder.

“Material Adverse Effect” shall mean a material adverse effect on the business, condition (financial or otherwise), liabilities, assets, operations (or the results of operations) or prospects of the Concessionaire or the Project solely to the extent materially frustrating or impairing either Party's ability to perform, discharge, receive and/or assume the respective obligations, undertakings, rights and benefits ascribed to such Party pursuant to the express terms under this Agreement.

“Operations and Maintenance Standards and Requirements” means the standards and service requirements set forth in Schedule 6.

“Operation Period” shall mean the period commencing from Commercial Operation date and up to Transfer Date.

“Optional Assets” shall mean assets other than Mandatory Capital Works that are specified and finalized in Development Plan annexed hereto as Schedule 2 and to be developed by Concessionaire subject to and in accordance with terms herein.

“Performance Bond” shall mean an unconditional and irrevocable bank guarantee enforceable and encashable at Odisha of a value and validity set forth in Article 10.7 hereof in the form attached herewith as Schedule 8.

“Project” shall mean to develop, design, finance, construct, operate, maintain and manage the Mandatory Capital Works and other facilities comprising the Agri-Tech Smart Farm (ATSF) at the Project Site, subject to and in accordance with, Good Industry Practices, Applicable Laws and the terms of this Agreement.

“Project Agreements” shall mean the following agreements:

1. This Agreement;
2. The Lease Deed;
3. Substitution Agreement; and
4. Contracts with third parties related with Project

and Project Agreement shall mean any one of them.

“Project Assets” shall mean the Mandatory Capital Works and Optional Assets that are developed by the Concessionaire in accordance with terms hereof for provision of services to the users of the Project.

“Project Site” shall mean the land admeasuring [****] located at [****] in respect of which Authority will grant lease to the Concessionaire under Lease Deed to undertake the development of Project in terms herein, as particularly delineated in Schedule 01 hereof

“Scheduled COD” shall have the meaning as ascribed thereto under Clause 10.2.1 hereof.

“Substitution Agreement” shall mean the agreement to be entered into between Authority, Concessionaire and the Lenders in the form set forth in Schedule 9 hereof.

“Selected Bidder” shall mean the entity identified under competitive bidding process for award of the Project, and who are the promoters/initial shareholders of the Concessionaire.

“Term” shall have the meaning assigned thereto in Article 20 hereof.

“Transfer Date” shall mean the date on which Concessionaire transfers possession (and in respect of such assets that are not owned by Authority, ownership and possession) of the Project Assets, as the case may be, to Authority or its nominee in accordance with the terms hereof, which shall be the date of termination as per the relevant notice of termination issued by Concessionaire or Authority, as the case may be, or the date of expiry of this Agreement.

“Total Project Cost” means the capital cost incurred on development, construction and financing of the Mandatory Capital Works and shall be limited to the lowest of: (a) the capital cost of the Mandatory Capital Works, as set forth in the financial package agreed with Lenders;(b) the actual capital cost of the Mandatory Capital Works determined upon completion as approved by

Independent Expert and Statutory Auditor and submitted to Authority at the time of issuing completion certificate; and (c) a sum of INR [...] Crores (Rupee [.....] only)¹. provided that in the event of termination, the Total Project Cost shall be deemed to be modified to the extent of variation in average price index measured by CPI between Effective Date and Transfer Date.

“Year” shall mean a period of 12 consecutive months ending on March 31 of any year; provided however that the first Year shall mean the period commencing on the Effective Date and ending on the immediately succeeding March 31 and the last Year shall mean the period commencing April 1 and ending on the date of expiry or termination hereof.

¹ The estimated project cost will be updated and finalized at the time of signing the agreement, based on the inclusion of the capital cost for the four mandatory optional components chosen by the Selected Bidder in its Development Plan.

2. PRIORITY OF DOCUMENTS

This Agreement and its annexed schedules shall be read and interpreted harmoniously with the related RFP and all its schedules, and the Letter of award issued thereunder. However, in case of any repugnancy which cannot be reconciled, the terms of this Agreement shall prevail over all other documents to the extent of such repugnancy.

3. INTERPRETATION

In this Agreement, unless the context otherwise requires:

- i. A reference to the singular shall include a reference to the plural and vice-versa; and a reference to any gender shall include a reference to the other gender.
- ii. A reference to any Article, Clause, Appendix, Schedule, Attachment or Annex shall be to an Article, Clause, Appendix, Schedule, Attachment or Annex of this Agreement.
- iii. The Appendices, Schedules, Attachments and Annexes form an integral part of this Agreement. In the event of any conflict between any provision of the Articles and any provision of the Appendices, Schedules, Attachments or Annexes, the provision of the Articles shall prevail.
- iv. Reference to any law or regulation having the force of law includes a reference to that law or regulation as from time to time amended, modified, supplemented extended or re-enacted.
- v. Any reference to time shall, except where the context otherwise requires, be construed as a reference to the time in India. Any reference to the calendar shall be construed as reference to the Gregorian calendar.
- vi. The headings of the Articles, Clauses, Appendices, Schedules, Attachments and Annexes in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
- vii. The words "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases.
- viii. Unless the context otherwise requires, any period of time referred to shall be deemed to expire at the end of the last date of such period.
- ix. If any provision in Article 1 is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive provision in the body of this Agreement;
- x. The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply;
- xi. All references to agreements, documents or other instruments include (subject to all relevant approvals) a reference to that agreement, document or instrument as amended, supplemented, modified, substituted, notated or assigned from time to time.

4. SCOPE OF CONCESSION

4.1. Grant of Concession

- 4.1.1. Authority hereby grants to the Concessionaire, the exclusive right, lease and authority during the Term to undertake the development, design, financing, construction, operation and maintenance of Project Assets at the Project Site and to perform services and activities constituting Mandatory Project Services, and such other services related/connected to the Project as are approved by Authority under Development Plan/Master Plan and/or thereafter opted (under written intimation to Authority) by the Concessionaire from time to time during the Term, and to make provision for expansion of capacity, as appropriate, taking into account the requirements of the users of the Project. The Concessionaire hereby agrees to undertake the functions of development, design, financing, construction, operation, maintenance and management of the Project and at all times keep in good repair and operating condition the Project and to perform services and activities as aforesaid, in accordance with the terms and conditions of this Agreement (the “**Concession**”).
- 4.1.2. Without prejudice to the aforesaid, Authority recognizes the exclusive right or obligations (as the case may be) of the Concessionaire during the Term, in accordance with the terms and conditions of this Agreement, to:
- i. develop, design, finance, construct, modernize, operate, maintain, use and regulate the use by third parties of the Project in accordance with terms hereof;
 - ii. enjoy complete and uninterrupted possession and control of the Project Site and the Mandatory Capital Works for the purpose of providing Mandatory Project Services and other related services as approved by Authority.
 - iii. provide such other services related/connected to the Project (besides Mandatory Project Services) to Project users as are approved under Development Plan/Master Plan and/or thereafter opted (under written intimation to Authority) by the Concessionaire from time to time during the Term; and to develop, design, finance, operate and maintain the facilities required for provision of the Mandatory Project Services and additional services as envisaged herein;
 - iv. determine, demand, collect, retain and appropriate charges from the users of the Project in accordance with Article 14 hereto;
 - v. contract with third parties to undertake functions on behalf of the Concessionaire, and sub-lease and/or license the part(s) of the Project Assets in accordance with Article 10.5; and
 - vi. develop, operate and maintain the Project as per Development Plan/Master Plan and terms hereof and upgrade it, from time to time during the Term with adequate capacity and layout to ensure provision of Mandatory Project Services and other services related/connected to the Project as opted for by Concessionaire under written intimation to Authority, and, to provide for the secure and smooth flow of users within and through the Project premises and to make provision for expansion of capacity, as appropriate, taking into account the requirement of the users of the Project and expected future volumes.

4.2. Sole Purpose of the Concessionaire

- 4.2.1. The Concessionaire having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, and the Concessionaire or any of its subsidiaries shall not, except with the previous written consent of Authority, be or become directly or indirectly engaged, concerned or interested in any business other than as expressly envisaged herein.

4.2.2. **Mandatory Project Services**

Subject to the foregoing and the Applicable Laws, Concessionaire shall undertake/provide Mandatory Project Services (as listed in Schedule 04 hereto) at the Project Site. The Concessionaire shall undertake/provide other services related/connected to the Project at the Project Site as are approved under Development Plan/Master Plan and/or thereafter opted for by Concessionaire under written intimation to Authority, from time to time during Term.

Notwithstanding anything contained in this Agreement, the Concessionaire shall not undertake any activities at the Project Site other than those envisaged herein and shall regardless of the Authority's approval on undertaking any services be wholly responsible and liable to third parties including for any claim or action preferred or initiated by such third parties, and, shall fully indemnify the Authority against any loss, damages or claim arising in respect thereof.

4.3. **Concessionaire Ownership Structure**

- (a) The Parties hereto agree that the Selected Bidder shall not during the period commencing from date of this Agreement until expiry of two years from the Commercial Operation Date of the whole Mandatory Capital Works, change the initial shareholding of the Concessionaire, so as to effect or cause to be effected any Change in Control of the Concessionaire as it exists on the date of execution of this Agreement.
- (b) The Selected Bidder may upon expiry of two years from the commercial operation date, may change its shareholding to effect or cause Change in Control; Provided however that the Selected Bidder shall hold at least 26% of the voting and economic shareholding throughout the remaining period of the Term. Provided in case Selected bidder is consortium of entities, the Lead Member shall meet the aforesaid shareholding requirement.
- (c) Notwithstanding the foregoing, the following shall apply to any transfer of shareholding of Selected Bidder in the Concessionaire:
 - i. The Concessionaire and/or the Selected Bidder shall not make or cause to be made, a change in the shareholding of the Concessionaire that adversely affects the ability of the Concessionaire to carry out its obligations under this Agreement. The Concessionaire and Selected Bidder shall ensure that the foregoing shareholding obligations are duly incorporated in the charter documents of the Concessionaire.
 - ii. All transfers of shares in the Concessionaire at any time shall be subject to the relevant security and probity clearance requirements set forth by Authority, and Authority shall not unreasonably withhold any permission in this regard.

4.4. **Agreement to grant lease interest**

- 4.4.1. In consideration of the lease rent, this Agreement and the covenants and warranties on the part of the Concessionaire herein, the Authority, in accordance with the Applicable Laws and the terms and conditions set forth herein, hereby, agrees to demise to the Concessionaire under the Lease Deed, commencing from the Effective Date, all the land (along with any buildings, constructions or immovable assets, if any, thereon) which is described, delineated and shown in the Schedule 3 hereto, on an "as is where is basis" free from all Encumbrances thereto, (hereinafter "Demised Premises") to hold the said Demised Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Demised Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the term hereof for the purposes permitted under this Agreement.
- 4.4.2. It is expressly clarified that the leasehold rights agreed to be granted hereunder shall terminate forthwith upon the expiry or early termination of this Agreement for any reason. It is further clearly understood and recorded between parties that the lease rent shall be payable as per the rates determined under the Lease Deed.

5. CONDITIONS PRECEDENT

5.1. Conditions Precedent

5.1.1. Conditions Precedent to be satisfied by the Authority

The obligations of the Concessionaire hereunder are subject to the satisfaction by the Authority of the following conditions precedent ("Authority Conditions Precedent") unless any such condition has been waived by the Concessionaire as hereinafter provided:

- i. Authority shall have executed and delivered to the Concessionaire a counterpart of the Lease Deed. Provided however that the Parties agree that Authority shall execute the Lease Deed only after all other conditions precedent mentioned in this Chapter 5 have been fulfilled.
- ii. Authority shall provide connection to the required public utilities including water and electricity at the boundary of the Project Site.
- iii. Authority shall have appointed the Independent Expert in accordance with terms hereof.
- iv. Authority shall have executed Substitution Agreement upon Concessionaire notifying Authority of Concessionaire's and Lenders' readiness to execute the same.

5.1.2. Conditions Precedent to be satisfied by Concessionaire

The obligations of the Authority hereunder are subject to the satisfaction by Concessionaire of the following conditions precedent ("Concessionaire Conditions Precedent") unless any such condition has been waived by the Authority as hereinafter provided:

- i. The Concessionaire shall deliver to the Authority the original copy of the Performance Bond (in accordance with Article 10.7).
- ii. The Concessionaire shall have received all Clearances requisite for undertaking development of Project Assets of the Project by the Concessionaire. Authority shall use all reasonable endeavors to grant such Clearances as are within its power to grant, as soon as possible, subject to receipt of the relevant application duly completed and in full compliance with Applicable Law.
- iii. The Concessionaire shall have executed and delivered to the Authority a counter part of the Lease Deed.
- iv. The Concessionaire shall have achieved Financial Close in accordance with terms herein and provided to the Authority the duly certified copy of the relevant Financing Documents along with all relevant details/documents, or in case, Concessionaire decides to fund the Total Project Cost through Equity only, then shall have fulfilled and provided relevant supporting documents as per the requirement specified under the definition of Financial Close.
- v. executed and procured execution of the Substitution Agreement.

5.2. The Concessionaire and Authority shall take reasonable steps to ensure expeditious fulfillment of the Concessionaire Conditions Precedent and the Authority Conditions Precedent respectively.

5.3. Non-fulfilment of Conditions Precedent

In the event that any of the conditions set forth in Articles 5.1.1, or 5.1.2 have not been fulfilled within six (06) months from the date of this Agreement, or such later date as may be mutually agreed by the Parties (subject to payment of 0.1% of Bid Security amount for each day of extension beyond 06 months); the Concessionaire (in case of non- fulfilment of any of the Authority Conditions Precedent), or the Authority (in case of non- fulfilment of any of the Concessionaire Conditions Precedent) may terminate this Agreement.

Provided however that in the event this Agreement is terminated by Authority for non- fulfilment of the Concessionaire Conditions Precedent, the Authority shall be entitled to encash the Bid Security or amount equivalent to Bid Security from the Performance Bond (as the case may be) , if furnished replacing Bid Security.

Neither Party shall be entitled to terminate this Agreement for non-fulfillment of the Concessionaire Conditions Precedent, or the Authority Conditions Precedent, as the case may be, to the extent that such

non-fulfillment is the result and/or consequence of other Party's default/ breach or of an event of Force Majeure.

- 5.4.** Notwithstanding anything contained herein, it is expressly understood by the Parties that prior to Effective Date, Authority shall provide to the Concessionaire reasonable and immediate access to the Project in order to enable the Concessionaire to undertake any survey or assessment in relation to the Project or implementation of the Development Plan.

6. REPRESENTATIONS AND WARRANTIES

6.1. Representations and Warranties by Concessionaire

The Concessionaire hereby represents and warrants to the Authority that on the date hereof and as on the Effective Date:

- (a) the Concessionaire is incorporated under the laws of India and has been properly constituted and is in continuous existence since incorporation;
- (b) the Concessionaire has the corporate power and authority and has taken all corporate actions necessary to execute and deliver validly and to exercise its rights and perform its obligations validly under this Agreement;
- (c) the obligations of the Concessionaire under this Agreement will be legally valid, binding and enforceable obligations against the Concessionaire in accordance with the terms hereof;
- (d) no proceedings against the Concessionaire are pending or threatened, and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (e) the Concessionaire is a special purpose company incorporated only for the purpose of developing, designing, constructing, upgrading, financing, operating and maintaining the Project;
- (f) Neither Selected Bidder nor any of the consortium members have intentionally withheld from the Authority, any material information or material document, whose non-disclosure would have a material adverse effect or would have adversely affected the evaluation or acceptance of the Selected Bidder or the bid submitted by the Selected Bidder;

6.2. Representations and Warranties by Authority

The Authority hereby represents and warrants to the Concessionaire that on the date hereof and as on the Effective Date:

- (a) the Authority has the right, power and authority and has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) the Authority has the right, power and authority to procure development and operation of the Project;
- (c) the Authority has not intentionally withheld from the Selected Bidder, any material information or material document, whose non-disclosure would have a Material Adverse Effect;
- (d) the obligations of Authority under this Agreement will be legally valid, binding and enforceable obligations against Authority in accordance with the terms hereof;
- (e) it has good and valid title to the Demised Premises, and has power and authority to grant a lease interest in respect thereto to the Concessionaire;
- (f) upon the Concessionaire paying the lease rent and performing the covenants herein and under Lease Deed, Authority shall not at any time during the term hereof, interfere with peaceful enjoyment of the Demised Premises by Concessionaire, in accordance hereof; and
- (g) Authority shall on best endeavor basis initiate institutional, administrative and regulatory frameworks that are favorable to the development and smooth operation of the Project, including procedures for regulatory inspection and the execution of applicable customs control and formalities in line with the national laws and regulations.

6.3. Disclosure

In the event at any time after the date hereof, any event or circumstance comes to the attention of either Party that renders any of its abovementioned representations or warranties untrue or incorrect, then such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of releasing any obligation of either Party under this Agreement.

7. TRANSFER OF RIGHTS ON EFFECTIVE DATE

7.1. Transfer of Rights in relation to Project on Effective Date

Upon satisfaction or waiver, as the case may be, of the Conditions Precedent, on and from the Effective Date, the rights and obligations associated with the development, design, financing, operation and management of the Project would stand transferred to the Concessionaire, who shall be solely responsible and liable for the development of Project Assets and performance of all Mandatory Project Services and all other related services at the Project in compliance with Applicable Laws and Good Industry Practice.

8. INDEPENDENT EXPERT

8.1 Independent Expert

The Authority shall appoint, no later than [180 (One Hundred Eighty)] days from the execution date of this Agreement, a third- party agency (the “**Independent Expert**”) for the Term. Provided that the Authority/Government of Odisha shall have the right to appoint any of its agencies or departments to monitor the Project until the Independent Expert is appointed in accordance with this Clause 8.1. The provisions of this Agreement with respect to the Independent Expert shall apply *mutatis mutandis* to such agency or department until the Independent Expert is appointed in accordance with the provisions of Schedule 07 and this Clause 8.1 and such provisions shall be repeated for each appointment.

8.2 Duties and functions

- (a) The Independent Expert shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule 7.
- (b) The Independent Expert shall submit regular periodic reports at least [once every month] to the Authority in respect of its duties and functions set forth in Schedule 7.
- (c) A true copy of all communications sent by the Authority to the Independent Expert and by the Independent Expert to the Authority shall be sent forthwith by the Independent Expert to the Concessionaire.
- (d) A true copy of all communications sent by the Independent Expert to Concessionaire and by the Concessionaire to the Independent Expert shall be sent forthwith by the Independent Expert to the Authority.

8.3 Authorized signatories

The Authority shall require the Independent Expert to designate and notify to the Authority and the Concessionaire up to 2 (two) persons employed in its firm to sign for and on behalf of the Independent Expert, and any communication or document required to be signed by the Independent Expert shall be valid and effective only if signed by any of the designated persons; provided that the Independent Expert may, by notice in writing, substitute any of the designated persons by any of its employees.

8.4 Remuneration

The remuneration, cost and expenses of the Independent Expert shall be paid by the Authority, one-half of such remuneration, cost and expense shall be reimbursed by the Concessionaire to the Authority within [15 (fifteen)] days of receiving a statement of expenditure from the Authority.

8.5 Termination

8.5.1 The Authority may, in its discretion, terminate the appointment of the Independent Expert at any time, but only after the appointment of another Independent Expert in accordance with Clause 8.1 above.

8.5.2 If the Concessionaire has reason to believe that the Independent Expert is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the Authority and seek termination of the appointment of the Independent Expert. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Concessionaire and the Independent Expert for an amicable resolution of the Dispute and if any difference or disagreement between the Authority and the Concessionaire remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure herein. In the event that the appointment of the Independent Expert is terminated hereunder, the Authority shall appoint forthwith another Independent Expert in accordance with Clause 8.1 above.

8.6 Dispute resolution

If either Party disputes any advice, instruction, decision, direction or award of the Independent Expert, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure provided in terms herein.

9. ACCEPTANCE OF SITE/DISCLAIMER

9.1. Acceptance of Site

- 9.1.1. (i) For the purposes of this Agreement, the Concessionaire shall be deemed to have:
- (a) inspected the Project, including its surroundings.
 - (b) satisfied itself as to the nature of the climatic, hydrological and general physical conditions of the Project, the nature of the ground and subsoil, the form and nature of the Project, and the nature of the design, work and materials necessary for the performance of its obligations under this Agreement.
 - (c) satisfied itself as to the means of communication with, access to the Project it may require or as may be otherwise necessary for the performance of its obligations under this Agreement; and
 - (d) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Concessionaire and its rights and obligations hereunder and its other rights and obligations under or pursuant to this Agreement.
- (ii) Concessionaire expressly acknowledges that it shall have no recourse against the Authority in the event of any mistake made or misapprehension harbored by the Concessionaire in relation to any of the foregoing provisions of Article 9.1.1 (i) and the Authority hereby expressly disclaims any liability in respect thereof.
- 9.1.2. Concessionaire acknowledges that prior to the execution of this Agreement, it has, after a complete and careful examination, made an independent evaluation of the Project as a whole and has determined the nature and extent of the difficulties, up-gradations, inputs, costs, time, resources, risks and hazards that are likely to arise or may be faced by it in the course of the performance of its obligations under this Agreement and the extent and manner of development required. Concessionaire further acknowledges that it shall have no recourse against the Authority if it is, at a later date, found that the Demised Premises is/are deficient in any manner whatsoever. If a deficiency is found, the Concessionaire hereby acknowledges and agrees that it shall, at its own cost and at no cost to the Authority, take all appropriate measures to remedy the same.
- 9.1.3. Concessionaire acknowledges and hereby accepts the difficulties, up-gradations, inputs, costs, time, resources, risks and hazards associated with the performance of its obligations hereunder and hereby agrees that Authority shall not be liable for the same in any manner whatsoever to Concessionaire, other than as expressly provided in this Agreement.
- 9.1.4. The Concessionaire shall not be entitled to make any claim against the Authority or any Government Authority whether for rescission, in damages or otherwise on the grounds of any misunderstanding or misapprehension in respect of incorrect or insufficient information given to it by any Entity, whether or not in the employment of the Authority or any Government Authority, nor, unless expressly provided otherwise in this Agreement, shall the Concessionaire be relieved from any obligations or risks imposed on or undertaken by it in relation to the works or otherwise on any such ground or on the ground that it did not or could not foresee any matter which may, in fact, affect or have affected the performance of its obligations hereunder.
- 9.1.5. It is clarified that all fossils, antiquities, structures and/or other remains or things either of archaeological or of particular geological interest discovered at the Project Site or in the course of carrying out any work shall not be the property of the Concessionaire and Concessionaire shall have no right or interest in such fossils, antiquities and structures.

9.2. Deemed Knowledge and Disclaimer

9.2.1. Subject to the provisions of this Agreement, the Concessionaire shall be fully and exclusively responsible for, and shall bear the financial, technical, commercial, legal and other risks in relation to the design, financing, constructing, commissioning, maintaining, operation, management and development of the Project and all its other rights and obligations under or pursuant to this Agreement regardless of whatever risks, contingencies, circumstances and/or hazards may be encountered (foreseen or not foreseen) and notwithstanding any change(s) in any of such risks, contingencies, circumstances and/or hazards on exceptional grounds or otherwise and whether foreseen or not foreseen and the Concessionaire shall not have any right whether express or implied to bring any claim against, or to recover any compensation or other amount from, the Authority, and/or any of their agencies other than in respect of those matters in respect of which express provision is made in this Agreement.

10. CONSTRUCTION/DEVELOPMENT, OPERATION AND MANAGEMENT

10.1. General Obligations

- i. Concessionaire shall at all times comply with Applicable Law in the development, design, construction, financing, operation and management of the Project subject to and in accordance with the terms hereof. Concessionaire shall develop, design, construct, upgrade, modernize, manage, operate and maintain and keep in good operating repair and condition the Project, in accordance with Good Industry Practice and Development Standards and Requirements; and Operation and Maintenance Standards and Requirements and renew, replace and upgrade to the extent reasonably necessary during the project life cycle.
- ii. Concessionaire shall at all times, obtain and maintain all Clearances, including registrations, licenses and permits including immigration, temporary residence, work and exit permits, which are required by Applicable Law for the performance of its obligations hereunder.
- iii. The Concessionaire will develop, design, construct, operate, maintain and manage the Project during the Term with regard to safety precautions, fire protection, security, transportation, delivery of goods, materials, plant and equipment, control of pollution, maintenance of competent personnel and labor and industrial relations and general Project services including, without limitation, access to and on the Project, allocation of space for contractors' and sub-contractors' offices and compounds and the restriction of access to the Project to authorized entities only, ensuring at all times smooth operation of the Project.
- iv. The Concessionaire will ensure that all materials, equipment, machinery etc. installed and/or used at the Project including the constructions or repair of the Project will be of sound and merchantable quality, that all workmanship shall be in accordance with Good Industry Practices applicable at the time of installation, construction or repair and that each part of the construction will be fit for the purpose for which it is required.
- v. Neither the submission of any document under or pursuant to any provision of this Agreement or otherwise, nor its approval or disapproval, nor the raising of queries on, or the making of objections to or the making of comments, suggestions or recommendations on the same by the Authority shall prejudice or affect any of the Concessionaire's obligations or liabilities in relation to design and construction, which shall not be relieved, absolved or otherwise modified in any respect.
- vi. The Concessionaire shall pay all taxes, levies, import/export duties, fees (including any license fees) and other charges, dues, assessments or outgoings payable in respect of the Demised Premises or the structures to be constructed thereon or in respect of the materials stored therein which may be levied by any Governmental Authority and any other governmental, quasi-governmental, administrative, judicial, public or statutory body, ministry, department, instrumentality, agency, authority, board, bureau, corporation entrusted with, and carrying out, any statutory functions(s) or commission.

10.1 A Master Plan

- i. The Concessionaire shall no later than 30 (thirty) days of the Effective Date, prepare and submit, for review and comments from the Independent Expert/Authority, a master plan ("**Master Plan**") outlining in detail the process of on ground implementation of Development Plan for the Project in accordance with this Agreement.

- ii. The coverage area restrictions specified in the RFP and in this Agreement in respect of Mandatory Capital Works (at least 20% of the Project Site area to be utilized for Mandatory Capital Works) and Agro-tourism (not more than 25% of Project Site area to be utilized).
- iii. On receipt of the Master Plan, the Independent Expert/ Authority shall review the Master Plan submitted by the Concessionaire and provide its comments/observations and suggestions on the same within 15 (fifteen) days from the date of the receipt of such Master Plan by the Independent Expert/ Authority. The Concessionaire shall not be obliged to await the observations of the Independent Expert/Authority on the Master Plan submitted pursuant hereto beyond the specified period which shall upon such expiry be deemed to be approved, and may begin or continue development of Mandatory Capital Works, in accordance with the terms of this Agreement and RFP.
- iv. Upon receipt of such comments/observations and suggestions from the Independent Expert/ Authority, the Concessionaire shall submit the revised Master Plan within 15 (fifteen) days to the Independent Expert / Authority confirming adherence to all the requirements set forth in the Agreement.
- v. Notwithstanding the review by the Authority, the Concessionaire shall be solely responsible for any defect and/or deficiency in the Master Plan relating to the Project or any part thereof and accordingly the Concessionaire shall at all times remain responsible for its obligations under this Agreement.
- vi. The Concessionaire shall in no way represent to any person that, as a result of any review by the Authority, the Authority have accepted responsibility for the technical or soundness of any work relating to the Project or part thereof carried out by the Concessionaire and the Concessionaire shall, in accordance with the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project or any part thereof.

10.2. Mandatory Capital Works

- 10.2.1. The Concessionaire shall construct the Mandatory Capital Works in accordance with the approved Development Plan, Master Plan, project requirements and subject to and in accordance with terms and conditions set out herein. The Concessionaire shall, latest by one year from Effective Date achieve Commercial Operation Date of at least one component from amongst the Mandatory Capital Works, and shall within two years from the Effective Date, commence, carry out and complete the whole of Mandatory Capital Works set out under Schedule 4, by completing the respective work in accordance with the terms and conditions set forth therein and herein. The aforesaid timelines of one year or two years, as the case may be, would severally be referred to as ("**Scheduled COD**") for the relevant respective portion (part/whole) of the Mandatory Capital Works.
- 10.2.2. In the event that the Concessionaire delays in completion of construction of whole of the Mandatory Capital Work(s) in accordance with terms hereof, then, Authority shall have the right to levy liquidated damages on the Concessionaire equivalent to 0.2% (zero decimal two percent) of the Performance Bond, for each month (or part thereof) of delay in completion of construction of whole of the Mandatory Capital Work(s) as per the respective Development Standards and Requirement; provided that in event the liquidated damages during construction period exceeds an amount equivalent to 10% of the Performance Bond, then this Agreement shall become liable for termination at the election of Authority. The Concessionaire shall provide quarterly report to the Independent Expert on the progress of the construction or such other relevant information as may be required by

the Independent Expert, and the Independent Expert shall carry periodic independent tests/verification to verify that the development at the Project (or any portion thereof) is as per the timelines set out herein, and as per the Development Plan/Master Plan and the respective Development Standard and Requirement.

10.2.3. Notwithstanding the foregoing:

- i. In case the construction of the whole of the Mandatory Capital Works is not completed in accordance with terms hereof, by Scheduled COD, the Authority may in its sole discretion grant extensions not exceeding the period when the maximum limit of liquidated damages is triggered (such date falling after the date when maximum limit of liquidated damages is triggered referred to as “**Long Stop Date**”), against payment of liquidated damages at the aforesaid rate, after which the Agreement shall become liable for termination on account of Concessionaire’s event of default.

10.3. Development Plan

- 10.3.1. The Development Plan submitted by the Selected Bidder as part of its technical bid shall be deemed to be incorporated in this Agreement by mere reference thereof herein; and is more particularly annexed hereto as Schedule 02. The Concessionaire hereby agrees and undertakes to comply with the Development Plan during the course of undertaking the development, operation and maintenance of the Project. In this regard it is further clarified, and Concessionaire hereby unconditionally agrees that it shall undertake the development, operation and maintenance of the Optional Assets specified in the Development Plan in accordance with the terms of this Agreement, which shall for this purpose apply *mutatis mutandis* to the development, operation and maintenance of the Optional Assets.

10.4. Insurance

- i. Insurance during Term
During the Term, Concessionaire shall effect and maintain at its own cost, at all times the insurances required under the Applicable Laws, Financing Documents and such additional insurances as Concessionaire may reasonably consider necessary or prudent in accordance with Good Industry Practice. The insurance policies so procured shall mention Authority as co-insured.
- ii. Policies
Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained in terms herein, the Concessionaire shall furnish to Authority, copies of such policy certificates, copies of the insurance policies and evidence that the insurance premia have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse until the expiration of at least forty-five (45) days’ notice of such cancellation, modification or non- renewal, has been provided by Concessionaire to Authority.
- iii. Remedy for failure to insure
If Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, Authority shall have the option to keep in force any such insurances and pay such premia and recover the costs thereof from Concessionaire.

iv. Application of Insurance Proceeds

Subject to the Applicable Laws, all insurance claims received by Concessionaire shall be applied for reconstruction of the Project except for (i) insurance proceeds unrelated to physical damage; and (ii) insurance proceeds relating to business interruption loss.

Subject to the restriction on application of insurance proceeds, the Lenders may be loss payees under all such policies of insurance.

10.5. Contracts, Leases and Licenses

i. Sub-Contracting, Sub-leasing and Licensing

- (a) Any activity may be sub-contracted by the Concessionaire, provided always that notwithstanding the sub-contract, the Concessionaire retains overall management, responsibility, obligation and liability in relation to the sub-contracted Project service. Any such subcontracting shall not relieve the Concessionaire from any of its obligations in respect of the provision of such Project services under this Agreement. It is clarified that Concessionaire shall remain liable and responsible for any acts, omissions or defaults of any sub-contractor, and shall indemnify Authority in respect thereof. Provided however that any sub-contract involving foreign manpower or materials shall be subject to the political sensitivities of Government.
- (b) Authority hereby recognizes the right of Concessionaire to sub-lease and license any part (but not whole) of the Project Assets to third parties for the purpose of performance of its obligations hereunder.
- (c) Before entering into contracts or granting any sub-lease or license, the Concessionaire will inform Authority of the counterparty or parties to every contract, sub-lessee or licensee (as the case may be) and their shareholding/control pattern.
- (d) Without prejudice to the foregoing, every contract entered into by the Concessionaire shall be on an arms-length basis and shall contain an express provision allowing the transfer of the rights and obligations of the Concessionaire under such contract to the Authority in the event of termination or expiry hereof. Every contract (including any sub-lease or license arrangement) entered into by the Concessionaire shall contain an express provision recognizing the right of the Authority to acquire the Project assets in the manner provided herein, and contain an undertaking by the counter-party(ies), licensee/ sub-lessees, or owners of the relevant Project asset, as the case may be to transfer the relevant asset upon the exercise of such right by Authority.
- (e) Every contract entered by the Concessionaire shall include an explicit provision restricting/prohibiting sub-contractor or sub-lessee or licensee from transferring their rights and obligations envisaged in their respective agreement with the Concessionaire further to any third party.
- (f) Concessionaire shall ensure that any sub-contract, license or sub-lease granted in relation to the Project expires on the expiry or earlier termination of this Agreement.

10.6. Management and Control

- (a) Notwithstanding anything contained in Article 10.5 (i) above, under no circumstances shall the Concessionaire sub-contract the overall operation and management of the

Project and the Concessionaire shall at all times exercise and be responsible for overall management control and supervision of the Project through its senior management staff, irrespective of any sub-contracting of activities and/or services.

10.7. Performance Bond

- (a) The Concessionaire shall, within six (06) months from the date of this Agreement, furnish a Performance Bond in the form of a bank guarantee from a reputed scheduled commercial bank in _____ with a minimum validity of 3(three) years at a time for an amount of _____/- ()² escalating at the rate of 5% on every 3(three) years.
- (b) Upon submission of the Performance Bond, Authority shall return/ release the Bid Security. The Performance Bond shall be rolled over periodically in every 3 (three) years and shall be renewed three (3) months prior to its expiry so as to keep it valid and subsisting in full force and effect at all times during the Term and thereafter up to a period until expiry of six months from the end of the Term.
- (c) The whole or part of the Performance Bond shall be encashable, inter alia, in the following situations:
- i. Non completion of the Mandatory Capital Works within the agreed time frame set out in terms herein;
 - ii. Non-compliance with Development Standards and Requirements, Development Plan/Master Plan, or Applicable Laws, subject to and in accordance with the terms hereof;
 - iii. Failure to provide adequate insurance in accordance with the terms set forth in this Agreement (except where such insurance has been obtained by Authority and Authority has been indemnified in respect of the cost thereof);
 - iv. Failure to comply with Operation and Maintenance Standards and Requirements;
 - v. Failure to pay any liquidated damages hereunder for one (1) month after the same become due and payable;
 - vi. Failure to transfer and handover the Project Assets in good operating condition, upon expiry or earlier termination of the Agreement, as per terms of this Agreement; and
 - vii. Any other material breach / non-performance of / under this Agreement.
- (d) In the event any portion of the Performance Bond is encashed pursuant to sub-clause (c) of this Article 10.7 then immediately following such encashment, the Concessionaire shall replenish the Performance Bond. In the event the Performance Bond is not replenished within three (3) months of its encashment, the Authority shall have the right to encash the entire Performance Bond.
- (e) Any delay in invocation or non-invocation of the encashment of the Performance Bond shall not be construed as a condonation of the breach or default or waiver of the right to invoke or encash the Performance Bond in the future.

10.8. Certification of Works by Independent Expert

Any certification of the completion of part(s) or whole of the Mandatory Capital Works and / or facilities to be constructed in accordance with terms hereof, which is necessary for determining compliance by the Concessionaire of its obligations under this Agreement shall be performed by the Independent Expert. The Independent Expert shall in accordance with terms hereof be obliged to complete its certification as soon as reasonably practicable after being requested to do so by Concessionaire and

² 5% of the Estimated Project Cost

/ or Authority. Upon and from the date (“**Commercial Operation Date**”) of issue of completion certificate (“**Completion Certificate**”) by Independent Expert in respect of any part(s) or whole of the Mandatory Capital Works in accordance with terms hereof, the Concessionaire shall be entitled to levy, demand, collect and appropriate user charges from the users of such part(s) or whole of the Project and be obligated to operate and maintain such part(s) or whole of the Project during Operation Period, subject to and in accordance with Applicable Laws and terms and conditions hereof. In this regard, the Parties clearly agree and understand that the term Commercial Operation Date shall refer and relate to the commencement of operation in respect of the relevant part(s) or the whole of the Mandatory Capital Works, as the context may admit and require on case to case basis.

- 10.9.** The Concessionaire shall, maintain Project Assets in accordance with Good Industry Practice and shall carry out life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets including all equipment, and shall include replacement thereof, such that their overall condition conforms to Good Industry Practice. The Concessionaire shall ensure that Project Assets to be handed to the Authority in the event of termination of this Agreement or its expiry in accordance with terms hereof, are in good working order.

11. OPERATION AND MAINTENANCE

11.1. Obligations of the Concessionaire

In addition to any of its other obligations under this Agreement, the Concessionaire shall manage, operate, maintain and repair the Project Assets and Mandatory Project Services and other services, entirely at its cost, charges, expenses and risk in accordance with the provisions of this Agreement. The Concessionaire's obligations under this Article 11 shall include but shall not be limited to the following:

- i. Project Operations:
The Concessionaire shall:
 - (a) promptly commence operations of the Project Assets and performance of Mandatory Project Services and other services, that are declared by the Authority in terms hereof as ready for commercial operations, and ensure compliance thereof with the Operation and Maintenance Standards and Requirements, Good Industry Practices and Applicable Laws
 - (b) make efforts to achieve optimal utilization of the Project facilities and services.
 - (c) ensure safety of the users and shall at all times comply with Applicable Laws including the relevant environmental, health and safety rules and regulations and life and fire safety Standards
 - (d) use the Project facilities and services by providing a rapid and effective emergency response services by liaising with competent agencies;
 - (e) make available all necessary financial, technical, technological, managerial and other resources for operation, maintenance, repair and replacement of the Project facilities and services in a timely manner;
 - (f) prevent, with the assistance of concerned law enforcement agencies, any encroachment or unauthorized use of the Project facilities and services.
- ii. Repairs and Maintenance
The Concessionaire shall at its own cost:
 - (a) repair as necessary and maintain the Project facilities and services or any part thereof, to keep it functional and operative as per the Operation and Maintenance Standards and Requirements; and
 - (b) maintain the Project facilities and services in accordance with the provisions of this Agreement and Good Industry Practice with the objective of providing adequate service standards and ensuring that the Project Assets and facilities to be transferred to the Authority upon expiry of the Term are in good condition, normal wear and tear excepted.
- iii. Replacement of Project Asset/Equipment
The Concessionaire shall at its cost, plan for and undertake replacement of the Project Asset/equipment well ahead of the time when the utility thereof is reasonably expected to expire and replace the equipment in accordance with Good Industry Practice so as to ensure that the Project facilities and services commensurate with the Operation and Maintenance Standards and Requirements, at all times during the Term.
- iv. Replacement or Restoration
The Concessionaire shall at its own costs, promptly and diligently repair, replace or restore any of the Project Assets and services or part thereof which may be lost, damaged, or destroyed for any reason whatsoever.

v. Liquidated Damages

In the event the Authority, whether from the review of reports submitted by the Concessionaire and/or reporting of the Independent Expert [appointed by Authority] in accordance with the provisions of this Agreement or otherwise, observes that the Mandatory Project Services and other services related/connected to the Project as are approved by Authority under Development Plan/Master Plan and/or thereafter opted (under written intimation to Authority) do not comply with the Operation and Maintenance Standards and Requirements and/or Development Plan/Master Plan or fall short thereof, the Authority shall subject to the proviso below calculate and levy the amount of penalties payable by the Concessionaire in accordance with Schedule 6 and/or liquidated damages payable pursuant to Development Plan/Master Plan of this Agreement and demand the Concessionaire by a notice in writing to pay the same within one month and on failure of the Concessionaire to pay the same recover the amount from the by way of forfeiture of relevant amount from the Performance Bond in which case the relevant provisions for replenishment of Performance Bond shall apply;

Provided however, no penalties and/or liquidated damages shall be levied until the expiry of three Years from Commercial Operation Date of the first part of the Mandatory Capital Works.

It is clarified that this provision does not prejudice the rights of the Authority upon a Concessionaire Event of Default as set out herein including the Authority's right to terminate this Agreement which shall remain unaffected.

12. MONITORING AND INFORMATION

12.1. The Concessionaire shall submit an annual report at the end of every Year to the Independent Expert and Authority in respect of the operations and maintenance of Project Assets including its compliance or otherwise with the requirements herein. The Concessionaire shall grant to the Independent Expert such access to the Project and records and data maintained by Concessionaire or on its behalf, as the Independent Expert would require to supervise, monitor and ensure that the services provided at Project Assets comply with the Operation and Maintenance Standards and Requirements, and other terms of this Agreement, and in case of any detected slippages/non-compliance, the Concessionaire would be required to undertake the remedial works to the satisfaction of Independent Expert and Authority.

12.2. Maintenance of Records

- (a) The Concessionaire shall maintain accurate, up-to-date and complete Project (including its financials) records in accordance with the requirements of Applicable Laws and this Agreement.
- (b) The Concessionaire shall maintain accurate, up-to-date and complete records relating to the operation and maintenance of assets, and the Project. Such requirements may reasonably (but not retrospectively) be amended from time to time by the Authority in order to take account of changed circumstances.
- (c) The Concessionaire shall make available, and, if reasonably requested by the Authority, provide copies of, on reasonable notice by the Authority and at reasonable times, the records referred to in Article 12 for inspection by the Authority and/or Independent Expert. The Authority shall be entitled to appoint one or more authorized representatives to check and take copies of any such records. The Concessionaire shall provide the Authority and/or Independent Expert with such further information, explanations and other assistance as may be reasonably required by the Authority or Independent Expert or any of its authorized representatives for the purpose of checking any of such record.

12.3. Changes in Operation

The Concessionaire shall inform the Authority of any material change or proposed material change in the conduct or condition of the Project operation, as soon as reasonably practicable prior to (or, if it is not reasonably practicable prior to, as soon as reasonably practicable after the occurrence of) any such change, (including the termination of any key contracts, any litigation or other dispute which may have a Material Adverse Effect on the Project operation and any material change in or restructuring of the capitalization or financing of the Concessionaire).

12.4. Rights of Inspection

The Authority and its representatives including the Independent Expert shall be permitted to inspect at any time but with reasonable prior intimation any part of the Project Site or any of the assets at the Project and undertake any survey or other check in order to monitor compliance with the Concessionaire's obligations under this Agreement, or check the quality of service performance by the Concessionaire, or for any other reason whatsoever, for which purpose the Concessionaire shall grant such access or procure the grant of such access (including to or from third parties) as they shall reasonably require in connection therewith, provided that such persons shall not interfere with the performance of the relevant works or give any instruction in relation thereto or interfere with the carrying on of the Project services. If any such exercise reveals that the Concessionaire has not complied in any material respect with its obligations under this Agreement, the costs of any such inspection shall be borne by the Concessionaire.

12.5. Remedial Measures

The Concessionaire shall promptly and in any case within the timelines set out under this Agreement repair or rectify the defects or deficiencies, if any, identified and reported by the Independent Expert and furnish a report in respect thereof to the Independent Expert and the Authority.

The Independent Expert shall require the Concessionaire to carry out or cause to be carried out tests, at its own cost, to determine that such remedial measures have brought the Project Asset into compliance with the maintenance requirements and the procedure set forth in this clause shall be repeated until the Project conforms to the maintenance requirements. In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the Authority shall be entitled to recover damages from the Concessionaire and the same shall be without prejudice to Authority's right to terminate this Agreement.

12.6. Notification of Disputes

The Concessionaire shall notify the Authority of any dispute that arises or is threatened against the Concessionaire and/or the Project, the adverse outcome of which might have a Material Adverse Effect on the Concessionaire or the Project, or any of the Project services.

12.7. Overriding Powers of Authority

- i. If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and, in particular, the Operation and Maintenance Standards and Requirements, and such breach is causing or likely to cause material hardship or danger to the users, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.
- ii. In the event that the Concessionaire, upon notice under Clause (i) above, fails to rectify or remove any hardship or danger within a reasonable period, the Authority may exercise overriding powers under this clause and take over the performance of any or all the obligations of the Concessionaire to the extent deemed necessary by it for rectifying or removing such hardship or danger; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required hereunder; provided further that any costs and expenses incurred by the Authority in discharge of its obligations hereunder shall be recovered from the Concessionaire in accordance with the provisions for liquidated damages specified herein.
- iii. In the event of a national emergency, or civil commotion or any other event or circumstances adversely affecting the users, the Authority may take over the performance of any or all the obligations of the Concessionaire to the extent deemed necessary by it or as directed by the Government, and exercise such control over the Project or give such directions to the Concessionaire as may be deemed necessary; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise such overriding powers by the Authority.

13. FEES PAYABLE TO THE AUTHORITY

13.1. In consideration of the aforementioned grant of Concession, the Concessionaire hereby agrees to make the following payment to the Authority in the manner and at the times mentioned hereunder.

13.1.1. **Annual Concession Fee**³

- a) The Concessionaire shall, commencing from 6th Year from the Commercial Operation Date of whole of the Mandatory Capital Works pay to the Authority at the end of each relevant Year, within 30(thirty) days of the end of such Year, an annual amount equivalent to INR [****] as annual concession fee ("Annual Concession Fee"); provided however, the Annual Concession Fee amount shall at the expiry of every three consecutive Years be escalated at the rate of 5% on the last paid amount and paid at such escalated rate. It is clarified that the Annual Concession Fee shall be payable at the end of relevant Year.
- b) In the event of failure to pay Annual Concession Fee within the timeline specified in Clause 13.1.1(a) above, the Concessionaire shall be liable to pay an interest equivalent to @ 3% above Bank Rate for the delay period i.e., from the due date of payment till actual date of payment. Such default shall be deemed to be Concessionaire Event of Default which shall entitle the Authority to terminate the Agreement in its discretion.

³ The amount of Annual Concession Fee quoted by the bidder during the bidding process.

14. USER CHARGES

14.1. User Charges

- 14.1.1. On and from the date of certification by Independent Expert of completion of part(s) or whole of the Mandatory Capital Works in accordance with terms hereof, and till the Transfer Date, the Concessionaire shall, subject to Applicable Laws, have the sole and exclusive right to levy, demand, collect and appropriate User Charges from the users, as per such rates as Concessionaire may determine.
- 14.1.2. The Concessionaire acknowledges and agrees that upon payment of fee/charges, any user shall be entitled to use the Project, and the Concessionaire shall not place, or cause to be placed, any restriction on such use, except to the extent specified in any Applicable Law, Clearances or the provisions of this Agreement.

15. FINANCING ARRANGEMENTS

15.1. Financing Arrangements and Security

- (a) It is expressly understood that the Concessionaire shall arrange for financing and/or meeting all financing requirements through suitable Debt and Equity contributions in order to comply with its obligations hereunder including development of the Project pursuant to the Development Plan/Master Plan and terms herein.
- (b) Security
 - i. This Agreement shall not be assigned by the Concessionaire. Provided however that Lenders may be given a right of substitution by execution of the Substitution Agreement. Provided further that at any given time, the Authority shall enter into only one (1) Substitution Agreement with one (1) lenders' agent; such lenders' agent being an agent for one consortium of Lenders. The Lenders shall be free to modify the composition of the consortium of Lenders.
 - ii. The Concessionaire shall neither create nor permit to subsist any Encumbrance or title defect over or otherwise transfer or dispose of all or any of its rights in the whole or any part(s) of the Project Site; Provided, however, the grant of sub-lease in terms herein shall not be prohibited in terms of the foregoing provision.
 - iii. Lenders may exercise the rights of step in, or substitution as provided in the Substitution Agreement provided that the person substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations under this Agreement as if it were the Concessionaire.
 - iv. Notwithstanding anything to the contrary contained in this Agreement, it is clarified that Authority may assign any of its rights and benefits and / or obligations under this Agreement with 30 days prior written notice to the Concessionaire.

15.2. Refinancing

Subject to the rights created in favour of Lenders and with prior written consent of Authority, which Authority shall not unreasonably deny, the Concessionaire shall have the right to vary the term of the Financing Documents, provided that under no circumstances shall any such variation increase the financial liability of the Authority under this Agreement or any Project Agreement to which Authority is party in connection with any financing obtained by the Concessionaire.

16. CHANGE OF SCOPE

16.1. Change of Scope

- (a) The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the scope of the Project as contemplated by this Agreement (the “**Change of Scope**”). Any such Change of Scope shall be made in accordance with the provisions of this Article 16 and the costs thereof shall be expended by the Concessionaire and reimbursed to it by the Authority in accordance with Clause 16.
- (b) Any works or services which are provided under and in accordance with this Article 16 shall form part of the Project and the provisions of this Agreement shall apply *mutatis mutandis* to such works or services.
- (c) In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the “**Change of Scope Notice**”)
- (d) Upon receipt of a Change of Scope Notice, the Concessionaire shall, with due diligence, discuss with the Authority the feasible options, cost (including payment mechanism) and time thereof, including a detailed breakdown by work classifications specifying the material and labour costs calculated in accordance with the schedule of rates applicable to the works assigned by the Authority to its contractors, any impact on the operations or the cost of operation of the Project. In case Parties mutually agree to undertake the Change of Scope, Authority shall issue a Change of Scope order setting out therein all the related terms.

17. DISPUTES

17.1. Disputes

17.1.1. Amicable Settlement

The Parties shall use their respective reasonable endeavors to settle any Dispute amicably. If a Dispute is not resolved within sixty (60) days after written notice of a Dispute by one Party to the other Party then the provisions of Article 17.2 shall apply.

17.2. Arbitration

17.2.1. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration to be conducted by mutually appointed sole arbitrator in accordance with the Arbitration and Conciliation Act, 1996, for the time being in force.

17.2.2. This Article 17.2 shall survive the termination or expiry of this Agreement.

17.2.3. The governing law of the arbitration shall be the substantive laws of India. The venue of Arbitration shall be Bhubaneshwar.

17.3. Continue performance

While any Dispute under this Agreement is pending, including the commencement and pendency of any Dispute referred to arbitration, the Parties shall continue to perform all of their respective obligations under this Agreement without prejudice to the final determination in accordance with the provisions under this Article 17.

18. FORCE MAJEURE

18.1. Force Majeure

- 18.1.1. The Concessionaire, or Authority, as the case may be, shall be entitled to suspend or excuse performance of its respective obligations under this Agreement to the extent that Authority or Concessionaire, as the case may be, is unable to render such performance by an event of Force Majeure (a "**Force Majeure**").
- 18.1.2. In this Agreement, "**Force Majeure**" means any event or circumstance or a combination of events and circumstances, which satisfies all the following conditions:
- (a) materially and adversely affects the performance of an obligation;
 - (b) are beyond the reasonable control of the affected Party;
 - (c) such Party could not have prevented or reasonably overcome with the exercise of Good Industry Practice or reasonable skill and care;
 - (d) do not result from the negligence or misconduct of such Party or the failure of such Party to perform its obligations hereunder; and
 - (e) (or any consequence of which), have an effect described in Article 18.1.1.
- 18.1.3. "Force Majeure" includes the following events and/ or circumstances to the extent that they, or their consequences satisfy the requirements set forth in Article 18.1.1 and Article 18.1.2:
- i. war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy in each case involving or directly affecting India;
 - ii. revolution, riot, insurrection or other civil commotion, act of terrorism or sabotage in each case within India;
 - iii. nuclear explosion, radioactive or chemical contamination or ionizing radiation directly affecting the Project, unless the source or cause of the explosion, contamination, radiation or hazardous thing is brought to or near the Project by the Concessionaire or any affiliate of the Concessionaire or any contractor or sub-contractor of the Concessionaire or any such affiliate or any of their respective employees, servants or agents;
 - iv. strikes, working to rule, go-slows and/or lockouts which are in each case widespread, nationwide or political;
 - v. any effect of the natural elements, including lightning, fire, earthquake, unprecedented rains, tidal wave, flood, storm, cyclone, typhoon or tornado, within India;
 - vi. explosion (other than a nuclear explosion or an explosion resulting from an act of war) within India;
 - vii. epidemic/pandemic or plague within India; and
 - viii. any event or circumstances of a nature analogous to any events set forth in paragraphs (i) to (viii) of this Article 18.1.3 above within India.
- 18.1.4. Procedure for Force Majeure
- (a) If a Party claims relief on account of a Force Majeure event, then the Party claiming to be affected by the Force Majeure event shall, immediately on becoming aware of the Force Majeure event, give notice of and describe in detail: (i) the Force Majeure event(s) that has occurred; (ii) the obligation(s) affected as described in Article 18.1; (iii) the dates of commencement and estimated cessation of such event of Force Majeure and (iv) the manner in which the Force Majeure event(s) affect the Party's obligation(s) under this Agreement. No Party shall be able to suspend or excuse the non-performance of its obligations hereunder unless such Party has given the notice specified above.

- (b) The affected Party shall have the right to suspend the performance of the obligation(s) affected as described in Article 18.1, upon delivery of the notice of the occurrence of a Force Majeure event in accordance with sub- clause (a) above.
- (c) The time for performance by the affected Party of any obligation or compliance by the affected Party with any time limit affected by Force Majeure, and for the exercise of any right affected thereby, shall be extended by the period during which such Force Majeure continues and by such additional period thereafter as is necessary to enable the affected Party to achieve the level of activity prevailing before the event of Force Majeure.
- (d) The Party receiving the claim for relief under Force Majeure shall, if it wishes to dispute the claim, give a written notice of dispute to the Party making the claim within 15 days of receiving the notice of claim. If the notice of claim is not contested within 15 days as stated above, all the Parties to this Agreement shall be deemed to have accepted the validity of the claim. If any Party disputes a claim, the Parties shall follow the procedures set forth in Article 17.

18.1.5. Mitigation

The Party claiming to be affected by an event of Force Majeure shall take all reasonable steps to prevent, reduce to a minimum and mitigate the effect of such event of Force Majeure.

18.1.6. Termination Due to Force Majeure

- (a) If Force Majeure event continues for more than 365 days either Party shall have the right to terminate this Agreement by giving a notice of termination in respect thereof.
- (b) In the event of any such termination, Authority shall: -
 - i. Take back the possession of the Project Site and acquire all of Concessionaire's rights, title and interests in and to the Project Assets in the manner set out in Article 21, on payment within 6 months of Transfer Date of: [(a) 70% of Adjusted Depreciated Value of Mandatory Capital Works LESS Insurance Cover; and (b) lower of [70% of Adjusted Depreciated Value of Optional Assets and market value of Optional Assets] LESS Insurance Cover; and
 - ii. Return to the Concessionaire, the Performance Bond.

19. EVENT OF DEFAULT

19.1. Authority Event of Default

Each of the following events or circumstances, to the extent not caused by a default of the Concessionaire or Force Majeure, shall be considered for the purposes of this Agreement as events of default of the Authority ("**Authority Event of Default**") which, if not cured within the time period permitted, shall provide the Concessionaire the right to terminate this Agreement in accordance with Article 19.3:

- (a) any breach of its obligations under this Agreement which has a Material Adverse Effect and such breach is not remedied within 60 days of receipt of written notice from the Concessionaire specifying such breach and requiring the Authority to remedy the same; provided that if such breach cannot be cured within a period of 60 days after such notice with the exercise of reasonable diligence, then such 60-day period shall be extended for an additional period of 30 days so long as Authority is exercising reasonable diligence to cure such breach;
- (b) a breach of any representation or warranty by Authority which materially adversely affects the Concessionaire's ability to perform its obligations under this Agreement and such breach, if capable of being remedied, is not remedied within 60 days of receipt of written notice from the Concessionaire specifying such breach and requiring the Authority to remedy the same; and
- (c) Expropriation or compulsory acquisition by Government/Authority of the Project Assets or part thereof.
- (d) Change in Law which makes the transaction contemplated under this Agreement, unlawful or the effect thereof cannot be dealt with under Article 22.

19.2. Concessionaire Event of Default

Each of the following events or circumstances, to the extent not caused by a default of the Authority or Force Majeure shall be considered for the purposes of this Agreement as events of default of the Concessionaire ("**Concessionaire Event of Default**") which, if not cured within the time period permitted, shall provide the Authority the right to terminate this Agreement in accordance with Article 19.3:

- (a) any material breach by the Concessionaire of its obligations under this Agreement and such breach is not remedied within 60 days of receipt of written notice from the Authority specifying such breach and requiring the Concessionaire to remedy the same; provided that if such breach cannot be cured within a period of 60 days after such notice with the exercise of reasonable diligence, then such 60-day period shall be extended for an additional period of 30 days so long as Concessionaire is exercising reasonable diligence to cure such breach;
- (b) a breach of any representation or warranty by the Concessionaire which materially adversely affects the Authority's ability to perform its obligations under this Agreement and such breach, if capable of being remedied, is not remedied within 30 days of receipt of written notice from the Authority specifying such breach and requiring the Concessionaire to remedy the same;
- (c) suspension by the Concessionaire of the performance of the obligations under this Agreement for a period exceeding 30 consecutive days (except during the subsistence of an event of Force Majeure);
- (d) failure by the Concessionaire to operate and maintain the Project in accordance with the Applicable Laws, Operation and Maintenance Standards and Requirements, and such breach is

not remedied within 30 days set out in the written notice from the Authority specifying such breach and requiring the Concessionaire to remedy the same;

- (e) non-achievement of completion of construction of whole of the Mandatory Capital Works by the Long Stop Date or such later date as Authority may agree to in its sole discretion;
- (f) breach of obligations under the Agreement resulting in liquidated damages levied in respect of such breach, reaching the prescribed threshold in accordance with terms hereof;
- (g) continued breach of obligations under Development Standards and Requirements for period of 6 months following the date when Independent Expert first notifies the Concessionaire in this regard;
- (h) material default by the Concessionaire under any provisions of the Financing Documents, except to the extent that the Lenders are: (a) willing to excuse such default as certified by a written notice to the Authority; or (b) give the Concessionaire an opportunity to cure it;
- (i) failure of Concessionaire to maintain insurance(s) in respect of the Project in accordance with Article 10.4, which failure is not remedied within a period of 60 days from the date of such failure;
- (j) failure of Concessionaire in payment of Annual Concession Fee in accordance with clause 13.1.1;
- (k) failure by the Concessionaire to make any payment due hereunder within 30 days of the due date in respect thereof;
- (l) non-adherence, violation, non-compliance, or breach of the Development Plan/Master Plan which breach is not remedied within a period of 60 days from the date of such breach;
- (m) any Change in Control in violation of terms of this Agreement;
- (n) the Concessionaire is ordered to be wound up by a court; the Concessionaire files a petition for voluntary winding up; or levy of an execution or restraint on the Concessionaire's assets; or appointment of a resolution professional, provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of Concessionaire by a court of competent jurisdiction;
- (o) subject to Clause 11.1(v), the penalty levied on Concessionaire due to default of Service Level Requirement(s) exceeds 10% of Performance Bond during three consecutive financial years; and
- (p) failure to replenish the Performance Bond to its full amount within three (3) months after encashment of the Performance Bond pursuant to Article 10.7 hereof.

19.3. Consequences of Default

19.3.1. Termination Notice

- (a) In the event of a Concessionaire Event of Default occurring Authority shall have the right to submit a notice of its intention to terminate this Agreement ("Notice of Intention to Terminate"). Immediately upon the issue by Authority of the Notice of Intention to Terminate, the Lenders shall have the right to nominate an entity to replace the Concessionaire and perform the Concessionaire's obligations hereunder (the "Substitute Entity"). The Concessionaire shall

procure that Lenders shall notify Authority about whether they are exercising their right of substitution within sixty (60) days of receipt of Notice of Intention to Terminate, or the Lenders' Notice of Default (as defined in the Substitution Agreement). Any such Substitute Entity shall have the legal, financial and technical capability reasonably necessary to perform the obligations of the Concessionaire in accordance with the terms of this Agreement.

- (b) Any such Substitute Entity shall be nominated in accordance with the procedure as set out in the Substitution Agreement.
- (c) In the event:
 - i. Lenders have chosen not to exercise their right of substitution, or
 - ii. a Substitute Entity has not been nominated by the Lenders within time period set forth in the Substitution Agreement; or
 - iii. a nominated Substitute Entity/ alternate Substitute Entity has not been approved by Authority within the time period set forth in the Substitution Agreement; or
 - iv. a selected Substitute Entity has not been able to remedy the breach of the Concessionaire leading to the Notice of Intention to Terminate within time period set forth in the Substitution Agreement.

then Authority or any entity designated by it shall have the right, but shall not be required, to issue a notice to Concessionaire terminating this Agreement. In the event of Authority exercising such right of termination, Authority shall:

- i. Take back the possession of the Project Site and acquire all of Concessionaire's rights, title and interests in and to the Project Assets in the manner set out in Article 21, on payment within 6 months of Transfer Date of: [(a) 70% of Adjusted Depreciated Value of Mandatory Capital Works LESS Insurance Cover; and (b) lower of [70% of Adjusted Depreciated Value of Optional Assets and market value of Optional Assets] LESS Insurance Cover; and forfeit the Performance Bond.

19.3.2. In the event of an Authority Event of Default occurring, Concessionaire shall have the right to notify Authority that such an event has occurred and (if it is capable of remedy) requiring the remedy of the same within a cure period of 3 months. If, following the end of the period stated in such notice the event giving rise to the Authority Event of Default has not been remedied, Concessionaire shall have the right, but shall not be required, to submit a notice of its intention to terminate this Agreement, within 30 days of which, Concessionaire shall have the right, but shall not be required, to issue a notice to Authority terminating this Agreement. In the event of Concessionaire exercising such right of termination, Authority shall:

- (a) Take back the possession of the Project Site and acquire all of Concessionaire's rights, title and interests in and to the Project Assets in the manner set out in Article 21, on payment within 6 months of Transfer Date:
 - i. 130% of the Adjusted Depreciated Value of Mandatory Capital Works LESS Insurance Cover; and lower of 130% of [Adjusted Depreciated Value of Optional Assets and market value of Optional Assets] LESS Insurance Cover. .

- (b) Return the Performance Bond to Concessionaire.

19.3.3 It is hereby clearly agreed and recorded between Parties that for the purpose of determination of market value of Optional Assets in terms of Article 18 or 19 hereof, as the case may be, the Authority shall appoint a registered valuer and the fees payable to the valuer shall be equally borne by the Parties.

20. TERM AND EXPIRY

20.1. Term and Expiry

- (a) Unless terminated earlier in accordance with Article 18 or Article 19, or by mutual agreement between the Parties in writing, this Agreement shall continue in full force and effect from commencement of the Effective Date (except for Chapters 1, 5, 17, 18 which will be binding on the Parties as from the date of execution hereof) until the 25th [twenty fifth] anniversary ("Term") of the Effective Date.
- (b) Unless terminated earlier, the Agreement shall expire on the 25th [twenty fifth] anniversary of the Effective Date, and upon expiry of the Agreement, Authority or its nominee shall be entitled to acquire all of Concessionaire's rights, title and interests in and to the Project Assets against payment of INR one; and Concessionaire shall accordingly be obliged to undertake and conclude all acts, deeds, things required to conclude such transfer of Project Assets in good working condition, in favor of Authority, failing which the Performance Bond shall be liable for forfeiture, and such forfeiture shall be without any prejudice to Authority's rights and remedies provided hereunder or in law or equity.

21. TRANSFER PROVISIONS

21.1. Transfer of Project Assets

21.1.1. Upon termination of this Agreement or its expiry in accordance with terms hereof, the Authority shall be entitled to, and correspondingly Concessionaire shall be obligated to transfer on Transfer Date, to Authority, all of Concessionaire's rights, interest and title in the Project Assets, including the following, subject to and in accordance with terms of this Agreement:

- i. all movable property, stocks, materials, equipment's and spares relating to Project Assets shall be transferred to Authority or its nominee, clear of any Encumbrances and with good title;
- ii. all immovable property, assets, structures, buildings, edifices, ways, walls, compounds relating to Project Assets shall be transferred to Authority or its nominee, clear of any Encumbrances and with good title;
- iii. the rights and obligations under or pursuant to all contracts relating to Project Assets and other arrangements entered into in accordance with the provisions of this Agreement between Concessionaire and any third party shall (in consideration of Authority's assumption of the obligations under or pursuant to the contracts and other arrangements) be vested in Authority or its nominee, clear of any Encumbrance and with good title; and
- iv. Notwithstanding anything contained in Article 21.1.1 (iii), prior to any transfer of the Project Assets, Authority shall have the right to conduct a due diligence of the contracts and agreements, , the rights and obligations of which it is assuming and shall not be bound to assume the rights and obligations of contracts that, in the sole opinion of Authority are unreasonably onerous, and would be considered onerous at the time that the contracts were entered into. In relation to all such contracts that are not transferred to Authority, no third Entity, including the counter-party of such contract shall have any right, license title, interest, benefit, claim or demand against or over any Project Asset and such Project Asset shall be transferred to Authority or its nominee, clear of any Encumbrance and with good title.

21.1.2. Furthermore, notwithstanding anything contained in this Article 21.1, no liability (accrued or contingent) of Concessionaire or relating to the Project Asset arising on account of actions or inactions prior to the Transfer Date shall be assumed or transferred to Authority or its nominees.

21.1.3. Without prejudice to the foregoing, Concessionaire agrees to indemnify and keep indemnified the Authority from and against all actions, proceedings, losses, damages, liabilities, claims, costs and expenses whatsoever which may be sustained or suffered by the Authority as a result of any actions or omissions of the Concessionaire prior to the transfer of the Project Assets. It is expressly understood by the Parties that this Article shall survive the termination or expiry of this Agreement.

21.2. Hand Back of Project Site

21.2.1. Without prejudice to Authority's rights, entitlements, privileges as set out herein, upon earlier termination or expiry of this Agreement, the Authority shall take over and Concessionaire's shall be obligated to handover the possession of the Project Site free of any Encumbrances, without any delay, cavil, recourse or protest of any kind whatsoever.

21.2.2. Without prejudice to the foregoing, Concessionaire agrees to indemnify and keep indemnified the Authority from and against all actions, proceedings, losses, damages, liabilities, claims, costs and

expenses whatsoever which may be sustained or suffered by the Authority as a result of any actions or omissions of the Concessionaire prior to the transfer of Project Site. It is expressly understood by the Parties that this Article shall survive the termination or expiry of this Agreement.

21.3. Project Assets to be transferred in Good Working Condition

Concessionaire shall in accordance with Good Industry Practice ensure that all property, assets, rights and other items (constituting Project Assets and Project Site) which are vested in or transferred to Authority in accordance with terms hereof, shall be in good working order and in a good state of repair and that the Project Assets and Project Site is transferred to Authority as a going concern in good operating order. For this purpose, the Authority shall appoint an registered valuer to conduct an audit of the books and its co-relationship with Project Assets (being transferred) of the Concessionaire to determine the termination payment of the relevant asset(s) (being transferred) in accordance with Clause 18.1.6, 19.3.1 and 19.3.2 of this Agreement. . In the event any of assets which are vested in or transferred to Authority are not fit for purpose/ in a good state of repair, as certified by such registered valuer , then the cost required to be incurred to bring it to good state of repair of all such assets shall be payable by the Concessionaire to the Authority, and the same in case of earlier termination, may be deducted from any Transfer Payment payable by Authority to Concessionaire in accordance with term hereof; and in case of expiry by way of encashment of relevant amount from the Performance Bond.

21.4. Transfer costs and taxes, if applicable, for the transfer of the Project Assets consequent to termination of this Agreement shall be borne by:

- (a) the Concessionaire in the event of termination due to a Concessionaire Event of Default or Force Majeure; and
- (b) the Authority in the event of termination due to an Authority Event of Default or following expiry hereof.

21.5. It is clarified that any payment for transfer of Project Assets to be made by Authority under this Agreement, shall be reduced by and adjusted for, (i) any amounts due and payable by the Concessionaire to the Authority; (ii) any insurance cover required to be maintained by Concessionaire or due and payable to Concessionaire in respect of claims (for the relevant Project Assets being transferred) made and received or receivable since the occurrence of the Authority Event of Default/ Concessionaire's Event of Default/ event of Force Majeure which led to termination of this Agreement, as the case may be.

22. CHANGE IN LAW

22.1. Change in Law

- i. The Concessionaire hereby undertakes and confirms that it shall, in accordance with Applicable Law, take best efforts to mitigate the adverse effect of a Change in Law, including obtaining and maintaining, throughout the Term, such insurances for and/or in relation to the Project Assets and Mandatory Project Services (as spelt out in Schedule 04), as considered prudent in accordance with Good Industry Practice.
- ii. If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after tax return or other financial burden, loss, liability or damage in connection with its development or operation of Project Assets and performance of services thereat, the aggregate financial effect of which exceeds INR. 40 lakh (Rupees forty lakhs) in any financial year, the Concessionaire may notify Authority and propose amendments to the Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden, loss, liability or damage as aforesaid (the "Amendment Notice"). The Amendment Notice shall be accompanied by such supporting documents and evidences in order to assist Authority to evaluate such claim. In this regard, the Concessionaire further undertakes to provide any and all such assistance as Authority may require in order to evaluate the claim.
- iii. Authority, upon receiving the Amendment Notice by the Concessionaire evaluate the veracity of the subject matter including by way of appointing an industry expert to assist it; and post such evaluation if Authority determines that such reported adverse effect on account of change in law exists, then use its reasonable efforts to make the necessary amendments to the Agreement within ninety (90) days of receiving the Amendment Notice, or convey to Concessionaire in the event it is not possible to make suitable amendments to the Agreement. In such event where required amendment cannot be made Authority shall consider paying an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden, loss, liability or damage as aforesaid.
- iv. Authority shall make payment of said compensation and if Concessionaire shall dispute the adequacy of quantum of such compensation, the same shall be finally settled in accordance with the dispute resolution mechanism contained herein.
- v. If as a result of Change in Law, the Concessionaire incurs a reduction in costs or increase in net after tax return or other financial gain or benefit in connection with its development or operation of Mandatory Project services and Project Assets, the aggregate financial effect of which exceeds INR. 40 lakh (Rupees forty lakhs) in any financial year, the Concessionaire shall notify Authority and pay to Authority an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other financial gain or benefit as aforesaid.
- vi. The Concessionaire shall make payment of such compensation within sixty (60) days of the said financial benefit. The Authority may by notice in writing require the Concessionaire to pay an amount that would put the Concessionaire in the same financial position it would have occupied had there been no such Change in Law resulting in such cost reduction, increase in return or other gain or benefit. If the Concessionaire shall dispute the quantum of such compensation claim of Authority, the same shall be finally settled in accordance with the dispute resolution mechanism contained herein.

23. GENERAL

23.1. Indemnification

- 23.1.1. The Concessionaire hereby agrees and undertakes that from the Effective Date and during the Term and thereafter, it shall indemnify and keep indemnified and otherwise save harmless, Authority, its agents and employees, from and against all claims, demands made against and/ or loss caused and/ or damages suffered and/ or cost, charges/ expenses incurred or put to and/ or penalty levied and/ or any claim due to injury to or death of any person and/ or loss or damage caused or suffered to property owned or belonging to Authority, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by Concessionaire or as a result of failure on the part of Concessionaire to perform any of its obligations under this Agreement or on the Concessionaire committing breach of any of the terms and conditions of this Agreement or on the failure of the Concessionaire to perform any of its statutory duty and/ or obligations or failure or negligence on the part of Concessionaire to comply with any statutory provisions or as a consequence of any notice, show cause notice, action, suit or proceedings, given, initiated, filed or commenced by any third party or Government authority or as a result of any failure or negligence or default of Concessionaire or its contractor(s) and/ or sub-contractors and/ or invitees as the case may be, in connection with or arising out of this Agreement and/ or arising out of or in connection with Concessionaire's use and occupation of Project Site and/ or Project and/ or the provision of services on the Project in terms hereof.
- 23.1.2. It is expressly understood by the Parties that this Article shall survive the termination or expiry hereof.

23.2. Miscellaneous

- 23.2.1. Amendments
No amendment or waiver of any provision of this Agreement, nor consent to any departure by any of the Parties therefrom, shall in any event be effective unless the same shall be in writing and signed by the Parties hereto and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which it is given.
- 23.2.2. Agreement to Override Other Agreements; Conflicts
- (a) This Agreement supersedes all previous agreements or arrangements between the Parties, including any memoranda of understanding entered into in respect of the contents hereof and represents the entire understanding between the Parties in relation thereto.
- (b) In the event of a conflict between the terms of this Agreement and those of any other Project Agreement, the terms of this Agreement shall prevail.
- 23.2.3. No Waiver; Remedies
No failure on the part of any Party to exercise, and no delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof or a consent thereto; nor shall any single or partial exercise of any such right, power or privilege preclude any other of further exercise thereof or the exercise of any other right, power or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by applicable law.
- 23.2.4. Severance of Terms
If any provisions of this Agreement are declared to be invalid, unenforceable or illegal by any competent arbitral tribunal or court, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Agreement which shall continue in full force and effect and in

such event, the Parties shall endeavor in good faith to forthwith agree upon a legally enforceable substitute provision as will most closely correspond to the legal and economic contents of the unenforceable provision.

23.2.5. Language

All notices, certificates, correspondence or other communications under or in connection with this Agreement, any other Project Agreement or the Project shall be in English

23.2.6. Notices

Any notice to be given hereunder shall be in writing and shall either be delivered personally or sent by registered post, telex, facsimile transmission, electronic mail or other means of telecommunication in permanent written form. The addresses and numbers for service of notice shall be given to the parties at their respective addresses set forth below:

In case of Concessionaire:

In case of Authority:

or such other address, telex number, or facsimile number as may be notified by that Party to any other Party from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number. In case any Party changes its address, communication numbers, or directed attention as set forth above, it shall notify the other Parties in writing prior to the adoption thereof.

23.2.7. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of India.

23.2.8. Original Document

This Agreement is made in two (2) original copies, each having the same contents and the Parties have read and thoroughly understand the contents hereof and have hereby affixed their respective signatures and seals before witnesses.

23.2.9. Confidentiality

Neither the Concessionaire nor the Authority shall, unless otherwise agreed (which agreement may be on such general or specific terms as the parties may determine), disclose to any third party (other than its directors, officers, employees, consultants, lenders, agents, or the selectee under the Substitution Agreement, to the extent required or incidental to the performance of its obligations under the Project Agreements) any information which is the property of the other party to this Agreement or which otherwise relates to its business, secrets, dealings, transactions or affairs unless, and to the extent that, such disclosure:

(a) is reasonably required for the exercise or performance by either Party of its rights or obligations under this Agreement; or

- (b) is required pursuant to any relevant statutory or regulatory requirements or duties or any relevant terms of the Applicable Laws or in the public interest; or
- (c) relates to information which is already in the public domain, other than as a result of breach of this Article by the party seeking to make such disclosure;

Provided that, in the case of any disclosure in accordance herewith, the Party disclosing such information shall, so far as reasonably practicable, impose on the third party receiving such information such obligations as may be appropriate to maintain its confidentiality.

23.2.10. Assignment

(a) By Concessionaire

Save and except otherwise permitted by this Agreement, the Concessionaire shall not assign, transfer, mortgage, charge, sub-let, deal with, sub-contract, sub- license or otherwise grant rights in or over all or any of the rights, or all or any of its obligations or liabilities under this Agreement.

(b) By Authority

Without thereby implying any restriction on the Authority otherwise assigning, transferring, dealing with or granting rights in or over all or any of its rights or obligations under this Agreement, it is expressly recognized that, without requiring the consent of the Concessionaire:

- i. the Authority may assign the benefit of or create any other encumbrance upon all or any of its rights hereunder; and
- ii. the Authority may assign and transfer all or any of its rights and obligations under this Agreement subject to the Authority guaranteeing to procure full and complete observance and performance of all such obligations by the assignee (such guarantee to be in a form reasonably acceptable to the Concessionaire).

23.2.11. Waiver of Immunity

Authority hereby agrees that the execution, delivery and performance by it of this Agreement constitute private and commercial acts rather than public or governmental acts and accordingly, no immunity from proceedings brought against it or its assets in relation to this Agreement shall be claimed on the ground that the execution, delivery and performance by it of this Agreement constitute public or governmental acts.

23.2.12. Time is of the essence

Time shall be of the essence of this Agreement, both as regards the dates, periods or times of day mentioned and as regards any dates, periods or times of day, which may be substituted for them in accordance with this Agreement.

23.2.13 This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement. The Concessionaire shall bear stamp duty, registration charges, any related fees or cess in relation to the execution of this Agreement of its Schedules.

IN WITNESS WHEREOF this Agreement has been executed by the duly authorized representatives of the Parties hereto on the day and year first above written.

For and on behalf of Authority : Signed by _____	Witnessed by:
For and on behalf of Concessionaire : Signed by _____	Witnessed by:

SCHEDULE 1: LEASE AREA (PROJECT SITE)⁴

Site 1: Semiliguda

The Semiliguda site, also known as the Mixed Farm, is located in the Koraput district of Odisha, India. The region is known for its rich biodiversity and varied topography. The total geographical area of the site is 352.6 hectares, comprising hills, gentle slopes, and low-lying areas that provide natural drainage, making it suitable for a variety of crops such as coffee, paddy, and millets. The site is part of the Eastern Ghat High Land Zone.



Figure: Snapshot of Semiliguda site (Source: Google earth)

Geographic Coordinates:

- Latitude: 18.6919° N
- Longitude: 82.8310° E

The site's proximity to Semiliguda town (5 km) and the district headquarters Koraput (30 km) makes it easily accessible, with good road connectivity via NH-26, nearby railway stations, and air connectivity from Visakhapatnam International Airport.

Geographical Features and Climate

The Semiliguda site's topography is characterized by hills, gentle slopes, and low-lying areas that help with natural drainage, especially beneficial for crops like coffee. The region experiences a varied climate due to its elevation of 884 meters above mean sea level (MSL). The area sees significant rainfall, ranging between 1,567.2 mm to 1,734.1 mm annually, with the highest recorded rainfall in 2018.

⁴ It is clarified that a separate Concession Agreement will be executed for each Project Site. Therefore, while executing the Concession Agreement, only the details of the specific Project Site being awarded to Concessionaire should be included.

Site 2: Sukinda

The Sukinda site is located in the Jajpur district of Odisha, known for its rich chromite deposits, which contribute to the region's industrial significance. However, the site also has great potential for agricultural and horticultural development due to its diverse topography and semi-arid climate. The geographical area spans approximately 230 hectares, providing ample space for various cultivation activities.



Figure: Snapshot of Sukinda Site (Source: Google earth)

Geographic Coordinates

- Latitude: 20.9894° N
- Longitude: 85.9937° E

Sukinda is well connected to major towns and cities, with the nearest town being Jajpur, the district headquarters, located about 40 km away. The major city of Bhubaneswar, the capital of Odisha, is approximately 100 km from the site, providing access to wider markets and logistics.

Geographical Features and Climate

The Sukinda site covers a total of 230 hectares, with diverse topography that supports high, medium, and low land areas, making it ideal for a variety of agricultural activities. The region experiences variable rainfall, with significant fluctuations that necessitate adaptive water management strategies for agriculture. The average annual temperatures range from 15°C during the coldest months (December-January) to around 40°C during the hottest months (April-May).

Site 3: Sakhigopal

The Sakhigopal site is located in the culturally and religiously significant Puri district of Odisha, India. Covering a total area of 50.22 hectares, with 29.6 hectares available for development, the site supports various agricultural and horticultural activities such as coconut plantations, nurseries, and apiculture. Sakhigopal's proximity to Puri and Bhubaneswar makes it strategically well-placed for access to both local and regional markets.

Geographic Coordinates

- Latitude: 19.948397° N
- Longitude: 85.809132° E



Figure: Snapshot of Sakhigopal Site (Source: Google earth)

Geographical Details and Climate

The Sakhigopal site spans 124.05 hectares, with coconut plantations occupying 38.8 hectares. The site features a nursery dedicated to producing planting materials for coconut, papaya, and Key lime over a 4-hectare area. The site's topography, with slight slopes and multiple tanks/ponds, aids in effective water management and drainage.

The Puri district experiences variable rainfall, ranging from 1,224.8 mm in 2017 to 1,653.1 mm in 2015. The temperature varies seasonally, with summer highs reaching 36°C and winter lows of 17°C, creating hot, humid summers and mild, pleasant winters.

SCHEDULE 2: DEVELOPMENT PLAN (SUBMITTED IN TECHNICAL BID)

The development, operation and maintenance of the Project will at all times be in compliance with the following Development Plan of the Selected Bidder:

SCHEDULE 3: LEASE DEED

This Lease Deed (“**Lease Deed**”) together with its Annexes is made and executed on this day of [●] by and between:

The Governor of State of Odisha represented by Director of Agriculture and Food Production of the **Department of Agriculture and Farmer’s Empowerment**, and having its designated office at _____ [(hereinafter referred to as the “**Authority**” or “**Lessor**”, which expression shall, unless excluded by and/or repugnant to the context, mean and include its successors, legal representatives and permitted assigns)] of the one part;

AND

{*****}, having its registered office at [●] represented through its [*****] (hereinafter referred to as the “**Lessee**”, which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assigns) of the other part.

The Lessor and the Lessee are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”.

WHEREAS

- (A) The Lessor and the Lessee have entered into a Concession Agreement dated----- (the “**Concession Agreement**”) wherein the Lessee [*****] (collectively the “**Project**”) and the Lessor has agreed to provide the Land for this purpose on leasehold basis, upon the terms and conditions specified in the Concession Agreement;
- (B) The Lessor owns and is in possession of, the land constituting the Project Site, as specified in the Concession Agreement and as delineated and set out in the Annex 1 hereto (herein referred to as the “**Project Site**”);

NOW THEREFORE, in consideration of the promises and covenants herein set forth and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the Parties mutually agree as hereunder.

1. Definitions and Interpretation

1.1 Definitions

In this Lease Deed, the following words and expressions shall unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

“**Applicable Permits**” means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under applicable laws in connection with the Project Site and the Project during the subsistence of the Lease Deed;

“**Dispute**” shall have the meaning set forth in Clause 17.1;

“**Encumbrance**” means any encumbrance such as an easement, right of way, licence, mortgage, charge, pledge, lien, hypothecation, pre-emptive right or security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, whether or not registered and howsoever arising, including by statute or common law;

“**Force Majeure**” shall have the meaning set forth in Clause 16.1;

“**Lease Rent**” shall have the meaning set forth in Clause 5.1;

“**Project Site**” shall have the meaning set forth in Recital (B); and

“**Term**” shall have the meaning set forth in Clause 3.

1.2. Interpretations

In this Lease Deed, except to the extent that the context requires otherwise:

- (a) the Annexes to this Lease Deed forms part of this Lease Deed and will be of full force and effect as though it is expressly set out in the body of this Lease Deed ;
- (b) the terms of this Lease Deed should be read in consonance with and not in derogation with the terms of Concession Agreement;
- (c) the rules of interpretation in the Concession Agreement shall apply, *mutatis mutandis*, to this Lease Deed; and
- (d) the words and expressions beginning with capital letters and defined in this Lease Deed shall have the meaning ascribed thereto herein, and the words and expressions used in this Lease Deed and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

2. Grant of lease and possession

2.1.1 The provisions of this Lease Deed shall take effect and become binding on the Parties on the date first above written (“**Effective Date**”).

2.1.2 In consideration of the Lease Rent, the Lessor grants on lease to the Lessee and the Lessee agrees to accept the lease from the Lessor, free from Encumbrances and/or encroachments, of all that piece and parcel in the Schedule 01 of the Concession Agreement together with all and singular rights, liberties, privileges, easements, benefits, rights of way, paths, passages whatsoever in or appurtenant to the Project Site or any part thereof, and to hold, possess, use and enjoy the Project Site and/or any part thereof, in accordance with the provisions of this Lease Deed.

3. Term

The lease granted in pursuance of this Lease Deed shall be for a period of [25 (twenty-five)] years from the Effective Date (the “**Term**”) unless the Lease Deed is determined prematurely in accordance with Clause 7 or renewed in accordance with Clause 4. For avoidance of doubt, this Agreement and shall be co-terminus with the executed Concession Agreement.

4. Renewal

4.1 The Parties shall have the right to extend the Term for such further period as may be agreed by the Parties, on mutually agreed terms and conditions and in the manner set out below, unless no later than 2 (two) years prior to the expiration of the Term of the Lease Deed, the Lessor or Lessee, as the case may be, serves upon the other Party a written notice, stating its intention of not renewing the Lease Deed.

4.2 The Lessee may, no later than 2 (two) years prior to the expiration of the Term of Lease Deed, submit a request to the Lessor for extension of the Term of the Lease Deed.

- 4.3 Upon receipt of application of renewal of the Lease Deed, the Lessor may in its sole discretion and subject to extension of Concession Agreement (if any), no later than 9 (nine) months prior to the expiration of the Lease Period, execute an addendum to the Lease Deed which shall reflect the mutually agreed terms and conditions for the extension of the Term of Lease Deed.

5. Lease Rent

- 5.1 Upon execution of the Lease Deed and in consideration of the Lessor leasing the Project Site to the Lessee and granting the rights, privileges and benefits set forth in this Lease Deed, the Lessee shall pay to the Lessor, subject to Clause 5.4, an annual lease rent ("**Lease Rent**") of INR 01 (Rupees One) for the Term.
- 5.2 The Lease Rent shall be due and payable within [60 (sixty) days] from the commencement of the year for which the Lease Rent is to be paid. The Lessor shall not be obliged to demand payment of Lease Rent by notice or otherwise, and it shall be incumbent upon the Lessee to pay the Lease Rent as and when it falls due.
- 5.3 The Lessee shall pay the Lease Rent into such account as may be designated by the Lessor from time to time.
- 5.4 If the Lessee fails to pay the Lease Rent as aforesaid, the Lessee shall be liable to pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the bank rate.

6. Use of Project Site

- 6.1 During the Term of this Lease Deed, the Lessee agrees to use the Project Site for the carrying out the following:
- (a) implementing the Project.
 - (b) developing, design, financing, constructing, building, operating, and maintaining the Project;
 - (c) designing, building, owning, operating and maintaining the utilities, services and facilities required for operating and maintaining the Project;
 - (d) extraction of ground water and harvesting of rain water for the Lessee's requirements;
 - (e) developing and landscaping the Project Site; and
 - (f) any other purpose incidental or consequential to the development, operation and maintenance of the Project.
- 6.2 The Parties agree that the Lessee may, with the approval of the Lessor, and in addition to the above stated purposes, utilise the Project Site for any other purpose(s), limited to the development of the Project and which in the Lessee's opinion is:
- (a) conducive or incidental to operation and management of the Project;
 - (b) enhances the efficiency of the Project;
 - (c) improves the commercial viability of the Project; or
 - (d) facilitates further investment in or around the Project.

7. Determination of Lease Deed

7.1 This Lease Deed may be determined earlier by mutual agreement between the Parties in writing.

7.2 The Lessor shall have the right to determine this Lease Deed on occurrence of any one or more default(s) by the Lessee as enlisted hereunder:

- (a) passing of a resolution for winding up of the Lessee or filing of a voluntary bankruptcy petition by the Lessee;
- (b) institution of winding up proceedings against Lessee and such proceedings not being stayed or discharged by a competent court within [180 (one hundred and eighty)] days;
- (c) appointment of a receiver of Lessee's assets or any general assignment for the benefit of Lessee's creditors and such appointment or assignment is not stayed by a competent court within [180 (one hundred and eighty)] days;
- (d) failure of the Lessee to make payments to the Lessor in accordance with the provisions hereof, where such failure continues for a period of [30 (thirty) days] after a written notice from the Lessor;
- (e) material failure by Lessee to perform any of the covenants, conditions, or obligations imposed on it by this Lease Deed where the failure continues for a period of [60 (sixty) days] after notice from the Lessor;
- (f) transfer or assignment of this Lease Deed or creation of any Encumbrance on the Project Site, without securing prior written approval of the Lessor;
- (g) use of the Project Site for any purpose other than the purposes stated under Clause 6 of this Lease Deed and such breach is not remedied within a period of [60 (sixty) days] after a notice from the Lessor in this behalf; and
- (h) voluntary abandonment by the Lessee of its operations at the Project Site for a continuous period of [90 (ninety) days] or more.

7.3 Upon determination under Clause 7.1 and Clause 7.2, the Lessor shall have the following additional rights:

- (a) the recovery of any unpaid Lease Rent due and payable at the time of termination;
- (b) the recovery of any damages, costs, fees and expenses incurred by the Lessor as a result of the breach of the Lease Deed by the Lessee; and
- (c) any other right or remedy, legal or equitable, that the Lessor is entitled to under the Applicable Laws.

7.4 The Lessee shall have the right to determine this Lease Deed on account of the occurrence of any of the following events:

- (a) any material breach of the terms and conditions of the Lease Deed by the Lessor, which material breach is not remedied by the Lessor within [90 (ninety)] days of receipt of notice regarding such breach; or

- (b) any interference with the peaceful possession of the Project Site by the Lessor due to which the Lessee is not able to carry on its business for a continuous period of [60 (sixty)] days or more, which interference is not rectified by the Lessor within a period of [60 (sixty)] days from the date on which the Lessee notifies the same to the Lessor.

8. Lessor's obligations and covenants

The Lessor hereby agrees and warrants that:

- (a) subject to the terms of the Lease Deed, the Lessee shall be entitled to possess, hold, use and enjoy the Project Site and every part thereof during the Term of the Lease Deed, without any interruption by the Lessor;
- (b) the Lessee shall, during the Term of the Lease Deed, enjoy free ingress and egress to and from the Project Site without any hindrance;
- (c) subject to timely payment of the Lease Rent and performance of the covenants and conditions of the Lease Deed, the Lessee shall peacefully hold and enjoy the Project Site during the Term of the Lease Deed;
- (d) upon execution of the Lease Deed and subject to the terms thereof, the Lessor shall deliver, or cause to be delivered, to the Lessee vacant possession of the Project Site. The Lessor shall, at its cost and expense clear any Encumbrances, including possession or occupation, if any, by third parties prior to delivery of vacant possession of the Project Site to the Lessee;
- (e) the Lessor shall pay and discharge all property taxes, land revenues, levies, cesses and other payments/dues in respect of the Project Site relating to the period up to the commencement of the Lease Deed. For the avoidance of doubt, all property taxes, land revenues, service tax, levies, cesses and other payments/dues in respect of the Project Site shall be borne by the Lessee during the Term of the Lease Deed;
- (f) upon execution of the Lease Deed, the Lessor shall provide the Lessee with any consent(s) or no objection(s) of the Lessor in obtaining power, water, telephone and such other facilities that the Lessee may require, to use and enjoy the Project Site effectively for the purposes stated in Clause 6 of this Lease Deed. Such consents or no objection(s) shall be provided by the Lessor within a reasonable time; and
- (g) the Lessor shall not create any Encumbrances on the Project Site otherwise part with or alienate any of its rights, title or interest in or to the Project Site except as provided in Clause 9 of this Lease Deed.

9. Sale, transfer or disposal of the Project Site

- 9.1 The Lessor may sell, transfer or otherwise dispose of the Project Site to any Government Authority or any other entity owned or controlled by the Government of India.
- 9.2 The Parties agree that any sale, transfer or other disposal of the Project Site or any part thereof as provided in this Clause 9 shall always be subject to the leasehold rights of the Lessee set out in this Lease Deed and the Lessor shall ensure that simultaneously with the sale, transfer or other disposal of the Project Site or any part thereof, the transferee thereof shall acknowledge the leasehold rights of the Lessee therein and shall execute an agreement on terms and conditions that are identical or not less favourable than the terms and conditions of this Lease Deed.

10. Lessee's obligations and covenants

Lessee hereby covenants, agrees and represents that:

- (a) upon execution of this Lease Deed and subject to the terms thereof, the Lessee shall accept the Project Site in the condition it is handed over and undertakes to use the same only for the purposes as enlisted in Clause 6 of this Lease Deed;
- (b) this Lease Deed has been duly authorized, executed, and delivered by the Lessee after fulfilling all legal formalities and constitutes its legal, valid and binding obligation;
- (c) during the Term of the Lease Deed, the Lessee shall pay the Lease Rent in accordance with terms and conditions set out in this Lease Deed and shall observe and fulfil each of its obligations and covenants set forth herein;
- (d) during the Term of the Lease Deed, the Lessee shall undertake the development of the Project Site, and other works which in the reasonable opinion of the Lessee would be required for and in relation to the Project, and obtain necessary approvals/clearances from the appropriate authorities for the same;
- (e) at its own cost and expense, the Lessee shall obtain all utilities such as water, electricity from the appropriate authorities;
- (f) it shall obtain and keep current all Applicable Permits that may be required under the Applicable Laws;
- (g) it shall pay all taxes, service tax, cesses, assessments and levies in respect of the Project Site, which are leviable at any time during the Term of the Lease Deed;
- (h) it shall not create any lien, charge or Encumbrance on the Project Site, except as expressly permitted in this Lease Deed or the Concession Agreement, without prior approval of the Lessor;
- (i) it shall, indemnify the Lessor in respect of any charges, deposits and other monies levied by third parties for and in relation to the provision by such third parties to the Lessee of water, electricity, telephone, communication and other facilities and in relation to any and all third party claims made with respect to the Project Site;
- (j) it shall (i) keep and maintain the Project Site and the buildings and structures thereon in good and habitable condition at all times, and (ii) shall ensure that the Project Site shall be free from encroachments at all times and to the extent that there occur any encroachments on the Project Site, it shall make diligent efforts to remove such encroachments from the Project Site, as soon as practicable;
- (k) it shall take all necessary care to keep the premises neat and clean and in sanitary conditions consistent with the environment; and
- (l) it shall, after expiry or termination of the Lease Deed, forthwith hand over possession of the Project Site to the Government.

11. Regulatory approvals for construction

The Lessee agrees and covenants that the Lessee shall undertake construction of buildings and/or structures at the Project Site only after obtaining all Applicable Permits as are necessary for such constructions. The Lessee further agrees that the Lessee shall at all times comply with

the conditions of such Applicable Permits.

12. Inspection by the Lessor

- 12.1 The Lessee agrees and covenants that during the Term of the Lease Deed, the Lessee shall not restrict or obstruct the Lessor and its authorised agents to enter upon and inspect the Project Site at all reasonable hours on any working day.
- 12.2 The Lessee undertakes that the Lessee shall notify the Lessor of any material breach by the Lessee of any Applicable Permits acquired in relation to the Project Site.

13. Stamp duty and registration charges

Subject to the exemption or waiver, if any, granted by Government or any other authority, the Parties agree that all stamp duties and registration charges payable in respect of the lease contemplated herein shall be to the account of and borne by the Lessee.

14. Indemnities and limitation of liability

The Lessee shall fully indemnify, defend and hold harmless the Lessor, its officers, servants, agents, against any and all suits, proceedings, actions, demands, claims and liabilities, which may be incurred or suffered by the Lessor and which may arise out of or as a result of any of the following causes:

- (a) any breach by the Lessee of any of its obligations, covenants, agreements, representations or warranties set forth in this Lease Deed;
- (b) any loss of property, damage to property, personal injury or death occasioned to or suffered by any person, to the extent that the damage to or loss of property or the personal injury or death is caused wilfully or negligently by the Lessee; and
- (c) any breach, violation or non-compliance by the Lessee of any Applicable Laws and/or Applicable Permits.

15. Assignment

The Lessee shall not, without the Lessor's prior written consent, transfer, assign, or grant any form of security over any of its rights or obligations under this Lease Deed.

16. Force Majeure

- 16.1 Neither Party shall be liable to the other for non-performance of its obligations under this Lease Deed (other than the obligation to make payments when due) on account of any event of Force Majeure including but not limited to fire, flood, act of God or irresistible force, civil disobedience, riots, terrorism, strikes, lock-out, act of government, or any other event beyond the reasonable control of such Party.
- 16.2 Where the event of Force Majeure exists for a continuous period of 6 (six) months, the Parties shall mutually decide on the course of action to be adopted, which may include the determination of this Lease Deed.
- 16.3 Notwithstanding anything to the contrary in this Lease Deed, if the Lease Deed is determined in accordance with Clause 16.2 above, neither Party shall be liable to pay any compensation to the other for such termination.

17. Dispute Resolution

- 17.1 The Parties shall use their respective reasonable endeavours to settle any dispute, difference, claim, question or controversy between the Parties arising out of, in connection with or in relation to this Lease Deed ("**Dispute**") amicably between themselves through negotiation.
- 17.2 Any Dispute which the Parties are unable to resolve pursuant to Clause 17.1, within 60 (sixty) days (or such longer period as the Parties may agree) of notice by one Party to the other of the existence of a Dispute, shall be resolved in accordance with the provisions of Article 17 of the Concession Agreement.

18. Governing Law

This Lease Deed is governed by and shall be construed in accordance with the laws of India.

19. General Provisions

19.1 Entire Agreement

This Lease Deed together with the Annexes constitutes the entire agreement between the Parties with respect to the subject matter and the transaction envisaged in this Lease Deed, but shall be subject to the provisions of the Concession Agreement at all times.

19.2 Waiver

- 19.2.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Lease Deed:
- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Lease Deed;
 - (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
 - (c) shall not affect the validity or enforceability of this Lease Deed in any manner.
- 19.2.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Lease Deed or any obligation there under nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

19.3 Severability

If for any reason whatever, any provision of this Lease Deed is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Lease Deed or otherwise.

19.4 Specific Performance

In the event of default or breach in performance of obligations by any Party, the Party not in

default or breach shall be entitled, without prejudice to its other rights and remedies, to seek and enforce specific performance of this Lease Deed.

19.5 Expenses

Each Party shall pay its own costs and expenses (including, without limitation, the fees and expenses of its agents, authorised representatives, advisors, counsel and accountants) necessary for the negotiation, preparation, execution, delivery, performance of and compliance with this Lease Deed.

20 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Lease Deed shall be in writing and shall:

(a) in the case of the Lessee, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Lessee may from time to time designate by notice to the Lessor; provided that notices or other communications to be given to an address outside Delhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier be sent by facsimile or e mail to the number as the Lessee may from time to time designate by notice to the Lessor;

Attention:

Designation:

Address:

Fax No:

Email:

(b) in the case of the Lessor, be given by facsimile or e-mail and by letter delivered by hand to the address given below with a copy delivered to the Lessor's Representative or such other person as the Lessor may from time to time designate by notice to the Lessee; provided that if the Lessee does not have an office in Delhi, it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier;

Attention:

Designation: Address:

Fax No:

Email:

(c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS LEASE DEED AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

SIGNED, SEALED AND
DELIVERED

For and on behalf of THE LESSOR by:

(Signature)
(Name)
(Designation)

SIGNED, SEALED AND
DELIVERED

For and on behalf of
by LESSEE:

(Signature)
(Name)
(Designation)

In the presence of:

1.

2.

SCHEDULE 4: MANDATORY CAPITAL WORKS AND PROJECT SERVICES

S.No.	Component	Sukinda	Semiliguda	Sakhigopal
1	Agricultural Production (Priority Crop)	Mandatory (Horticulture Crops - ICAR ACZ Recommended)	Mandatory (Coffee, Ginger)	Mandatory (Coconut)
1.1	Precision agriculture farm (IoT driven)	Mandatory	Mandatory	Mandatory
1.2	Tech-enabled Seed farm	Optional	Optional	Optional
1.3	Hi-Tech Nursery	Optional	Optional	Optional
1.4	Tech-enabled Dairy	Optional	Optional	Optional
1.5	Sericulture (Arjuna Plantations)	Optional	Optional	Optional
1.6	Tulsi, lotus & marigold production	Optional	Optional	Optional
2	Technology Demonstration			
2.1	Drone Demonstration Unit	Optional	Optional	Optional
2.2	Smart Greenhouses	Mandatory	Mandatory	Mandatory
2.3	Recirculatory Aquaculture System	Optional	Optional	Optional
3	Post Harvest Management			
3.1	Primary Processing Unit	Optional	Optional	Optional
3.2	Solar Power Cold Storage	Mandatory	Optional	Optional
3.3	Cocopeat Production Unit	Optional	Optional	Mandatory
3.4	Oil Extraction Unit (Basil)	Optional	Optional	Mandatory
3.5	Coffee Roastery	Optional	Mandatory	Optional
4	Agro Tourism	NA	Optional	Optional

SCHEDULE 5: DEVELOPMENT STANDARDS AND REQUIREMENTS

The design and construction of the Project shall conform with the National Building Code of India, relevant specifications and standards specified by the Bureau of Standards, other Applicable Laws and Good Industry Practice.

In the absence of any specific provision in this Agreement, the following standards shall apply in order of priority:

- (i) National Building Code
- (ii) Bureau of Indian Standards (BIS); and
- (iii) International guidelines including [Griha/LEED/Green Globe]
- (iv) Food Safety and Standards Act, 2006
- (v) Hazard analysis and critical control point (if applicable)
- (vi) Any other specifications/standards/codes proposed by the Concessionaire and reviewed by the Independent Expert.

The latest version of the specified codes and standards which were notified published at least [60 (sixty)] days prior to the Bid Date in respect of this Agreement shall apply.

SCHEDULE 6: OPERATION & MAINTENANCE STANDARDS AND REQUIREMENTS

A. Environment, Health and Safety Standards & Management

- i. The Concessionaire shall comply with Applicable Laws including the relevant environmental, health and safety (the “EHS”) rules and regulations, National EHS regulation and life and fire safety Standards The Concessionaire shall prepare an environment management strategy (“Environmental Management Strategy”) for the Project, which sets out strategies and actions to manage the environmental condition of the Project and an environmental monitoring program that assesses over time the environmental condition of the Project.
- ii. The Concessionaire shall review annually, progress under the Environmental Management Strategy and will from time to time update the said Environmental Management Strategy. The Concessionaire shall provide annual reports in relation to progress under the Environmental Management Strategy to Authority.
- iii. Prior to the termination (including expiry by efflux of time) of this Agreement, the Concessionaire shall procure that an appropriate and qualified independent expert [approved by Authority] undertakes a further environmental audit of the Project. Concessionaire shall ensure that at termination the environmental condition of the Project meets all statutory and regulatory requirements.
- iv. The Concessionaire shall provide and maintain perimeter fencing or other suitable protection around the Project premises and shall be responsible for the security arrangements for the Project in order to maintain safe and orderly conduct of its business and the security thereof.
- v. The Concessionaire shall install and operate a closed-circuit television system to monitor the Project for safe operations of the Project Assets in accordance with Good Industry Practice.
- vi. The Concessionaire shall engage and depute trained personnel for maintaining the security and safety of Users inside the Project Site in accordance with Good Industry Practice.

B. Service Level Requirements

a. Agriculture Production Module SLRs

Service Level Requirements	Measure & Explanation	Baseline Requirement/Threshold	Source of Measuring Data	Time for Evaluation
Increase in crop yield per hectare	Yield = Production/ Cultivated Area	Baseline data for yield will be based on current (Year 2023-24) yield data as per government records 1-3 year: at least 5% over bassline for each year 4-6 year: at least 15% over baseline for each year 7 year onwards: at least 20% over baseline for each year	Field surveys, yield reports, Agri-stack data	End of each cropping season
Water use efficiency	% reduction in water usage	Base year data to be taken from available government statistics for FY 2023-24. In	Water usage logs, field inspections	End of each cropping season

		<p>the event such a data is not available the authority and the private sector will together determine the number based on the water usage in the vicinity for specific crop.</p> <p>1-3 year: at least 10% over bassline for each year</p> <p>4-6 year: at least 15% over baseline for each year</p> <p>7 years onwards: at least 20% over baseline for each year</p>		
Seed germination rate	Germination % = Plant population in 1 ha area/ Seed rate (quantity of seed per ha)	<p>1-3 year: at least 90%</p> <p>4th year onwards: at least 95%</p>	Field observations	Beginning of each cropping season

b. Technology Demonstration Module SLRs

Service Level Requirements	Measure & Explanation	Baseline Requirement/Threshold	Source of Measuring Data	Time for Evaluation
Technology unit up-time	Percentage time during which the technology demonstration was fully operational	>80% uptime	Demonstration unit logs and data-books	Quarterly
Automated Weather Station (AWS)	Uptime	>80% uptime	logs and data-books	Quarterly
Automated Pest Monitor (APM)	Uptime	>80% uptime	logs and data-books	Quarterly

c. Post-Harvest Management Module SLRs

Service Level Requirements	Measure & Explanation	Baseline Requirement/Threshold	Source of Measuring Data	Time for Evaluation
Value Addition Plant/ Infrastructure	The percentage of time high-tech equipment are fully operational	>80%	Equipment operation logs, maintenance records	Quarterly
Post-Harvest Losses	The percentage of product (by weight) losses during post-	Post-harvest losses should be kept below 15% of total produce	Monitoring reports and produce weighing logs	Yearly

	harvest stages, including storage and transportation	For multiple crops weighted average post-harvest loss shall be calculated for every financial year		
Sustainable Waste Management	% of waste generated during processing/ value addition managed sustainably in-situ (on the site) [Sustainable waste management shall include composting, bio-gas generation, etc.]	>99%	Field visits	Quarterly

d. Agro-tourism Module SLRs

Service Level Requirements	Measure & Explanation	Baseline Requirement/Threshold	Source of Measuring Data	Time for Evaluation
Visitor Satisfaction	The average satisfaction rating from tourists visiting the agro-tourism facility	Visitor satisfaction should maintain a rating of at least 4 out of 5	Tourist feedback forms	Quarterly

Note:

1. The SLRs finalized under the Development Plan and specified herein in this Schedule shall apply to the relevant/corresponding optional components whose development is undertaken by the Concessionaire.
2. In case of non-fulfilment of abovementioned SLRs, the Authority shall have right to levy following penalty:
 - a) Default of any 1(one) SLR: 1% of Performance Bond
 - b) For every subsequent default of SLR: 0.5% of Performance Bond
 - c) The penalties levied during any financial year shall not exceed the amount equivalent to 10% of Performance Bond.
3. If aforementioned penalty levied on Concessionaire due to default of Service Level Requirement(s) exceeds 10% of Performance Bond during three consecutive financial years, in that case, the Authority will have right to terminate this Concession Agreement. Provided however, no penalties shall be levied until the expiry of three Years from Commercial Operation Date of the first component of the Mandatory Capital Works.

SCHEDULE 7: TERMS OF REFERENCE FOR INDEPENDENT EXPERT

01. Role and functions of the Independent Expert

The role and functions of the Independent Expert shall include the following:

- i. review of the Master Plan as set forth in Paragraph 2;
- ii. review inspection and monitoring of development of Project Assets as set forth in Paragraph 2;
- iii. review inspection and testing of Project Assets as set forth in Paragraph 2;
- iv. assisting the Parties in resolution of Disputes as set forth in Paragraph 4; and
- v. undertaking all other duties and functions in accordance with the Agreement.

The Independent Expert shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

2. Construction Period

- 2.1. The Independent Expert shall undertake a review of the Master Plan to be furnished by the Concessionaire along with supporting data. The Independent Expert shall complete such review and send its comments/observations to the Authority and the Concessionaire within [15 (fifteen)] days of receipt of such Master Plan. In particular, such comments shall specify the conformity or otherwise of such Master Plan with the scope of the Project and Development Standards and Requirements.
- 2.2. The Independent Expert shall review the quarterly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within [7 (seven)] days of receipt of such report.
- 2.3. The Independent Expert shall inspect the development of Project Assets and equipment (if any) once every quarter, preferably after receipt of the latest quarterly progress report from the Concessionaire, but before the [20th (twentieth)] day of succeeding month in any case, and make out a report of such inspection (the **Inspection Report**) setting forth an overview of the status, progress, quality, safety and conformity of works and equipment with the scope of the Project and the Development Standards and Requirements. In a separate section of the Inspection Report, the Independent Expert shall describe in reasonable detail the lapses, defects or deficiencies observed by it. The Independent Expert shall send a copy of its Inspection Report to the Authority and the Concessionaire within [7 (seven)] days of the inspection.
- 2.4. The Independent Expert may inspect the Project more than once in a quarter.
- 2.5. For determining that the Mandatory Works conform to terms herein, the Independent Expert shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Expert in accordance with Good Industry Practice for quality assurance.

- 2.6. The sample size of the tests, to be specified by the Independent Expert under Paragraph 2.5, shall comprise [10% (ten per cent)] of the quantity or number of tests prescribed for each category or type of tests in accordance with Good Industry Practice; provided that the Independent Expert may, for reasons to be recorded in writing, increase the aforesaid sample size by up to [10% (ten per cent)] for certain categories or types of tests.
- 2.7. The timing of tests referred to in Paragraph 2.7 above, and the criteria for acceptance rejection of their results shall be determined by the Independent Expert in accordance with Good Industry Practice. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 2.8. In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Expert shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Project Assets into conformity with the terms of this Agreement, and the provisions of this Paragraph 2 shall apply to such tests.
- 2.9 If the Independent Expert shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within [15 (fifteen)] days the steps proposed to be taken to expedite progress, and the period within which completion of Project Assets shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Expert shall review the same and send its comments to the Authority and the Concessionaire forthwith.
- 2.10. If suspension of works is for reasons not attributable to the Concessionaire, the Independent Expert shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
- 2.11. Upon reference from the Authority, the Independent Expert shall make a fair and reasonable assessment of the costs of providing information, works and services and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.

3. Operation Period

- 3.1. The Independent Expert shall review the annual status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within [7 (seven)] days of receipt of such report.

4. **Assistance in Dispute resolution**

- 4.1. When called upon by either Party in the event of any dispute, the Independent Expert shall mediate and assist the Parties in arriving at an amicable settlement.

SCHEDULE 8: PERFORMANCE BOND

1 PERFORMANCE BOND

WHEREAS:

- (A)....., (the “**Concessionaire**”) and The Governor of State of Odisha represented by Director of Agriculture and Food Production, Department of Agriculture and Farmer’s Empowerment Government of Odisha (“**Authority**”) and having its designated offices athave entered into a Concession Agreement dated (the “**Agreement**”) whereby the Authority has agreed to the Concessionaire undertaking the Development, Design, Finance, Construction, Operation, Maintenance and Transfer of Agri-Tech Smart Farm (ATSF) at Designate Site(s) namely, [****] on PPP Basis subject to and in accordance with the provisions of the Agreement.
- (B) The Agreement requires the Concessionaire to furnish a Performance Bond to the Authority in a sum of [Rs. (Rupees.....)] (the “**Guarantee Amount**”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement, for a period of [*****] years from the [*****].
- (C) We, through our Branch at..... (the “**Bank**”) have agreed to furnish this Bank Guarantee by way of Performance Bond.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees and undertakes to pay to the Authority upon occurrence of any failure or default in due and faithful performance of all or any of the Concessionaire’s obligations, under and in accordance with the provisions of the Agreement, on its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer not below the rank of a Secretary or equivalent, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to

proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Concessionaire under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no later than [6 (six) months] from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Performance Bond shall cease to be in force and effect after expiry of a period of [*****] years from the [*****], and provided the Concessionaire is not in breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Bond along with the particulars required hereunder, duly certified by a statutory auditor of the Concessionaire, the Authority shall release the Performance Bond forthwith.
9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of [*****] years from the [*****] hereof or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed thisday of 20.... at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

SCHEDULE 9: SUBSTITUTION AGREEMENT

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT (the "Agreement") is made on the ____ day of _____[...], 20__[...]. at _____.

BY AND BETWEEN:

1. **The Governor of State of Odisha** represented by Director of Agriculture and Food Production, **Department of Agriculture and Farmer's Empowerment** (hereinafter referred to as "Authority", which expression shall, unless repugnant to the context or meaning thereof, include its successors and assigns) of the FIRST PART; and
2. _____, a company incorporated under the _____ and having its registered office at _____ (hereinafter referred to as the "Company" or the "Concessionaire", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) of the SECOND PART;

AND

3. _____ having its registered office at _____ in its capacity as Lenders Agent acting for and on behalf of the Lenders listed in Schedule 1 hereto and such Lenders' successors and assigns in terms of the Financing Documents (hereinafter referred to as the "Lenders Agent", which expression shall, unless repugnant to the context or meaning thereof, include the trustee or the trustees for the time being) of the THIRD PART.

Authority, the Concessionaire and the Lenders Agent are hereinafter collectively referred to as the "Parties" and individually are hereinafter referred to as "Party".

WHEREAS:

- (a) Authority intends to develop a Agri-Tech Smart Farm Project in [*****] district of Odisha.
- (b) The Concessionaire is a company established, inter-alia with the objectives of promoting, establishing, developing, designing, managing, financing, operating and maintaining the Project (as defined herein).
- (c) Authority and the Concessionaire have entered into a Concession Agreement dated _____ (hereinafter referred to as "Concession Agreement"), whereby Authority has granted to the Concessionaire the right to undertake the Project (as defined hereunder), and the Concessionaire has agreed to undertake the Project on the terms and conditions contained therein.
- (d) With a view to help facilitate obtaining of financing for development of Mandatory Capital Works at the Project by the Concessionaire so as to enable the Concessionaire to operate, maintain, develop, design, construct, upgrade, modernize, finance and manage the Mandatory Capital Works at the Project pursuant to and in accordance with the Concession Agreement, the Parties have agreed that on certain defaults by the Concessionaire, the Lenders shall have the right to substitute the Concessionaire by a Selectee on the terms, and subject to the conditions and covenants mentioned herein below.

NOW, THEREFORE, in consideration of the premises contained herein, the Parties hereto agree as follows:

1. Definitions and Interpretation

1.1. Definitions

For the purpose of this Agreement, the following terms shall have the meaning hereinafter respectively assigned to them:

“Financing Documents” means the documents executed by the Concessionaire for raising Debt, from time to time.

“Financing Event of Default” means occurrence of any of the following events:

- i. A default in payment by the Concessionaire to all or any of the Lenders under the Financing Documents of any six installments (in case the installments are payable monthly) and two installments (in case the installments are payable quarterly), either of principal or interest or both, or any other amounts, due and payable by it in accordance with the Financing Documents.
- ii. Any event of default under or breach of any of the terms of any of the Financing Documents which in the sole opinion of the Lenders Agent is material or major and which may seriously affect the ability of the Concessionaire to meet its payment obligations to the Lenders under the Financing Documents.

“Concessionaire Event of Default” shall have the meaning assigned thereto in the Concession Agreement.

“Lenders” shall mean the lenders listed in Schedule 1 hereto and such Lenders’ successors and assigns in terms of the Financing Documents.

“Lenders Certificate” shall have the meaning ascribed thereto in Article 2.2(b).

“Lenders Dues” means the aggregate of all monies owed by the Concessionaire to the Lenders under the Financing Documents and all accrued interest, additional interest, liquidated damages, commitment fees, commission, prepayment premium, costs, charges and other monies.

“Lenders Notice of Default” shall have the meaning ascribed thereto in Article 2.2(a).

“New Entity” means an entity proposed by the Lenders in a Proposal.

“Notice of Intention to Terminate” shall have the meaning assigned thereto in the Concession Agreement.

“Proposal” shall have the meaning ascribed thereto in Article 3.1(iii).

“Selectee” means, subject to Article 3.3, a New Entity proposed by the Lenders pursuant to this Agreement and approved by Authority in accordance with this Agreement for substituting the Concessionaire under the Concession Agreement.

“Substitution” is the process of replacement of a Selectee in place of the Concessionaire by undertaking the following activities:

- i. grant to the Selectee the right to operate, maintain, develop, design, construct, upgrade, modernize, finance and manage the Project under and in accordance with on the terms

- and conditions set forth in the Concession Agreement for the remainder of the Term, by the novation of the Concession Agreement in favor of the Selectee;
- ii. grant to the Selectee a leasehold interest over the Project Site together with all assets, buildings, fixtures, runways, all or any singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Project Site for the remainder of the Term by the novation of the Lease Deed in favor of the Selectee;
 - iii. novation of any other agreements needing to be novated for the purpose of operating the Project in favor of the Selectee; and
 - iv. the execution of a new Substitution Agreement with the Selectee for the residual period of Term on the same terms and conditions as hereof;
 - v. transfer by the Concessionaire of all assets owned by the Concessionaire to the Selectee;
 - vi. grant by the Authority to the Selectee of all approvals, clearances and permissions within the Authority's power and necessary for operating the Project in accordance with the Concession Agreement, provided duly completed application in accordance with Applicable Law is submitted to the Authority.

"Substitution Notice" means the notice given by the Lenders Agent pursuant to Article 2.2 (d) of this Agreement.

- 1.2. The words and expressions beginning with or in capital letters used in this Agreement not defined herein and defined in the Concession Agreement, shall have, unless repugnant to the context, the meaning respectively assigned to them in the Concession Agreement.
- 1.3. Interpretation
In this Agreement, unless the context otherwise requires, the interpretation rules as mentioned in Article 1.2 of the Concession Agreement shall apply.

2. Substitution of the Concessionaire by a Selectee

- 2.1. In accordance with the terms hereof and upon the occurrence of the events specified herein, Authority hereby irrevocably agrees to substitute the Concessionaire by a Selectee (selected by the Lenders and approved by Authority in accordance with the provisions of this Agreement) by way of Substitution for the purpose of securing the payment of the Lenders Dues.
- 2.2. (a) The Lenders Agent may notify by a notice in writing to the Concessionaire, with a copy thereof simultaneously to Authority, about the occurrence of a Financing Event of Default and requiring the Concessionaire to remedy and cure such default within 30 (thirty) days from the date of delivery of such notice (the "Lenders' Notice of Default"). The Lenders' Notice of Default shall be accompanied by the Lenders Certificate (as defined hereinafter). Provided however that in the event the Lenders Agent elects to issue a Lenders Notice of Default, than a copy thereof shall be given to Authority.

(b) The "Lenders Certificate" is a certificate under the hands of an authorized officer of the Lenders Agent certifying

- i. the occurrence of an Financing Event of Default; and
- ii. the value of Lenders Dues.

The Lenders Certificate shall be conclusive evidence of the occurrence of such Financing Event of Default in so far as the Authority is concerned. Such Concerned Lenders Certificate shall be final, conclusive and binding upon the Authority for the purposes of occurrence of Financing Event of Default only, but not in relation to the Lenders Dues or quantum of Debt.

(c) In the event of a Concessionaire Event of Default leading to issuance of Notice of Intention to Terminate by Authority under the Concession Agreement, the Authority shall issue a copy thereof to Lender's immediately upon issue of such notice give a copy of the same to the Lender's

(d) The Lenders shall be entitled to nominate a third party for the purposes of Substitution:

- i. If after sixty (60) days from the date of delivery of the Lenders' Notice of Default, the Financing Event of Default has not been cured, or remedied or revoked in accordance with the Financing Documents; or
- ii. Immediately upon issue of Notice of Intention to Terminate by the Authority to the Concessionaire.

The Lenders shall notify to Authority about whether they are exercising their right of substitution within sixty (60) days of receipt of Notice of Intention to Terminate, or issuance of the Lenders' Notice of Default, as the case may be.

In such event, the Lenders Agent may, without prejudice to any other right or remedy available to the Lenders under the Financing Document, notify Authority and the Concessionaire on behalf of all the Lenders about the Lenders decision to invite, negotiate and procure offers, either through private negotiations or public auction or process of tendering from third parties for the purposes of Substitution, subject to the prior written approval of such third party by Authority, which approval the Authority may refuse or delay only on the grounds set out in Article 2.3 below (the "Substitution Notice").

2.3. The Lenders Agent and Authority shall apply the following criteria in the selection of a third party for the purposes of Substitution and the Authority shall be entitled to refuse or delay its approval only in the event that it is not satisfied, acting reasonably, that the following criteria will be satisfied by the third party following Substitution:

- i. the third party shall be capable of discharging the duties, obligations and liabilities of the Concessionaire under the Concession Agreement and shall have appropriate financial and legal capability;
- ii. the third party shall provide security/ comfort to the satisfaction of Lenders for repayment of the Lenders Dues;
- iii. the third party shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues of the Concessionaire to Authority under and in accordance with the Concession Agreement;
- iv. the third party shall have the experience and technical capability parameters as set forth in the Concession Agreement or prescribed by Authority during the process of selection of the Concessionaire or at any time thereafter in respect of the Concessionaire;
- v. the third party shall have not been in material breach of any agreement between the third party and Authority;
- vi. the third party satisfies the relevant security and probity clearance requirements set forth by Authority during the competitive bidding procedure undertaken by Authority for the purposes of the selection of the selected bidder in the Concessionaire, or other analogous applicable requirements under Applicable Law, if any; and
- vii. any other appropriate circumstance, whereby continuity in the performance of the Concessionaire's obligations under the Concession Agreement is maintained and the security in favor of Lenders under the Financing Documents is preserved.
- viii. considering its political sensitivities, the Government of Odisha approves the third party.

3. Modalities for Substitution

- 3.1. The following modalities shall be applicable to any replacement of the Concessionaire by the Selectee pursuant to this Agreement:
- i. The Lenders Agent may invite, negotiate or procure offers either through private negotiations or public auction or process of tender or otherwise for the purposes of Substitution;
 - ii. The Lenders Agent shall on behalf of the Lenders propose to Authority pursuant to sub-clause (iii) below, the name of a New Entity for acceptance and shall apply as necessary to Authority for undertaking Substitution.
 - iii. The Lenders Agent on behalf of the Lenders shall be entitled, within a period of one hundred and eighty (180) days from the date of delivery to Authority of the Substitution Notice pursuant to Article 2.2 (d) above, to select and propose to Authority for its approval a New Entity (the "Proposal"). The Proposal of the Lenders Agent pursuant to this sub-clause (iii) shall contain the particulars and information in respect of the New Entity, the Lenders Dues and other data and information, all as prescribed in Schedule 2 hereto. Without prejudice to the foregoing, the Lenders Agent agrees and undertakes to provide to Authority such further and other information and such clarifications in respect of any data, particulars or information furnished by the Lenders Agent (the "Additional Information") as Authority may reasonably require provided that such request(s) is/ are made by Authority within 30 days of receipt of the Proposal/ Additional Information. Authority shall convey its approval or otherwise of such Proposal, within 30 (thirty) days of the later of (a) the date of receipt of the Proposal by Authority, or (b) the date when last of the Additional Information is received by Authority. Provided however that if within 30 (thirty) days of receipt of the Proposal, or the Additional Information as the case may be the Authority has not responded thereto, with its approval/ disapproval or with a request for further information, then the Proposal and the New Entity shall be deemed to have been approved. Authority shall be under an obligation to give reasons for rejection of any Proposal. Provided however that the Authority may only withhold its approval of the Proposal on grounds that the New Entity does not meet any of the criteria specified in Article 2.3 (i) – (vii). It is expressly agreed that the Proposal shall be accompanied by an unconditional undertaking of the New Entity that it shall upon approval by Authority of the Proposal execute necessary documentation to effectuate the Substitution and shall be liable for and shall assume, discharge and pay the Lenders Dues in such manner as may be acceptable to the Lenders. Upon approval of the Proposal the New Entity proposed shall become the Selectee hereunder.

Provided however that in the event the Authority does not approve of the Proposal, then subject to Articles 3.3 and 3.4 below, the Lenders Agent shall, within 30 (thirty) days of receipt of Authority's disapproval, use its reasonable endeavours to present another Proposal in respect of another New Entity and the procedure maintained in this Article 3.1(iii) shall be repeated until the expiry of the 120 days period in Article 3.3 below.
 - iv. Authority shall, upon its satisfaction of the eligibility of the Selectee, on request by the Lenders Agent and in accordance with the provisions of this Agreement and subject to the provisions of sub-clause (v) below proceed to undertake the Substitution.

- v. The Substitution shall be subject to the Selectee obtaining requisite Government approvals, clearances and permission necessary for operating the Project under and in accordance with the Concession Agreement.
 - vi. The decision of the Lenders and Authority in the selection of the Selectee shall be final and binding on the Concessionaire and shall be deemed to have been made with the concurrence of the Concessionaire but without prejudice to the Concessionaire's rights under the Project Agreements and under Applicable Law. The Concessionaire hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever.
 - vii. All actions of the Lenders Agent hereunder shall be deemed to be on and behalf of, expressly authorized by, the Lenders, and be binding upon them. The Lenders Agent hereby confirms that he is authorized to receive payment of compensation, payment to cure default and any other payments, consideration for transfer in accordance with the Substitution Notice and the Financing Documents and give valid discharge on behalf of all Lenders.
- 3.2. The Concessionaire hereby irrevocably agrees and waives any right to challenge the Lender's decision to apply to Authority for Substitution as aforesaid and neither the Concessionaire nor Authority shall be entitled to prevent the Lenders Agent from proceeding to seek such a Substitution of the Concessionaire by Selectee as hereinbefore provided.
- 3.3. Irrespective of anything to the contrary contained herein or in the Concession Agreement, the Lender's Agent and the Authority shall in order to increase the commercial attractiveness/biddability of the project be eligible to offer to the New Entity an extension of the residual Term by a period equivalent to higher of : (1) 20% of the Term of 25 years ,and (2) 50% of the utilized/lapsed portion of the Term as on date of Termination. Notwithstanding anything contained in Article 3.1 above, where no suitable New Entity as acceptable to Authority can be found by the Lenders Agent within a period of one hundred and twenty (120) days from receipt of the first Proposal under Article 3.1, then Authority shall have the right to propose a nominee for the purposes of Substitution.
- 3.4. (i) If Authority proposes to substitute the Concessionaire by any other person ("Authority Nominee"), it shall take into account the criteria specified in Article 2.3 and the Lender's Dues while considering offers from such persons and shall include a suitable condition as agreed to by the Lenders Agent on behalf of the Lenders for payment or takeover of such dues by such Authority Nominee to the extent agreed by the Lenders Agent in the event of a Substitution by such Authority Nominee. The Authority Nominee shall similarly be bound to execute all necessary documentation to effectuate Substitution.
- (ii) Notwithstanding anything contained in Article 3.3 and this Article 3.4, Authority shall not be required to take over at any time during the currency of or, upon termination or expiry of the Concession Agreement for any reason whatsoever, the liabilities representing the Lender's Dues, save and except to the extent of Transfer Payments due and payable upon such termination/ expiry under the Concession Agreement. In such an event Authority's obligation shall be limited to assumption of such liabilities and payments of dues as Authority has agreed to under the Concession Agreement.
- 3.5. Nothing contained herein shall mean or be interpreted as provision of any guarantee or surety by Authority and it is expressly agreed that Authority has not provided any surety, guarantee or counter guarantee, whether directly or indirectly, for the recovery of any portion of the Lenders Dues.

- 3.6. In the event of a Substitution, an additional cure period of one hundred and eight (180) days shall be provided to enable the Selectee/Authority Nominee to cure any breach or default subsisting on the day of such Substitution.

It is clarified that if the nature of the default would take a longer time to remedy, the Selectee must agree on an appropriate timetable and remedy program with Authority. The remedy period will then be extended to match that timetable.

- 3.7. If the Selectee fails to cure such breach or default or make such payment of the Lenders Dues within such period, then the Lenders Agent shall have the right by providing a notice to require Authority to terminate the Concession Agreement and require the termination value to be determined under the Concession Agreement.
- 3.8. The Parties herein expressly agree to execute such agreements as may be necessary to give effect to the Substitution as contemplated herein.

4. Rights of Authority

- 4.1. The Lenders' Agent and the Concessionaire expressly agree that upon the issuance of a Lenders' Notice of Default or Notice of Intention to Terminate and the applicable cure period for the same has expired without the notice/s being withdrawn/cured, notwithstanding the process of Substitution having been initiated as provided in Article 2 herein, the Authority shall have the right but not the obligation to take over the operation and maintenance of the Project and operate and maintain the same in accordance with Good Industry Practice, at the risk and cost of the Concessionaire until operation pursuant to Substitution under this Agreement or curing of such event of default, whichever is earlier.
- 4.2. The Lenders' Agent recognizes that Authority shall be entitled to issue a Notice of Intention to Terminate in accordance with the terms of the Concession Agreement.
- 4.3. The Parties hereby expressly agree that nothing contained in this Agreement shall restrict the ability of Authority to exercise any of its rights under any of the Project Agreements.

5. Lenders Right to receive Termination Payments

- 5.1. Authority and Concessionaire hereby agree, and confirm that without prejudice to any other right or remedy, the Lenders shall be entitled to receive from the Authority payment to the extent of debt due out of the termination payments without any further reference to or consent of the Concessionaire towards the satisfaction of and to the extent of the Lenders Dues. The Lenders and Authority shall be entitled to appropriation amongst themselves in the proportion of amounts due to them as Lenders Dues and fees payable to Authority under the Concession Agreement respectively any consideration received for the Substitution as hereinabove provided from the Selectee. Any excess amounts after the payment for amounts due to the Lenders and Authority shall be paid to the Concessionaire.
- 5.2. The Concessionaire hereby nominates, constitutes and appoints the Lenders Agent as its constituted attorney for doing all acts, deeds and things as may be required to be done for the substitution of the Concessionaire by the Selectee pursuant hereto and for receiving consideration for discharge of the Lenders' Dues pursuant to Article 5.1 above.

6. General

- 6.1. The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement and the Lenders Agent is duly and fully authorized by each of the Lenders to enter into this Agreement on their behalf.
- 6.2. Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by a registered post acknowledgement due and delivered to the other Parties.
- 6.3. The expressions "Authority", the "Concessionaire", the "Lenders" and the "Lenders Agent" herein used shall unless there be anything repugnant to the subject or context include their respective successors, legal representatives, administrators and permitted assigns.
- 6.4. This Agreement shall not be affected by reorganization of any Lender, Lenders Agent or Authority and the successor in interest of such Lender, Lenders Agent or Authority shall have the benefit of this Agreement.
- 6.5. No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorized representatives of all the Parties hereto.
- 6.6. All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of new Concession Agreement for the purpose of Substitution as aforesaid shall be borne by and be to the account of the Selectee. In the event of the Lenders making such payment for the time being, it shall be deemed to be a part of the Lenders Dues.
- 6.7. The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together and construed harmoniously. The terms of the Concession Agreement shall prevail in the event of any inconsistency with this Agreement.
- 6.8. The consultation, recommendation or approval of the Lenders Agent under this Agreement shall always be taken as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same and hereby waives its right to question or dispute the same.
- 6.9. As between the Concessionaire and the Lenders, this Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.
- 6.10. It shall not be necessary for the Lenders or the Lenders Agent to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.
- 6.11. This Agreement shall be governed by and construed in accordance with Indian laws and, subject to Article 6.12 below, the courts at Odisha shall have jurisdiction over all matters arising out of or relating to this Agreement
- 6.12. All Disputes arising under this Agreement, shall be settled as per Arbitration. The venue of arbitration shall be Bhubaneswar, Odisha. This Article 6.12 shall survive the termination or expiry of this Agreement. The governing law of the arbitration shall be the substantive laws of India.

IN WITNESS WHEREOF the Parties hereto have set their hands hereunto on the Day, Month, and Year hereinabove mentioned.

SIGNED AND DELIVERED ON BEHALF OF Authority

BY: _____
Name:
Title:

SIGNED AND DELIVERED ON BEHALF OF THE Concessionaire

BY: _____
Name:
Title:

SIGNED AND DELIVERED ON BEHALF OF LENDERS AGENT

BY: _____
Name:
Title:

**SCHEDULE 1
LENDERS**

[List to be provided as per the Financing Documents when signed]

SCHEDULE 2
INFORMATION AND DETAILS IN RESPECT OF THE SELECTEE
[insert]