GOVT. OF ODISHA

OFFICE OF THE ENGINEER-IN-CHIEF, WATER RESOURCES

ODISHA, BHUBANESWAR

e-Procurement Notice No. RFP CE MKS 01 of 2026-27

Bid Identification No. RFP CE MKS PRD 01 of 2026-27

REQUEST FOR PROPOSAL (RFP)

"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"

INDICATIVE ESTIMATED COST: Rs. 672000000.00

(INCLUDING COST OF CONSTRUCTION, 5 YEARS OPERATION & MAINTENANCE AND ENERGY CHARGES – EPC MODE)

BID PROCESSING FEE: Rs. 10000.00 (Online)

Chief Engineer & Basin Manager

Mahanadi Kathajodi System, Bhubaneswar

e-mail :- celmbbbsr@yahoo.co.in

***

September-2026

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OFFICE OF THE ENGINEER-IN-CHIEF, WATER RESOURCES, ODISHA, SECHA SADAN, BHUBANESWAR

e-Procurement Notice No. RFP CE MKS 01 of 2026-27
Bid Identification No. RFP CE MKS PRD 01 of 2026-27

Sl. No.	Description	Details
1	Name of RFP	**River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years**
2	Type of RFP	Open Tender
3	Mode of Tendering	Online
4	Amount Put to Tender	Rs.67,20,00,000.00 incl. O&M Cost for 05 years
5	Tender Paper Cost	Rs.10,000.00 (Online)
6	EMD	Rs.67,20,000/-
7	Class of Contractor	Super Class and above or equivalent
8	Period of Completion	24 calendar months
9	Bid Start Date (Online)	3rd October 2026 from 11:00 AM
10	Bid Due Date (Online)	6th November 2026, up to 5:00 PM
11	Last date for receiving queries (To the official mail ID - celmbbbsr@yahoo.co.in)	12th October 2026 up to 11:00 AM
12	Pre-Bid Meeting - hybrid mode (in the conference hall of DOWR, Secha Sadan)	16th October 2026 at 3:30 PM (link will be shared through e-mail in due course of time)
13	Authority response to queries latest by	22nd October 2026 at 5:00 PM
14	Opening of Technical BIDs	7th November 2026 after 11:00 AM
15	Opening of Financial BID	To be intimated later
16	Validity of BID	90 days

Further detail conditions can be seen from the Govt. website www.tendersodisha.gov.in

The Corrigendum / cancellation of Tender, if any, will be uploaded and can be seen from the above website only.

Sd/-
Chief Engineer & Basin Manager
Mahanadi Kathajodi System
Bhubaneswar

Chief Engineer & Basin Manager

Mahanadi Kathajodi System, Bhubaneswar

e-mail :- celmbbbsr@yahoo.co.in

NOTICE INVITING BID

NATIONAL COMPETITIVE BIDDING THROUGH e-PROCUREMENT

e-Procurement Notice No. RFP CE MKS 01 of 2026-27

Bid Identification No. RFP CE MKS PRD 01 of 2026-27

REQUEST FOR PROPOSAL (RFP) FOR

"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"

The Chief Engineer & Basin Manager, Mahanadi Kathajodi System, under the administrative control of the Department of Water Resources, Government of Odisha (the "Client/Authority"), is engaged in the execution, operation, and maintenance of the project titled **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** (the "Project"). The Project is being implemented on an Engineering, Procurement, and Construction (EPC) basis. In this regard, the Client/Authority has decided to undertake a bid process for the selection of an eligible EPC agency to whom the Project shall eventually be awarded for construction as well as operation and maintenance.

Sl No	Name of the Project	Bid Identification No.	Indicative Total Project Cost including 5 year O&M Cost and energy Charges (in Rs.)	Construction Period	Operation & Maintenance Period
1.	River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years	RFP CE MKS PRD 01 of 2026-27	Rs. 672000000.00	24 (Twenty Four) Months	60 (Sixty) Months

The complete Bid document can be viewed/downloaded from e-procurement portal of the State Government https://tendersodisha.gov.in Bid must be submitted online only. Bid through any other mode shall not be entertained.

Please note that the Authority reserves the right to accept or reject all or any Bid without assigning any reason whatsoever.

Availability of RFP Document for Online Bidding	**:**	**3rd October, 2026 to 6th November, 2026**
Name & Address of the Officer Inviting RFP	**:**	Chief Engineer & Basin Manager Mahanadi Kathajodi System, Bhubaneswar e-mail :- celmbbbsr@yahoo.co.in

Interested bidders may download the Request for Proposal Documents (the "RFP" document) from the State Government web site www.tendersodisha.gov.in to see further details for participation in the online bidding.

All amendments, time extension, clarifications etc. will be uploaded in the website only. Bidders should regularly visit the above website to keep themselves updated.

Sd/-
Chief Engineer & Basin Manager
Mahanadi Kathajodi System
Bhubaneswar

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 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.

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 Applicant or 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 JV or EPC Agency, 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.

GLOSSARY

Agreement	As defined in Clause 1.1.5
Authority	As defined in Clause 1.1.1
Bank Guarantee	As defined in Clause 2.20.1
BID(s)	As defined in Clause 1.2.1
Bidders	As defined in Clause 1.2.1
Bidding Documents	As defined in Clause 1.1.7
BID Due Date	As defined in Clause 1.1.7
Bidding Process	As defined in Clause 1.2.1
BID Security	As defined in Clause 1.2.4
BID Price or BID	As defined in Clause 1.2.6
EPC Agency	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.2.1
EPC	As defined in Clause 1.1.1
EPC Contract	As defined in Clause 1.1.2
Estimated Project Cost	As defined in Clause 1.1.4
Feasibility Report	As defined in Clause 1.2.3
Government	Government of Odisha
Joint Venture	As defined in Clause 2.2.1
Lowest Bidder	As defined in Clause 1.2.6
LOA	As defined in Clause 3.3.4
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer

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.

Chief Engineer & Basin Manager

Mahanadi Kathajodi System, Bhubaneswar

e-mail :- celmbbbsr@yahoo.co.in

SECTION 1

1.1 Background

1.1.1 The Chief Engineer & Basin Manager, Mahanadi Kathajodi System, under the administrative control of the Department of Water Resources, Government of Odisha (the "Client/Authority"), is engaged in the execution, operation, and maintenance of the project titled **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** (the "Project"). The Project is being implemented on an Engineering, Procurement, and Construction (EPC) basis. In this regard, the Client/Authority has decided to undertake a bid process for the selection of an eligible EPC agency to whom the Project shall eventually be awarded for construction as well as operation and maintenance. A brief description of the project may be seen in the Information Memorandum of the Project at the website (www.tendersodisha.gov.in). Brief particulars of the Project are as follows:

Name of the Project	Estimated Project Cost including 5 year O&M Cost and energy charges	Period of Completion
River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years	**Rs. 672000000.00**	**24 (Twenty-Four) Months for Construction. 60 (Sixty) Calendar Months for O&M.**

1.1.2 The selected Bidder (the "**EPC Agency**") shall be responsible for designing, engineering, procurement and construction of the Project under and in accordance with the provisions of an engineering, procurement and construction contract (the "**EPC Contract**") to be entered into between the EPC Agency and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto. The EPC Agency shall also be responsible for the operation & maintenance of the project for **5 (five) years** including the Defect Liability Period of **1 (One)** year.

1.1.3 The scope of work of "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with

Comprehensive Operation and Maintenance for 05 years" will broadly comprise the following:

General Scope of Work (Applicable to All Components)

The following scope shall be common and applicable to all components under the project:

- Detail Survey and Geotechnical Investigation of the river front development work for preparation of Master Layout Plan with Detail Project Report.
- After detail survey and Investigation, Master Layout Plan with appropriate design and drawing is to be prepared by the agency.
- Preparation of Detail Project Report (DPR) with detail hydrological and hydraulic analysis, detail investigation taken up indicating design criteria, design parameters, design assumptions, method of analysis on all components of the Work (02 bridges with a carriage way width of 7.5m with lock gate). Allied machineries and facilities for gate operations and lighting of the sites, Construction of approach road from the nearest connectivity to the island site for round connectivity shall be ensured.
- These Detail Project Report shall be submitted to the Engineer-in-Charge for approval of Technical Advisory Committee (TAC) before carrying out detailed structural design and construction drawings.
- On approval of DPR by TAC, detailed design shall be taken up as per Technical Specification, relevant IS Code, IRC Code, CBIP Manuals etc, for all the Civil works.
- Processing for approval of Design, Drawing & Estimate from the Competent Authority shall be the responsibility of the agency.
- Preparation of Detail Estimate of all components of works as per Odisha Schedule of Rate for schedule items and Market rate / Procurement rate of EPC agency for non-schedule items and processing it for sanction by Competent Authority.
- Taking up the additional designs and modifications as and when required during construction.
- The EPC agency shall adopt modern methodology/State of art Techniques in design of the components of the work.
- The software and soft copies of designs shall be made available for checking of the Designs and it will be the Property of the Department.
- Planning, design and execution in accordance with the approved Master Layout Plan and DPR duly approved by TAC.
- Adoption of NGT-compliant, eco-friendly, non-permanent and flood-resilient construction systems
- Integration of lighting, signage, wayfinding and necessary utility services
- Coordination and integration with adjacent components and overall site development
- Testing, commissioning and final handover of all works

- Submission of as-built drawings and Operation & Maintenance (O&M) manuals
- Comprehensive maintenance during the Defect Liability Period (DLP)
- Rectification of defects and ensuring performance of all assets during DLP.
- Preparation of operation and maintenance Manuals.
- Design liaison with Engineer and his representative, Consultant(s) of the Employer and if required with Central Water Commission etc.
- Preparation of Monthly Progress Reports on the progress of the project work as a whole for information of the Engineer-in-Charge, in respect of the following:
    - Investigation & Surveys.
    - Design and Engineering.
    - Civil Construction.
    - Electro-Mechanical components.
    - Quality Control arrangement.
    - Technical status (Present status and future programme)
    - Project status (Time Schedule, achievement of mile-stone, Monthly Target & Achievements, slippage in time schedule with specific reference to activities and acceleration measures proposed)
    - Financial status (Present status and future projection)
    - Deployment of Key Personal, Manpower, Labour and Construction Equipment.

      Report shall include necessary Videography, photographs showing the previous month's progress including site visits reports, inspection report, minutes of meeting etc.

Supply of Drawings, Reports etc.

- The EPC Agency shall furnish to the Engineer-in-Charge the following number of copies of drawings, reports and other technical documents:

Sl. No.	Particulars	Hard copies	Soft copies (CD)	Remarks
1.	Drawings for information	6 (six) sets	1 (One)	
2.	Drawings for approval	6 (six) sets	1 (One)	1 (One) One hard copy shall be returned to the EPC Agency with approval or comments.
3.	Approved drawings	1+ 10 sets	1 (One) copy in CD	
4.	As-built document	6 sets	1 in CD	Shall be submitted in accordance with relevant clause of Conditions of Contract
5.	Review Report/ Design Briefs/ Design Memo / Design Reports (Draft)	3 (Three) sets	1 (One) copy in CD	One hard copy shall be returned to the EPC Agency with approval or comments.

Sl. No.	Particulars	Hard copies	Soft copies (CD)	Remarks
6.	Review Report/ Design Briefs/Design Memo/ Design Reports (Final)	1 + 10 sets	1 (One) copy in CD	
7.	Progress Reports (monthly)	6 (Six) sets		Also through e-mail to respective authority
8.	Final design computations	6 (six) sets	1 (One) copy in CD	
9.	Detailed Project Completion Report	10 (Ten) sets	1 (One) copy in CD	

Tentative list of design notes and drawings for the work to be submitted by the EPC agency (Civil & Electro- Mechanical component)

Sl. No.	Design Note	Title of Drawing
1	GAD of Concept Master Plan	Schematic plan, cross section and L-section of the work showing all controlling levels and Arrangements
2	Floating Jetty with construction of a lock gate and two numbers of bridges.	1.Detail Plan, cross section and L S of the floating jetty and bridge cum lock gate with details of bearing, parapet, expansion joint, wearing coat, drainage spout etc. 2. Reinforcement details therein.
3	River Front Ghats with protection and other appurtenant works	1. Detail plan of the River Front Ghats with protection works with LS and CS of protection works & proposed barrages showing all components etc. 2. Component Details of River Front Ghats with protection works etc.
4	Gates including Hoisting arrangements and hoist bridge.	1.General arrangement drawing 2.1st stage and 2nd stage Embedded parts details 3.Gate details 4.Details of Hoist 5. Details of Hoist supporting structures.
5	Power connectivity from the nearest 11KV structure including 11/0.43KV substation and power cable connection for Gate operation and lighting.	1. Layout plan of electrical connectivity etc. 2. Details of 11/0.43 KV substation 3. Plan for cable layout for gate operation and lighting of the site etc. 4.Structural details including cable tray with material statement etc.
6	Construction of approach road from the nearest connectivity to the island site.	1.Layout plan of the connectivity showing plantation etc. 2.C.S of the road showing the details of sub-base and sub-grade etc. 3.Cross drainage work details etc.
7	Construction of ring road with development of view points, parking with toilet and cafeteria & Internal Pathway, River Pathway along with other appurtenant structures.	1. Layout plan with elevation and section etc. 2. Reinforcement details etc. 3.Sewerage,water supply and electrification details etc.

Note: 1.The list is indicative for design notes and drawing to be submitted by the EPC Agencies. Exact details will be decided as per work requirements and approved DPR and Master Layout Plan.

2. No separate payment shall be made for any of the design and engineering works indicated above and needed for the completion of the project and shall be deemed to be included in the quoted price.

Component-Specific Scope of Work

1. **Promenade Development around the Island - Oval Shape of approximately 1.5 km (periphery).**
    - Protection around the bifurcation of Kuakhai and Kushabhadra for approximately 1.5 km (periphery).
    - Architectural, landscape and structural design of promenade sections
    - Design of finishes, railings, seating, shading and edge protection
    - Integration of stormwater drainage and erosion control
    - Provision of solar lighting and electrical systems
    - Use of materials such as precast drains, HDPE pipes, gabion walls and benches.
    - Construction of 02 Nos. of Floating Jetty at River Side.
    - Construction of 02 nos. of Lock Gates along with bridge.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone.
2. **Parking**
    - Traffic circulation and parking layout planning
    - Design of parking geometry, entry/exit and circulation as per NBC 2016 (SP 7 : 2016) Part 3, IRC:SP:12 (Guidelines for Parking Facilities in Urban Areas) and the applicable Odisha Development Authority / Building Rules.
    - Pavement design, drainage and runoff management.
    - Parking Layout shall comply with the applicable Odisha Development Authority/ Building Rules & as per direction of competent authority.
    - Construction of parking facility as per the approved design and drawing for facilitating parking facility for parking of minimum 300 numbers of two wheelers and 100 numbers of four wheelers in total with proper design of entry and exit point so as to mitigate full traffic management with construction of traffic island at suitable location.
    - Minimum EV charging facility for charging of 10 numbers of four wheelers and 20 numbers of two wheelers at once.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone.
3. **Entry Plaza**

- Plaza planning and pedestrian circulation
- Paving, seating, shading and landscape design
- Use of permeable/porous paving systems for groundwater recharge.
- Construction of entry plaza as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone.

4. **Waterbodies/ Fountain**

- Planning and design of waterbodies
- Earthwork profiling, lining and edge treatment
- Integration with stormwater and rainwater harvesting systems
- Design of slopes, safety and access control.
- Construction of water body and fountain at a minimum of two designated location near the sunrise and sunset deck as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

5. **Themed Park, Busking Zone & Open-Air Exhibition**

- Concept development and thematic planning
- Design of performance spaces, exhibition areas and seating
- Provision of modular and temporary infrastructure
- Integration of lighting, utilities and acoustic considerations.
- Construction as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

6. **Ring Road/ Internal Pathway & Mobility Network – Oval Shape of approximately 1.5 km (periphery).**

(Primary Pathway, NMT Route, Vehicular Route, Secondary Pathway, Tertiary Pathways)

- Hierarchy-based planning of circulation network
- Design of pedestrian-only pathways, NMT routes
- Pavement design suitable for usage type in accordance with NGT guidelines

- Seamless integration with all activity zones and landscape areas
- Provision of signage, markings and safety features.
- Pathways with pedestrian movement along with cycle track.
- The carriageway width of Ring Road shall be minimum of 7.5 m width with parallel pedestrian and cycle track in consonance with codal provision.
- Construction shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone.

7. **Sunrise, Sunset & River Viewing Deck with seating arrangement for minimum 500 capacity.**

- Identification and planning of viewing location of sunrise and sunset deck.
- Design of viewing platforms, seating, railings and shading
- Integration of lighting, drainage and safety features.
- Design of river view seating deck for a minimum of 500 numbers of visitors with a minimum seating width of 3 ft for one visitor.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone.

8. **Teen Playground**

- Planning of teen activity and play zones
- Design and installation of play equipment and adventure elements
- Provision of safety surfacing, fencing and utilities.
- Boundary fencing of minimum 1.50 m height with seating area of minimum 30 persons & shaded seating area of minimum 1000-1500 m2 with provision of minimum 5-7 activity zones.
- Drinking water at minimum 2 nos. of designated points with adequate dustbins.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

9. **Open Air Theatre with Yoga Centre.**

- Planning of Amphitheatre layout and acoustics

- Design of seating, stage and lighting systems
- Provision of modular stage infrastructure.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.

10. **Wilderness Zone, Miyawaki Forest & Conservatory**
    - Ecological planning and plantation design
    - Selection of native species and soil preparation
    - Development of trails and learning elements
    - Monitoring and ecological stabilization.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
11. **Eco Entry Zone**
    - Design of eco-sensitive entry experience
    - Entry features, signage and interpretation systems
    - Landscape and pathway development.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone
12. **Entry Plaza with Ticketing & Food Court**
    - Planning of ticketing, food stalls and seating areas
    - Design of crowd management and circulation
    - Integration of utilities and hygiene infrastructure.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone
13. **Adventure Zones (Mud Splash, Cycle Trail, etc.)**
    - Planning and design of recreation and adventure areas
    - Design of terrain features and safety systems
    - Installation of equipment with safety certification
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.

- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

14. **Gardens (Sculpture, Butterfly, Formal, Lawn Areas)**
    - Landscape and thematic planning
    - Plantation, lawn development and irrigation systems
    - Design of pathways, seating and visitor amenities.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone
15. **Open Ground**
    - Grading, leveling and turfing
    - Drainage and flood-resilient surface treatment
    - Provision for temporary utilities.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
16. **General Forest Plantation**
    - Plantation planning and zoning
    - Selection of native species
    - Execution and monitoring of afforestation works.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time
17. **Pet Park & Rolling Mounds**
    - Planning of pet-friendly areas
    - Design of play features, mounds and fencing
    - Provision of drainage and water facilities.
    - Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
    - Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone
18. **Compound Wall**
    - Boundary demarcation and alignment
    - Design of fencing, gates and access points

- Use of Pre-cast materials in compliance with NGT.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.

19. **Picnic Area**

- Planning and zoning of family and group picnic spaces
- Design of shelters, seating, fixed tables (where permitted)
- Landscape development including lawns, shade trees
- Provision of paved and unpaved seating areas
- Integration of waste management, drinking water points and lighting
- Design of pathways, accessibility features and safety measures.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

20. **Anchor Pavilion & Plaza**

- Conceptualization and architectural design of anchor pavilion and surrounding plaza
- Design of multipurpose pavilion structure using modular, eco-friendly construction
- Plaza paving design with pedestrian circulation and congregation areas
- Provision of shading elements, seating, signage and landscape integration
- Integration of lighting, power supply and service connections
- Planning for event usage, crowd management and emergency access.
- Construction shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

21. **Odisha Haat**

- Concept planning inspired by Odisha’s local crafts, culture and vernacular architecture
- Layout planning of artisan stalls, exhibition spaces and activity courts
- Provision of utilities including electricity, water and waste management
- Design of pedestrian circulation, seating areas and cultural performance pockets
- Integration of signage, interpretation elements and landscape features.

- Construction shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

22. **Tree Walk**

- Identification and alignment of elevated or at-grade tree walk routes with elevated skywalk for a length of minimum 2 km.
- Design of walkways, decks, railings and viewing platforms
- Use of lightweight materials compliant with NGT guidelines
- Integration of safety features, lighting and educational signage
- Accessibility considerations and controlled access points.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.

23. **Heritage Village**

- Concept development reflecting traditional settlement patterns and architecture
- Planning of clusters showcasing traditional housing, crafts and livelihoods
- Design of interpretative structures, courtyards and activity spaces
- Use of local materials and indigenous construction techniques
- Landscape development and pedestrian circulation within the village.
- Folk Dance Platform to exhibit local dance forms across the State.
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

24. **CCTV Surveillance System**

- Planning and design of site-wide CCTV surveillance coverage
- Identification of key monitoring locations across entry points, plazas, parking and activity zones
- Installation of weatherproof, vandal-resistant cameras with required networking and power
- Provision of centralized monitoring, recording and storage systems
- Integration with lighting and site security infrastructure
- Testing, commissioning and maintenance during the Defect Liability Period (DLP)

25. **Lawn**

- Grading, leveling and preparation of lawn areas
- Development of turf with suitable grass species
- Design of irrigation and drainage systems
- Provision of pathways, seating and edge treatments
- Integration of lighting and provisions for temporary activities
- Construction work shall be as per the approved Design and Drawing and in conformity with codal provision and other guidelines issued by government from time to time.
- Necessary arrangement shall be made for Lighting Arrangement for illumination as per the zone-wise levels of NBC 2016 (Part 8) / IS 1944 / IS 3646 applicable to this zone

Note: Zone-wise illuminance levels for promenade, plazas, parking, pathways, gardens and activity zones shall be finalised in the DPR as per NBC 2016 (Part 8), IS 1944 and IS 3646. Low-glare, wildlife-sensitive lighting shall be adopted in the Wilderness Zone, Miyawaki Forest, General Forest Plantation and Pet Park.

- The bidder shall be responsible for detailed engineering design, procurement, and execution of all civil, structural, electrical, and associated works in accordance with the Technical Specifications, relevant BIS (IS) Codes, applicable guidelines, manuals, and circulars issued by the Government of Odisha and other competent authorities from time to time.
- The bidder shall be responsible for Preparation and submission of a detailed **Plan / Design and Estimate**, in accordance with the approved Schedule of Rates (SoR), comprising complete design frameworks, engineering analyses, hydrological and geotechnical investigations, component-wise layouts, and all supporting documentation required for examination and approval by the Technical Advisory Committee (TAC).
- The bidder shall be responsible for Detailed design of all components of work on approval of Plan and Estimate by TAC and processing it for approval by the competent authority of the Department of Water Resources, Government of Odisha. The agency is also responsible for Design liaison with Engineer and his representative, Consultant(s) of the Employer and if required with Central Water Commission etc.
- The bidder shall be responsible for Preparing item-wise cost analysis for the entire work on the basis of approved alignment.
- The Bidder shall undertake all project components indicated in the approved Master Layout Plan. Any component, activity, or sub-component necessary for the completeness of the project, even if not explicitly mentioned in the scope of work, shall also be deemed included in the Bidder's obligations.
- The Plan & Estimate shall be processed for approval after obtaining the requisite recommendations and clearance from the TAC. The Bidder shall be responsible for securing Technical Sanction from the Chief Engineer & Basin Manager,

Mahanadi Kathajodi System, Bhubaneswar and thereafter obtaining final approval of the Plan & Estimate from the Department.

- ► All internal pedestrian pavements and vehicular paved roads within the project area are to be developed using paver block technology. The Bidder shall furnish detailed designs, cross-sections, material specifications and construction methodology for approval by the Authority/Department.
- ► All project works shall be undertaken strictly in accordance with the guidelines and directives issued by the National Green Tribunal (NGT).

Note: The above-mentioned Scopes / Quantity written anywhere in the documents are indicative only. All ancillary items required to make the project technically feasible & functional shall be provided by the bidder within the bid amount. Exact details will be decided as per work requirements and approved DPR and Master Layout Plan.

1.1.4 The indicative estimated cost of the Project (the **"Estimated Project Cost"**) has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.

1.1.5 The Agreement sets forth the detailed terms and conditions for award of the project to the EPC Agency, including the scope of the EPC Agency's services and obligations.

1.1.6 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 EPC Agency set forth in the Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the work 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 on that account shall be entertained by the Authority.

1.1.7 The Authority shall receive BIDs pursuant to this RFP in accordance with the terms set forth in this RFP 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 such terms 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

1.2.1 The Authority has adopted a **Single Stage Two-part system** (referred to as the "Bidding Process") for selection of the Bidder for award of the Project. Under this process, the bid shall be invited under two parts. Eligibility and qualification of the Bidder will be first examined based on the details submitted under first part (Technical Bid) with respect to eligibility and qualifications criteria prescribed in this RFP. (The "Bidder", which expression shall, unless repugnant to the context, include the members of the Joint Venture). The Financial Bid under the second part shall be

opened only for those Bidders whose Technical Bids are responsive to eligibility and qualifications requirements as per this RFP.

GOI has issued guidelines (see Annexure VII 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. The Authority shall be entitled to disqualify any Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-IA.

1.2.2 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 90 (Ninety) days** from the date specified in Clause 1.3 for submission of BIDs (the "**Bid Due Date**").

1.2.3 The complete Bidding Documents including the draft Agreement for the Project are enclosed for the Bidders. The Feasibility Report/Detailed Project Report prepared by the Authority/ consultants of the Authority (the "**Feasibility Report/Detailed Project Report**") as **Schedule-Q of Draft Agreement** is also enclosed. Subject to the provisions of Clause 2.1.2, the aforesaid documents and any addenda issued subsequent to this RFP Document, will be deemed to form part of the Bidding Documents.

1.2.4 A Bidder is required to deposit, along with its BID, a BID Security (EMD) of Rs.6720000.00 (Rupees Sixty Seven Lakh Twenty Thousand) only (the "**BID Security**").

1.2.5 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.

1.2.6 BIDs will be evaluated for the Project on the basis of the lowest cost required by a Bidder for implementing the Project (the "**BID Price**"). The total time allowed for completion of construction under the Agreement (the "**Construction Period**") and the period during which the EPC Agency shall be liable for operation & maintenance and rectification of any defect or deficiency in the Project after completion of the Construction Period (the "Defect Liability Period") are specified in the draft Agreement forming part of the Bidding Documents.

In this RFP, the term "Lowest Bidder" shall mean the bidder who is quoting the lowest BID price.

The Estimated Project Cost of Rs.67,20,00,000.00 (Rupees Sixty Seven Crore Twenty Lakh only) is inclusive of all costs. The Bidder shall quote a single lump sum BID Price in the online BoQ which shall include the entire cost of survey, investigation, design, engineering, procurement and construction of the Project, Comprehensive Operation & Maintenance for 5 (five) years and the energy charges during the Operation & Maintenance Period, together with all taxes, duties, levies and incidental charges.

(The O&M cost includes manpower, materials including chemicals, consumables, spare parts etc. and energy charges for 5 years. No separate payment shall be made for any of these items.)

The evaluation of the Financial Bid shall be made on the basis of the total lump sum BID Price quoted in the BoQ.

1.2.7 Generally, the Lowest Bidder shall be the selected Bidder. In case such Lowest Bidder withdraws or is not selected for whatsoever reason, the Authority shall annul the Bidding Process and invite fresh BIDs.

1.2.8 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 by e-mail to the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar (e-mail: celmbbbsr@yahoo.co.in) with identification/ title: "Queries / Request for Additional Information: RFP for "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"".

1.3 Schedule of Bidding Process

The Authority shall endeavor to adhere to the following schedule:

Sl. No.	Event Description	Date
1	Bid Start Date (Online)	3rd October 2026 from 11:00 AM
2	Last date for receiving queries (to the official mail ID celmbbbsr@yahoo.co.in)	12th October 2026 up to 11:00 AM
3	Pre-Bid Meeting – hybrid mode (in the conference hall of DoWR, Secha Sadan)	16th October 2026 at 3:30 PM (link will be shared through email in due course of time)
4	Authority response to queries latest by	22nd October 2026 at 5:00 PM
5	Bid Due Date (Online)	6th November 2026 up to 5:00 PM
6	Opening of Technical BIDs	7th November 2026 after 11:00 AM
7	BID Security (EMD)	Rs.6720000.00 (Rupees Sixty Seven Lakh Twenty Thousand) only
8	Signing of Agreement	Within 15 (fifteen) days of issue of LOA

Details attached in Notice.

SECTION-2
INSTRUCTIONS 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 Joint Venture shall not be entitled to submit another BID either individually or as a member of any Joint Venture, as the case may be.

2.1.2 The Feasibility Report / Detailed Project Report of the Project is being provided only as a preliminary reference document by way of assistance to the Bidders who are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the Feasibility Report/Detailed Project Report shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the Feasibility Report/Detailed Project Report.

2.1.3 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Agreement shall have 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 Agreement.

2.1.4 The BID shall be furnished in the format exactly as per Appendix-I i.e., Technical Bid as per Appendix IA and Financial Bid as per Appendix IB. BID amount shall be indicated clearly in both figures and words, in Indian Rupees in prescribed format of Financial Bid and it will 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 taken into account.

The bidder shall offer the bid price in online mode as given in the BoQ for undertaking the aforesaid project in accordance with the bidding document and the agreement.

2.1.5 The Bidder shall deposit a **BID Security of Rs.6720000.00 (Rupees Sixty Seven Lakh Twenty Thousand) only online through the e-payment gateway of the e-procurement portal in accordance with the provisions of this RFP.**

The bidders shall remit Rs.1000**0.00 (Rupees Ten Thousand) only** including GST @ **18%, (**non-refundable) **on Online mode** towards **Bid Processing Fee**.

2.1.6 **The BID shall be summarily rejected if it is not accompanied by the BID Security. The Bank will remit the "BID Security" on submission/ cancellation of bids to respective bidder's accounts** as per direction received for refund from TIA through e-procurement system. (as per the Appendix-II of RFP).

2.1.7 The Bidder should submit a Power of Attorney as per the format at Appendix-III, authorizing the signatory of the BID to commit the Bidder.

2.1.8 In case the Bidder is a Joint Venture, the Members thereof should furnish a Power of Attorney in favor of the Lead Member in the format at Appendix-IV. In case the Bidder is a Joint Venture, Joint Bidding Agreement in the format at Appendix V shall be submitted by the bidder.

2.1.9 Any condition or qualification or any other stipulation contained in the BID shall render the BID liable to rejection as a non-responsive BID.

2.1.10 The BID and all communications in relation to or concerning the Bidding Documents and the BID shall be in English language.

2.1.11 The 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 2.1.11 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.

2.1.12 This RFP is not transferable.

2.1.13 Any award of Project pursuant to this RFP shall be subject to the terms of Bidding Documents and also fulfilling the criterion as mentioned in clause 2.1.17.

2.1.14 In case the Bidder is a Joint Venture, it shall comply with the following additional requirements:

(a) Number of members in a Joint Venture shall not exceed 3 (three);

(b) subject to the provisions of clause (a) above, the Bid should contain the information required for each Member of the Joint Venture;

(c) Members of the Joint Venture shall nominate one member as the lead member (the "Lead Member"). Lead Member shall meet at least **60%** requirement of Technical and Financial Capacity required as per Clause 2.2.2.2(a) & 2.2.2.3. 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 Joint Venture. Other Member(s) shall meet at least **20%** requirement of Technical and Financial Capacity required as per Clause 2.2.2.2(a) & 2.2.2.3;

(d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and defect liability obligations;

(e) an individual Bidder cannot at the same time be member of a Joint Venture applying for this Bid. Further, a member of a particular Bidder Joint Venture cannot be member of any other Bidder Joint Venture applying for this bid;

(f) the Lead Member shall itself undertake and perform at least **50 (fifty)** per cent of the total cost of the project. The lead member of the JV shall be responsible for overall project execution and coordination till the completion of Defect

Liability Period. The lead member shall not withdraw, substitute or reduce its share in the JV until the successful completion of the contract.

(g) members of the Joint Venture shall have entered into a binding Joint Bidding Agreement, substantially in the form specified at Appendix V (the "Jt. Bidding Agreement"), for the purpose of making the Application and submitting a Bid. The Jt. Bidding Agreement, to be submitted along with the Application, shall, *inter alia*:

(i) convey the commitment(s) of the Lead Member in accordance with this RFP, in case the contract to undertake the Project is awarded to the Joint Venture; and clearly outline the proposed roles & responsibilities, if any, of each member;

(ii) commit the approximate share of work to be undertaken by each member;

(iii) include a statement to the effect that all members of the Joint Venture shall be jointly and severally liable for all obligations of the EPC Agency in relation to the Project until the completion of the Project (the "Defects Liability Period") is achieved in accordance with the EPC Contract; and

(h) except as provided under this RFP, there shall not be any amendment to the Jt. Bidding Agreement.

2.1.15 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

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 the BID, either individually or as member of a Joint Venture.

2.1.17 The Bidder including individual or any of its Joint Venture Member 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 including individual or any of its Joint Venture Member, as the case may be, nor 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 including individual or any of its Joint Venture Member.

2.1.17.1 The Bidder including individual or any of its Joint Venture Member may provide details of all their on-going projects along with updated stage of litigation, if so, against the Authority / Governments.

2.1.17.2 The Bidder including individual or any of its Joint Venture Member may also provide details of updated on-going process of blacklisting if so, under any contract with Authority / Government.

2.1.17.3 The Authority reserves the right to reject an otherwise eligible bidder on the basis of the information provided under clause 2.1.17. The decision of the Authority in this case shall be final.

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 **"Joint Venture"**), coming together to implement the Project. However, no Bidder applying individually or as a member of a Joint Venture, 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 Joint Venture.

(b) Bidder may be a natural person, private entity, or any combination of them with a **formal intent to enter into a Joint Venture agreement or under an existing agreement to form a Joint Venture**. A Joint Venture shall be eligible for consideration subject to the conditions set out in Clause 2.1.14 above.

(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 and liable for forfeiture of the BID Security or Performance Security as the case may be. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

(i) the Bidder, its Joint Venture Member (or any constituent thereof) and any other Bidder, its Member or any Member of its Joint Venture 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, or its Joint Venture Member thereof (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of such Bidder, or its Joint Venture Member, as the case may be), in the other Bidder, its Joint Venture Member is less than 5% (five percent) 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 section 2(72) 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, or any of its Joint Venture Member thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any of its Joint Venture Member thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its member or any of its Joint Venture Member thereof; or

(iv) such Bidder has the same legal representative for purposes of this Application as any other Bidder; or

(v) such Bidder, or any of its Joint Venture Member thereof has a relationship with another Bidder, or any of its Joint Venture Member 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 Application of either or each other; or

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

(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 Member 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 Agreement. In the event any such adviser is engaged by the selected Bidder or EPC Agency, as the case may be, after issue of the LOA or execution of the Agreement for matters related or incidental to the project, then notwithstanding anything to the contrary contained herein or in the LOA or the 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 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 EPC Agency 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 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

e. The Bidder(s) shall provide details of on-going **process of blacklisting if so under any contract with Authority/ Government. Bidder(s) blacklisted in any State Govt./Central Govt./ PSU shall be disqualified.**

f. The Bidder(s) who have in last 3 financial years applied for/are undergoing **Corporate Debt Restructuring (CDR)/Strategic Debt Restructuring (SDR)** or facing recovery proceedings from financial institutions or facing winding up proceedings or those who are facing insolvency / liquidation proceedings before the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy Code, 2016 **are not eligible for qualification.**

The bidder shall submit an affidavit on a non-judicial stamp paper worth Rs.100.00 to this effect.

g. The Bidder shall be a registered contractor of Super Class and above category with the Government of Odisha, or of equivalent class registered with CPWD / other State Governments / Central Government organisations / PSUs. In case of a Joint Venture, the Lead Member shall fulfil this requirement. A scanned copy of the valid Registration Certificate shall be uploaded with the Technical Bid [Clause 2.11.1 (g)], failing which the BID shall be treated as non-responsive.

2.2.2 Qualification requirements of Bidders:

2.2.2.1 <u>A. BID Capacity</u>

Applicants will be qualified only if their available bid capacity at the time of bidding is more than the total estimated cost of the work. The available bid capacity will be calculated as under.

Assessed Available Bid Capacity = (A x N x 2 – B)

Where

A = Maximum value of works executed in any one financial year during the last five years (updated to the current price level). The rate of inflation may be taken as 10 percent per year (escalation factor) which will take into account the completed as well as works in progress.

B = Value at current price level of the existing commitments and on-going works to be completed during the next 2 years.

N = Number of years prescribed for completion of the works for which the bids are invited.

Note: In case of a joint venture if permissible as per this RFP, the available bid capacity will be applied for each partner to the extent of his proposed participation in the execution of the works. In case the extent of participation is not mentioned, the proposed participation in the execution of the work shall be considered as equal for all the partners.

The statement showing the value of existing commitments and ongoing works as well as the stipulated period of completion remaining for each of the works listed should be countersigned by the Engineer-in-Charge not below the rank of Executive Engineer / Superintending Engineer.

Note-2: In case of a joint venture, the available bid capacity will be applied for each partner to the extent of his proposed participation in the execution of the works.

B. Credit Facility:-

The firm must possess credit facilities of not less than twenty percent (20%) of the amount put to tender, i.e, **Rs. 13.44** Crore and furnish the credentials from any scheduled commercial bank along with the bid against the specific work by mentioning the name of work and tender identification number in prescribed proforma as given below.

BANK CERTIFICATE

This is to certify that M/s…….. is a reputed company with a good financial standing.

If the contract for the work, namely "[insert name of the work]" is awarded to the above firm, we shall be able to provide overdraft credit facilities to the extent of Rs …….(in words) to meet their working capital requirements for executing the above work.

Signature & Seal of Bank Manager
Name & Address of Bank

C. Availability of Plants and Machineries:-

1. **Excavator – 03 Nos.**
2. **Tipper – 08 Nos.**
3. **Cranes – 02 Nos.**
4. **Power Road Roller – 02 Nos.**

Note: The bidder should produce documentary evidence regarding availability of key plant and machineries and equipment in working condition required for execution of the work (either owned in his name or obtain on hire purchase scheme or by hiring from the reputed firms EPC agencies' firms). If the machineries are to be procured for specific period for completion of the work on lease/ rental basis, then a copy of MoU/Affidavit must be attached. The Engineer In-charge of the project work shall prepare list of construction equipment required for execution of the work based on the estimated quantity of important and critical work items/time of completion, considering the mode of execution of different items of work. The EPC agency should attach an affidavit that the plant and machineries/ equipments are free and will be available during execution of work

2.2.2.2 Technical Capacity

(a) **Satisfactory Completion of similar Works:** Provided that at least one similar work of 4**0%** of **Estimated Project Cost, i.e. Rs.26.88 crore (Rupees Twenty-Six Crore Eighty Eight Lakh)** shall have been completed from the Eligible Projects **(Similar work means *Projects involving protection of river embankments along with construction of promenades, construction of river side ghats and associated infrastructure and utilities***) at FY 2026-27 price level in last five years, i.e. from FY 2021-22 to FY 2025-26 and current

Financial Year. For this purpose, a project shall be considered to be completed, if more than 80% of the value of work has been completed. Self attested copy of certificate of authenticity is to be enclosed from the concerned Executive Engineer / competent officer in charge of execution. Weightage of 10% per year shall be given on cost of satisfactorily completed works of previous years to bring them to the current price level. Failure to submit proof in support will result in non-consideration of the tender.

2.2.2.3 **Annual Turnover:** To qualify for award of the contract, each bidder in its name should have in the last five years (from FY 2021-22 to FY 2025-26) achieved minimum annual turnover (in all classes of Civil Engineering construction works only) of **Rs. 50.40 Crore** at FY 2026-27 (FY of invitation of tender) price level in any one financial year (one and half times of the estimated annualized cost of tender) (Attested copy of certificate of authenticity is to be enclosed from the appropriate authority). Weightage of 10% per year shall be given on financial turnover of previous years to bring them to current price level.

2.2.2.4 **In case of a Joint Venture:**

(a) The Bid Capacity, Technical Capacity and Financial Capacity of all the Members of Joint Venture would be taken into account for satisfying the above conditions of eligibility. Further, Lead Member shall meet **at least 60%** requirement of Bid Capacity, Technical and Financial Capacity as per Clause 2.2.2.1, 2.2.2.2 and 2.2.2.3 and each of other JV members shall meet **at least 20%** requirement of Bid Capacity, Technical and Financial Capacity individually as per Clause 2.2.2.1, 2.2.2.2 and 2.2.2.3. For avoidance of doubt, it is further clarified that the Joint Venture must collectively and individually satisfy the above qualification criteria i.e. JV shall cumulatively/collectively fulfil the 100% requirement.

(b) For requirement of 2.2.2.2 (a), one similar work of **25%** of Estimated Project Cost should have been completed from the Eligible Projects specified individually by any of the JV members as a single work, and the Joint Venture shall collectively satisfy the requirement as mentioned above.

2.2.2.5 **Submission in support of Technical Capacity**

(a) The Bidder should furnish the details of Eligible Experience for the last 5 (five) financial years immediately preceding the Bid Due Date.

(b) The Bidder must provide the necessary information relating to Technical Capacity in the form of an attested copy of the certificate of authenticity from the appropriate authority.

(c) The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity. Attested copy from competent authority to be enclosed.

2.2.2.6 **Submission in support of financial capacity**

(a) The Technical Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Joint Venture) for the last 5 (five) financial years, preceding the year in which the bid is submitted.

2.2.2.7 The Bidder shall enclose with its Technical Bid, to be submitted as per the format at Appendix-IA, complete with its Annexes, the following:

(a) **Certificate(s) from** its **statutory auditors** or the concerned client(s) **stating the payments received** or in case of a PPP project, the construction carried out by itself, during the past 5 years, in respect of the Eligible Projects. In case a particular job/ contract has been jointly executed by the Bidder (as part of a Joint Venture), it should further support its claim for the payments received or construction carried out by itself in PPP Projects as applicable, the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and

Note:

i. *In case duly certified audited annual financial statements containing explicitly the requisite details are provided, a separate certification by statutory auditors would not be necessary in respect of clause 2.2.2.7 (a). In jurisdictions that do not have statutory auditors, the firm of auditors which audits the annual accounts of the Applicant may provide the certificates required under this RFP. So inclusion of Chartered Accountant in addition to Statutory Auditors, may not be required.*

ii. ***Certificate(s) from Statutory Auditors/ Chartered Accountant without UDIN Number shall not be accepted for evaluation.***

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.

2.4 Cost of Bidding

The Bidders shall be responsible for all of 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, traffic, 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, Schedules annexed to EPC agreement Document;

(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. No claim shall be admissible at any stage on this account.

(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 thereunder;

(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 Agreement by the EPC Agency;

(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, 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 thereunder.

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 the supplemental information sought by the Authority for evaluation of the BID within the reasonable time specified by the Authority and without prejudice to the tender validity period in any manner.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Joint Venture, then the entire Joint Venture and each Member of the Joint Venture may be disqualified/ rejected. If such disqualification/rejection occurs after the BIDs have been opened and the lowest Bidder gets disqualified / rejected, then the Authority reserves the right to annul the Bidding Process and invite fresh BIDs.

2.6.3 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of defect liability, subsistence thereof, 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 EPC agency either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the 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 EPC Agency, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or the EPC Agency. 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 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.

Part –I
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

IA Letter comprising the Technical BID including Annexure I to VII

IB Letter comprising the Financial BID

IIA. Bank Guarantee for BID Security

III. Power of Attorney for signing of BID

IV. Power of Attorney for Lead Member of Joint Venture

V. Joint Bidding Agreement for Joint Venture

Part –II

Agreement Document with schedules

Part – III

Feasibility Report / Detailed Project Report provided by the Authority

2.7.2 The draft Agreement and the **Feasibility** / Detailed Project **Report** provided by the Authority as part of the BID 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 in writing by e-mail in accordance with Clause 1.2.9. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than 15 (fifteen) days prior to the BID Due Date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

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 & clarifications to all Bidders. All clarifications & 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.

2.9 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 issued hereunder will be in writing and shall be sent to all the Bidders.

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, in its sole discretion, extend the BID Due Date.

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. The Authority will evaluate only those BIDs that are received online in the required formats and complete in all respects.

2.10.2 The BID shall be typed and signed in indelible blue ink by the authorised signatory of the Bidder. All the alterations, omissions, additions or any other amendments made to the BID shall be initialled by the person(s) signing the BID.

2.11 Documents comprising Technical and Financial BID

2.11.1 The Bidder shall submit the Technical BID & Financial Bid online through e-procurement portal [http://www.tendersodisha.gov.in] comprising the following documents along with supporting documents as appropriate:

Technical Bid

(a) Appendix-IA (Letter comprising the Technical Bid) including Annexure I to XIV and supporting certificates / documents.

(b) Power of Attorney for signing the BID as per the format at Appendix-III;

(c) if applicable, Power of Attorney for Lead Member of Joint Venture as per the format at Appendix-IV;

(d) if applicable, Agreement for Joint Venture as per the format at Appendix-V

(e) **BID Security of Rs.6720000.00 (Rupees Sixty Seven Lakh Twenty Thousand) only** remitted online through the e-procurement portal of Government of Odisha.

(f) **Copy of remittance** of the **Bid Processing Fee for Rs.10000.00 (Rupees Ten Thousand)** only including GST @ 18%, (non-refundable) **on Online mode**.

(g) Scanned copies of Registration Certificate (R.C.) of the EPC Agency, GST Registration Certificate / GSTIN, PAN Card, Affidavit regarding authenticity of the tender documents (Annex-XI), No Relation Certificate (NRC) (Annex-VIII), attested true copies of Registration of Firm and work done certificates from the concerned Superintending Engineer, certificates issued by the competent authorities required for fulfilling the eligibility criteria, and documents of ownership / hiring of plants and machineries (with MoU / affidavit) along with Form-A, Form-B and Annexures IX to XIV.

Financial Bid

(h) Appendix-IB (Letter comprising the Financial Bid) which includes online BoQ.

2.11.2 BIDs submitted by fax, telex, telegram or e-mail shall not be entertained and shall be summarily rejected.

2.11.3 The lowest preferred bidder is required to produce documents in original i.e. Registration Certificate (R.C.), GST Registration Certificate, GSTIN, PAN Card, Affidavit regarding authenticity of the tender documents, certificates issued by the

competent authorities required for fulfilling the eligibility criteria as specified in the bid document, No Relation Certificate (NRC) along with ownership and hiring of plants and machineries etc. which were uploaded in the e-procurement portal during submission of tender, to the Authority within the stipulated period i.e. within 05 (five) days from the date of opening of financial bid / lottery as applicable, for verification. The Bidder has to submit the original affidavit regarding authenticity of the documents to the Authority. In the eventuality of failure on the part of the lowest bidder to produce the original documents, he will be debarred from participating in tenders for 3 years and will be blacklisted by the competent authority.

2.12 BID Due Date

Technical & Financial BID comprising the documents listed at clause 2.11.1 of the RFP shall be submitted online through e-procurement portal [http://www.tendersodisha.gov.in] on or before 06.11.2026 up to 5:00 PM**.**

2.13 Late BIDs

E-procurement portal [http://www.tendersodisha.gov.in] shall not allow submission of any Bid after the prescribed date and time at clause 2.12.

2.14 Procedure for e-tendering

2.14.1 Accessing/ Purchasing of BID documents

2.14.1.1 It is mandatory for all the Bidders to have Class-III Digital Signature Certificate (DSC) (in the name of Authorized Signatory / Firm or Organisation / 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.

DSC should be in the name of the authorized signatory as authorized in Appendix III of this RFP. It should be in corporate capacity (that is in Bidder capacity / in case of JV in the Lead Member capacity, as applicable). The Bidder shall submit document in support of the class III DSC.

2.14.1.2 To participate in the bidding, it is mandatory for the Bidders to get registered their firm / Joint Venture with e-procurement portal of Government of Odisha [http://www.tendersodisha.gov.in] to have user ID & password. Following may kindly be noted:

(a) Registration with e-procurement portal of Government of Odisha should be valid at least up to the date of submission of BID.

(b) BIDs can be submitted only during the validity of registration.

2.14.1.3 If the firm / Joint Venture is already registered with e-tendering service provider of Government of Odisha, and validity of registration is not expired the firm / Joint Venture is not required to obtain a fresh registration.

2.14.1.4 The complete BID document can be viewed / downloaded by the Bidder from e-procurement portal of Government of Odisha [http://www.tendersodisha.gov.in]**.**

2.14.2 Preparation & Submission of BIDs:

2.14.2.1 The Bidder may submit his Bid online following the instruction appearing on the screen.

2.14.2.2 The documents listed at clause 2.11.1 shall be prepared and scanned in different files (in PDF format) and uploaded during the on-line submission of BID.

2.14.2.3 Bid must be submitted online only through e-procurement portal of Govt. of Odisha [www.tendersodisha.gov.in] using the digital signature of authorised representative of the Bidder on or before due date.

2.14.3 Modifications/ Substitution/ withdrawal of BIDs

2.14.3.1 The Bidder may modify, substitute or withdraw its e-BID after submission prior to the BID Due Date. No BID can be modified, substituted or withdrawn by the Bidder on or after the BID Due Date & Time.

2.14.3.2 For modification of e-BID, Bidder has to detach its old BID from e-procurement portal and upload / resubmit digitally signed modified BID. For withdrawal of BID, bidder has to click on withdrawal icon at e-procurement portal and can withdraw its e-BID. Before withdrawal of a BID, it may specifically be noted that after withdrawal of a BID for any reason, Bidder cannot re-submit e-BID again.

2.15 Online Opening of BIDs.

2.15.1 Opening of BIDs will be done through online process.

2.15.2 The authority shall open **Technical BIDs** on-line. The authority will subsequently examine and evaluate the BIDs in accordance with the provisions of Section 3 of RFP.

2.16 Rejection of BIDs

2.16.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to 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 thereof. 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.

2.16.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any BID without assigning any reasons.

2.17 Validity of BIDs

The BIDs shall be valid for a period of not less than 90 (Ninety) days from the BID Due Date. The validity of BIDs may be extended by mutual consent of the respective Bidders and the Authority.

2.18 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.

2.19 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

2.20 BID Security

2.20.1 The Bidder shall furnish as part of its BID, a BID Security referred to in Clauses 2.1.5 and 2.1.6 hereinabove @ 1% (one per cent) of the amount put to tender, i.e. Rs.6720000.00 (Rupees Sixty Seven Lakh Twenty Thousand) only, to be transferred online through the e-payment gateway of the e-procurement portal of Government of Odisha as per the procedure at Appendix-II. The exemption from deposit of Bid Security/EMD shall not be allowed (Works Department OM No.4281/W dt.05.03.2025). Adjustment of earnest money given with other tenders previously shall not be entertained.

2.20.2 Any BID not accompanied by the BID Security shall be summarily rejected by the Authority as non-responsive.

2.20.3 The Selected Bidder's BID Security will be returned, without any interest, upon the bidder signing the Contract 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 Agreement.

2.20.4 The Authority shall be entitled to forfeit and appropriate the BID Security as Damages inter alia in any of the events specified in Clause 2.20.5 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. No relaxation of any kind on BID Security shall be given to any Bidder.

2.20.5 The BID Security shall be forfeited and appropriated by the Authority as damages payable to the Authority for, inter-alia, time cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority under the bidding documents and / or under the Agreement, or otherwise, under the following conditions:

(a) If a Bidder submits a non-responsive BID as defined in 3.1.6;

(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;

(ii) to sign the Agreement; or

(iii) to furnish the Performance Security within the period prescribed therefor in the Agreement; or

(e) In case the Selected Bidder, having signed the Agreement, commits any breach thereof prior to furnishing the Performance Security.

2.20.6 <u>Initial Security Deposit (ISD) and Security</u>

The tenderer whose tender is selected for acceptance shall, within a period of 7 (seven) days upon intimation being given to him of acceptance of his tender (LOA), make an Initial Security Deposit @ 2% (two per cent) of the accepted tender amount in the form of NSC, Post Office Time Deposit Account, Post Office Saving Bank Account / Kisan Vikas Patra / Bank Guarantee in favour of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar from any Nationalised / Scheduled Bank in India counter guaranteed by its local Bank at Bhubaneswar / e-Bank Guarantee executed on the National e-Governance Services Limited (NeSL) Digital Document Execution Portal, towards EMD/ISD, and sign the Agreement. Failure to enter into the required agreement and to make the security deposit as above shall entail forfeiture of the earnest money. The Initial Security Deposit, together with deductions from each running bill not exceeding 5% (five per cent) as may be necessary to make up the balance of the total security of 7% (seven per cent) of the contract value, shall be retained as security for the due fulfilment of the contract. The security will be refunded after one year on completion of the work in all respects provided the final bill is passed and will not carry any interest (Ref. Works Department Order No.17823/WE dt.11.10.2006).

2.20.7 Additional Performance Security (APS)

Additional Performance Security shall be obtained from the successful bidder when the bid amount is less than the estimated cost put to tender, on an incremental basis for low bid prices, as under (as per Works Department OM No.173 dt.03.01.2026, which abolishes the threshold negative bid cap of 14.99%):

I. where the bid price is below 0% but not below 10% of the project cost put to bid, no additional performance guarantee/security percentage is required;

II. where the bid price is below 10% but not below 20% of the project cost put to bid, the additional performance guarantee/security percentage shall be incremented by 0.1% for every percentage of bid price below 10% of the project cost put to bid starting at 11% with the additional bid performance

guarantee being 0.1% and this additional performance guarantee percentage shall be applied on the bid price;

III. where the bid price is 20% or more below of the project cost put to bid, the additional performance guarantee percentage shall be incremented by 0.2% for every percentage of bid price below 20% of the project cost put to bid in addition to 1% of the bid price and this additional performance guarantee percentage shall be applied on the bid price;

IV. the additional performance guarantee percentage shall be rounded off to the next lower percentage based on whether the decimal point of the percentage of bid price is below 0.5% or next higher percentage based on whether the decimal point of the percentage of bid price is 0.5% or more;

V. the additional performance security shall be treated as part of the performance security.

The applicable Additional Performance Security (APS) shall have to be furnished by the successful bidder in shape of Term Deposit Receipt pledged in favour of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar / Bank Guarantee in favour of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar, from any Nationalised / Scheduled Bank in India counter guaranteed by its local branch at Bhubaneswar within 7 (seven) days of issue of Letter of Acceptance (LoA) (by e-mail) to the successful bidder, otherwise the bid of the successful bidder shall be cancelled. Further, proceeding for blacklisting shall be initiated against the bidder (vide Office Memorandum No.14459/W dated 20.09.2018 of Works Department, Govt. of Odisha).

SECTION-3
EVALUATION OF TECHNICAL BIDS AND OPENING & EVALUATION OF FINANCIAL BIDS

3.1 Evaluation of Technical Bids

3.1.1 The Authority shall open the BIDs received online after **11.00 hours IST on 7th November, 2026** at the office of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar; and in the presence of the Bidders who choose to attend. The Authority shall prepare minutes of the BID opening, including information disclosed to those present at the time of BID opening.

3.1.2 Technical Bids of those Bidders who have not submitted their Bid online, shall not be considered for opening and evaluation.

3.1.3 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 for consideration of eligibility and qualification of the Bidder.

3.1.4 To facilitate evaluation of Technical BIDs, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Technical BID. Such clarification(s) 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.

3.1.5 If a Bidder does not provide clarifications sought under Clause 3.1.4 above within the prescribed time, its Bid may 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.

3.1.6 **Tests of responsiveness**

3.1.6.1 As a first step towards evaluation of Technical BIDs, the Authority shall determine whether each Technical BID is responsive to the requirements of this RFP. A Technical BID shall be considered responsive only if:

(a) Technical BID is received online as per the format at Appendix-IA including Annexure I to XIV;

(b) Technical Bid is accompanied by the BID Security as specified in Clause 2.1.5 and 2.1.6;

(c) Technical Bid is accompanied by the Power of Attorney as specified in Clauses 2.1.7;

(d) Technical Bid is accompanied by Power of Attorney for Lead Member of Joint Venture and the Joint Bidding Agreement as specified in Clause 2.1.8, if so required;

(e) Technical Bid contains all the information (complete in all respects);

(f) Technical Bid does not contain any condition or qualification; and

(g) The bidders shall **remit Rs.10000.00** (Rupees Ten Thousand) only including GST @ 18%, (non-refundable) **on Online mode** towards Bid Processing Fee. **Copy of online remittance of Bid Processing Fee to be furnished with the technical bid.**

3.1.6.2 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.

3.1.7 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 may reject / correct such claim for the purpose of qualification requirements.

3.1.8 The Authority will get the BID security verified from the issuing authority and after due verification, the Authority will evaluate the Technical BIDs for their compliance to the eligibility and qualification requirements pursuant to clause 2.2.1 & 2.2.2 of this RFP.

3.1.9 After evaluation of Technical Bids, the Authority will publish a list of technically responsive Bidders whose financial bids shall be opened. The Authority shall notify other bidders that they have not been technically responsive. The Authority will not entertain any query or clarification from Applicants who fail to qualify.

3.2 Opening and Evaluation of Financial Bids

The Authority shall inform the venue and time of online opening of the Financial Bids to the Technically responsive Bidders through e-procurement portal of Govt. of Odisha and e-mail. The Authority shall online open the Financial Bids on date and time to be informed in this clause in the presence of the authorised representatives of the Bidders who may choose to attend. The Authority shall publicly announce the Bid Price quoted by the technically responsive Bidder. The Authority shall prepare a record of opening of Financial Bids.

3.3 Selection of Bidder

3.3.1 Subject to the provisions of Clause 2.16.1, the Bidder whose BID is adjudged as responsive in terms of Clause 3.1.6 and who quotes lowest price shall be declared as the selected Bidder (the "**Selected Bidder**").

3.3.2 In the event that two or more Bidders quote the same BID Price (the "**Tie BIDs**"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.3.3 In the event that the Lowest Bidder is not selected for any reason, the Authority shall annul the Bidding Process and invite fresh BIDs. 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.

3.3.4 After selection, 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.

3.3.5 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Bidder to execute the 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 Agreement.

3.4 Contacts 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, the Authority and/ or their employees/ representatives on matters related to the BIDs under consideration.

3.5 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.

3.6 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.

3.7 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
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 Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Agreement, the Authority may reject a BID, withdraw the LOA, or terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder, 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 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 Agreement, or otherwise if a Bidder or EPC Agency, 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 Agreement, such Bidder 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 EPC Agency, 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 Agreement or arising therefrom, 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 Agreement, as the case may be, any person in

respect of any matter relating to the Project or the LOA or the Contract 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
PRE-BID CONFERENCE

5.1 Pre-BID conference of the Bidders shall be convened at the designated date, time and place. A maximum of two 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.

5.3 **Venue of Pre-Bid Conference:**

Office of the Chief Engineer & Basin Manager, Secha Sadan, Bhubaneswar Odisha, India

The pre-bid queries should be submitted to the Official mail Id: celmbbbsr@yahoo.co.in

5.4 **Pre-Bid Queries submission Format**

The e-mail shall clearly bear the following subject:

"Queries/ Request: River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years".

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.

Sl No	Page No	Part of RFP	Clause No	Text as per RFP	Clarification sought with justification, if any

SECTION-6
MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with, the laws of India/**Odisha** and the Courts at **Bhubaneswar** 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) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or

(d) 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.

APPENDIX IA

LETTER COMPRISING THE TECHNICAL BID

(Refer Clause 2.1.4, 2.11 and 3.1.6)

To

The Chief Engineer & Basin Manager,
Mahanadi Kathajodi System, Bhubaneswar-751001
Odisha, India

Sub: **BID for the Project "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"**

Dear Sir,

1. With reference to your RFP document Dt. …… 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 EPC Agency for the aforesaid Project, and we certify that all information provided in the Bid and its Annexures I to XIV along with the supporting documents 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. This statement is made for the express purpose of our selection as EPC Agency for the development, construction, rehabilitation and augmentation of the aforesaid Project and operation & maintenance of the Project during the Defect Liability Period.

4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the BID.

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 JV partners 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 Bidding Documents, including any Addendum issued by the Authority; and

   (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; and

   (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, 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; and

(e) the undertakings given by us along with the Application in response to the RFP for the Project and information mentioned for the evaluation of the BID Capacity in Annexure VI were true and correct as on the date of making the Application and are also true and correct as on the BID Due Date and I/we shall continue to abide by them.

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 2.16.2 of the RFP document.

9. I/We believe that we/our Joint Venture satisfy(s) the Threshold Technical Capacity and meet(s) the requirements as specified in the RFP document.

10. I/ We declare that we/ any Member of the Joint Venture or our/Joint Venture member, are not a Member of any other Joint Venture submitting a BID for the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Joint Venture or any of our/their Joint venture member 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 Joint Venture or any of our/their Joint venture member 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 Joint Venture or against our CEO or any of our directors/ managers/ employees.

14. 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 13.7.01, a copy of which forms part of the RFP at Annexure VII of Appendix-IA thereof.

15. 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 guidelines referred to above, we shall intimate the Authority of the same immediately.

16. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Agreement up to its validity, it would, notwithstanding anything to the

contrary contained in the Agreement, be deemed a breach thereof, and the Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

17. 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.

18. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into an 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.

19. 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 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 Agreement.

20. I/ We offer a BID Security of Rs.**** (Rupees **** only) to the Authority in accordance with the RFP Document.

    The BID Security has been remitted online through the e-procurement portal.

21. The documents accompanying the Technical BID, as specified in Clause 2.11.1 of the RFP, have been submitted in separate files.

22. I/ We agree and understand that the BID is subject to the provisions of the Bidding Documents.

23. In no case, I/we shall have any claim or right of whatsoever nature if the Project / Contract is not awarded to me/us or our BID is not opened or rejected.

24. The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

25. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

26. {We, the Joint Venture agree and undertake to be jointly and severally liable for all the obligations of the EPC Agency under the Contract Agreement}.

27. I/ We shall keep this offer valid for **90 (Ninety)** days from the BID Due Date specified in the RFP.

28. I/ We hereby submit our BID and offer a BID Price as indicated in Financial Bid for undertaking the aforesaid Project in accordance with the Bidding Documents and the 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 & seal of Bidder/Lead Member

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, and 'Deleted' may be indicated there

APPENDIX -IB

Letter comprising the Financial BID

(Refer Clauses 2.1.4, 2.11.1 and 3.1.6)

Dated: ……/……/2026

To

The Chief Engineer & Basin Manager,
Mahanadi Kathajodi System, Bhubaneswar-751001
Odisha, India

Sub: **BID for the Project "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years".**

Dear Sir,

With reference to your RFP document Dt. _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.

1 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 EPC Agency for the aforesaid Project, and we certify that all information provided in the Bid is 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.

2 The BID Price has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

3 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.

4 In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into an 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.

5 I/ We shall keep this offer valid for 90 (Ninety) days from the BID Due Date specified in the RFP.

6 **I/ We hereby submit our BID and offer a BID Price as given in the online BoQ for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.**

Yours faithfully,

Date Name & seal of Bidder/Lead Member: .....

Place Class III DSC ID of Authorised Signatory

(Signature, name and designation of the Authorised Signatory)

Appendix IA Annex-I

ANNEX-I
Details of Bidder

1. (a) Name:

   (b) Country of incorporation:

   (c) Address of the corporate headquarters and its branch office(s):

   (d) Date of incorporation and/ or commencement of business:

2. Brief description of the Bidder 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: Mobile:

   (f) Landline: E-Mail Address:

   (g) Fax Number:

4. Particulars of the Authorised Signatory of the Bidder:

   (a) Name:

   (b) Designation:

   (c) Address:

   (d) Phone Number: Landline: Mobile:

   (e) Fax Number:

   (f) Class III Digital Signature Certificate ID number

5. In case of a Joint Venture:

   (a) The information above (1-4) should be provided for all the Members of the Joint Venture.

   (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.1.14(g) should be attached to the Application.

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

Sl. No.	Name of Member	Role* {Refer Clause 2.1.14(d)}$	Share of work in the Project {Refer Clauses 2.1.14(a), (f) & (h)}
1.			

Sl. No.	Name of Member	Role* {Refer Clause 2.1.14(d)}$	Share of work in the Project {Refer Clauses 2.1.14(a), (f) & (h)}
2.			
3.			

* The role of each Member, as may be determined by the Applicant, should be indicated in accordance with instruction 4 at Annex-IV.

$ All provisions contained in curly parenthesis shall be suitably modified by the Applicant to reflect the particulars relating to such Applicant.

(d) The following information shall also be provided w.r.t para 2.1.16 for each Member of the Joint Venture:

Name of Applicant/ member of Joint Venture:

No.	Criteria	yes	No
1.	Has the Bidder/ constituent of the Joint Venture been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT, EPC or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on BID due date.		
3.	Has the Bidder/ constituent of the Joint Venture paid liquidated damages of more than 5% 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 Joint Venture (where applicable) 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) w.r.t para 2.1.17:

Name of Bidder/ member of Joint Venture:

No.	Criteria	1st last year	2nd last year	3rd last year
1.	If the Bidder has either 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 or any of its Joint Venture Member, as the case may be, or has been expelled from any project or contract by any public entity or has had any contract terminated by any public entity for breach by such Bidder or any of its Joint Venture Member.			
2.	Updated details of stage of litigation, if so, against the Authority / Governments on all the on-going projects of the bidder or any of its Joint Venture Member.			

No.	Criteria	1st last year	2nd last year	3rd last year
3.	Updated details of on-going process of blacklisting if so, under any contract with Authority / Government on the Bidder including any of its Joint Venture Member.			

Appendix IA
Annex-II

ANNEX-II
FORMAT FOR PERFORMANCE RECORD OF EPC AGENCIES

1. Name of the EPC Agency :
2. Registration No. and Date :
3. Class of EPC Agency :
4. Licensing Authority :
5. License valid up to :
6. Details of works executed :

Sl. No.	Jobs under execution	Agreement amount	Date of Commencement	Stipulated Date of Completion	Whether work is progressing as per programme	Reasons for delay, if any
1	2	3	4	5	6	7

7. Whether the EPC Agency has requisite machineries & personnel deployed (details of machinery and personnel deployed) :
8. Whether the quality of construction is satisfactory :
9. Whether he has capability to make good the loss in time :
10. Whether the EPC Agency has abandoned any work in the past three years, if yes, the details thereof.
11. Whether the EPC Agency has entered into any litigation in the past if yes, the details thereof.

Name of the Certifying Officer
With official seal

Signature of EPC Agency

ANNEX-III

Details of the works on hand and performance for last five years as on the date of submission of pre-qualification documents in the following proforma.

(Separate form for each work)

1. Name of work_____
2. Place and Country_____
3. Total tendered cost of work _____
4. Brief description of works including principal features and quantities of main items._____
   _____
5. Details of works in hand
   i. Percentage of physical completion and amount billed for the work completed.
   ii. Cost of work remaining to be executed.
   iii. Stipulated date of completion.
   iv. Anticipated date of completion.
6. Explain for non-completion of work within stipulated time limit if so.
7. Were there any penalties /fines / stop notice / compensation /liquidated damages imposed?
   Yes or No.
   If yes, give amount and explanations
8. Were there any fines, claims or stop notice filed by the employer? (Yes or No.)
   (If yes, give amount and explanation)

Signature of Tenderer.

Appendix IA ANNEX-IV

Details of Similar Works Executed

(Refer to Clauses 2.2.2.2 (a), 2.2.2.4 (b) and 2.2.2.5 of the RFP)

Name of Bidder / JV Member: …… Work Sl. No.: ……

Item	Refer Instruction	Particulars of the Project
Name of the work	1	
Nature / main components of the work (river embankment protection, promenade, river side ghats, associated infrastructure & utilities)	2	
Name and address of the Employer / Client (Department / Organisation)		
Agreement No. and date		
Location of the work		
Contract value of the work (Rs. in crore)		
Date of commencement		
Stipulated date of completion and actual date of completion	4	
Value of work executed (Rs. in crore) and percentage of contract value completed	4	
Value of the work at FY 2026-27 price level (with 10% weightage per year) (Rs. in crore)	5	
Share of the Bidder in case the work was executed as a JV / partnership (%)	7	
Name and designation of the officer issuing the certificate of authenticity	6	

Instructions:

1. Bidders shall furnish in this Annex the details of similar works in support of the Technical Capacity required under Clause 2.2.2.2 (a) of the RFP. A separate sheet shall be filled for each work claimed.
2. Similar work means Projects involving protection of river embankments along with construction of promenades, construction of river side ghats and associated infrastructure and utilities. Only works of this nature shall be considered.
3. At least one similar work of value not less than 40% of the Estimated Project Cost, i.e. Rs.26.88 crore, shall have been completed in the last five years, i.e. from FY 2021-22 to FY 2025-26 and the current Financial Year. In case of a Joint Venture, one similar work of 25% of the Estimated Project Cost (i.e. Rs.16.80 crore) shall have been completed individually by any of the JV members as a single work, and the Joint Venture shall collectively satisfy the requirement (Clause 2.2.2.4 (b)).

4. A work shall be considered to be completed if more than 80% of the value of the work has been completed. The actual date of completion, or the percentage of value completed with the date, shall be indicated.

5. The cost of satisfactorily completed works of previous years shall be brought to the FY 2026-27 price level by giving a weightage of 10% per year.

6. A self-attested copy of the certificate of authenticity from the concerned Executive Engineer / competent officer in charge of execution, in the format below, shall be enclosed for each work. Failure to submit proof in support will result in non-consideration of the tender.

7. Where the work was executed as a member of a Joint Venture / partnership, only the Bidder's share in the work shall be considered, and the share shall be indicated in the certificate.

8. Experience for any work shall not be claimed twice. Work Orders, Agreements or certificates not containing the above details may lead to non-consideration of the work.

Format of Certificate of Authenticity from the Executive Engineer / Competent Officer

Certified that M/s …… (name of the Bidder / JV Member) has executed the work "……" (name of work) under Agreement No. …… dated …… of this Division / Office.

The contract value of the work is Rs. …… crore. The work was commenced on …… and completed on …… / …… % of the value of the work has been completed as on …… . The total value of work executed is Rs. …… crore.

The work comprises …… (protection of river embankment / construction of promenade / river side ghats / associated infrastructure and utilities). The performance of the agency in execution of the work has been found satisfactory.

{In case of Joint Venture / partnership: The share of M/s …… in the above work is …… %.}

Name & designation of the officer:
Seal of the office:
Date:

(Signature of the Executive Engineer / Competent Officer)

Note: In case duly certified documents containing all the above details are provided by the Employer, a separate certificate in this format may not be necessary; however, all details required above shall be furnished.

Appendix IA Annex-V

ANNEX-V

Statement of Legal Capacity

(To be forwarded on the letterhead of the Applicant/ Lead Member of Joint Venture)

Ref. Date:

To,
****
****

Dear Sir,

We hereby confirm that we/ our members in the Joint Venture (constitution of which has been described in the application) 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 Joint Venture.*

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the Joint Venture 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……..

**Please strike out whichever is not applicable.*

Appendix-IA Annexure-VI

ANNEX-VI

Information required to evaluate the BID Capacity under clause 2.2.2.1:

To calculate the value of "A"

1. A table containing value of Civil Engineering Works in respect of EPC Projects (Turnkey projects / Item rate contract/ Construction works) undertaken by the Bidder during the last 5 years is as follows:

Sl. No.	Year	Value of Civil Engg. Works undertaken w.r.t. EPC Projects (Rs. In Crores)
1	2025-26	
2	2024-25	
3	2023-24	
4	2022-23	
5	2021-22	

2. Maximum value of projects that have been undertaken during the F.Y. _out of the last 5 years and value thereof is Rs. _Crores (Rupees _). Further, value updated to the price level of the year indicated in Appendix is as follows:

   Rs. _Crores x _(*Updation Factor as per Appendix*) = Rs. _Crores (Rupees_)

…….. ……
…….. …….
Authorised Signature
For and on behalf of …… (*Name* signatory) *of the* Bidder)

Name of the Statutory Auditor's firm
Seal of the audit firm: (Signature, name and designation and Membership No. of authorised Signatory

To calculate the value of "B"

A table containing value of all the existing commitments and on-going works to be completed during the next 2 years is as follows:

Sl. No.	Name of Project/Work	Percentage of participation of Bidder in the project	Date of start / appointed date of project	Value of contract as per Agreement /LOA	Value of work completed	Balance value of work to be completed	Anticipated date of completion	Balance value of work at 2026-27 price level
				Rs. in Crore	Rs. in Crore	Rs. in Crore		Rs. in Crore
1	2	3	4	5	6	7= (5-6)	8	9 (3 x 7 x #)

Sl. No.	Name of Project/Work	Percentage of participation of Bidder in the project	Date of start / appointed date of project	Value of contract as per Agreement /LOA	Value of work completed	Balance value of work to be completed	Anticipated date of completion	Balance value of work at 2026-27 price level
				Rs. in Crore	Rs. in Crore	Rs. in Crore		Rs. in Crore
1	2	3	4	5	6	7= (5-6)	8	9 (3 x 7 x #)
#								

Updation Factor as given below:

For Year	F.Y. / Calendar Year	Updation Factor
1	2025-26/2025	1.10
2	2024-25/2024	1.20
3	2023-24/2023	1.30
4	2022-23/2022	1.40
5	2021-22/2021	1.50

The Statement showing the value of all existing commitments and ongoing works as well as the stipulated period of completion remaining for each of the works mentioned above is verified from the certificate issued that has been countersigned by the Client or its Engineer-in-charge not below the rank of Executive Engineer / Superintending Engineer or equivalent in respect of EPC Projects **or** Concessionaire / Authorised Signatory of SPV in respect of BOT Projects. No awarded / ongoing works have been left in the aforesaid statement which has been awarded to M/s……individually / and other member M/s …….. and M/s , as on bid due date of this RFP.

…….. ……
…….. …….
Authorised Signatory
For and on behalf of …… (*Name* signatory) *of the* Bidder)

Name of the Statutory Auditor's firm
Seal of the audit firm: (Signature, name and designation and Membership No. of authorised Signatory

APPENDIX-IA
Annexure VII[13]

Guidelines of the Department of Disinvestment

(Refer Clause 1.2.1)

No. 6/4/2001-DD-II
Government of India
Department of Disinvestment

Block 14, CGO Complex
New Delhi. Dated 13 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.

(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/ Managers/ employees, 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

[13] *These guidelines may be modified or substituted by the Government from time to time.*

Appendix IA Annex-VIII

ANNEX-VIII
NO RELATION CERTIFICATE

Certified that I / We am / are not related to any officer of Water Resources Department of the rank of Assistant Engineer and above or any officer of the rank of Assistant Secretary and above.

EPC AGENCY

List of Relatives of the tenderer serving in Water Resources Department.

Sl No.	Name of the relatives	Rank	Place of present posting with office / Division / Department
1	**2**	**3**	**4**
1.			
2.			
3.			
4.			
5.			

EPC AGENCY

Appendix IA Annex-IX

ANNEX-IX : FORM – A
STRUCTURE AND ORGANISATION

Name of Tenderer ……..

Nationality of Tenderer ……..

Office Address ……..

Telegraphic Address ……..

Telephone No. ……..

Mobile No. ……..

Telex Number ……..

Location of establishment ……..

The tenderer is:

1. An individual
2. A proprietary firm.
3. A limited company or limited corporation
4. A member of a group of companies (If yes, give names, address and present description of other companies.)
5. A subsidiary of large organization (If yes, give names, address of the present organization)
6. If the company is subsidiary, state what involvement if any, will the parent company have in the project. Attach the organization chart showing the structure of the organization including the names of the Directors and position of officers.
7. Number of years of experience
    a. As a prime EPC agency: (I) In own country; (II) Other country (specify country)
    b. In a Joint Venture: (I) In own country; (II) Other country (specify country)
8. Name and address of any associates the tenderer has in India who are knowledgeable in the procedure of customs, immigration, taxes and other information necessary to do work.
9. How many years has your organization been in business under your present name? Add what your fields were and when you established your organization. When did you add new field (if any)?
10. Were you ever required to suspend construction for a period of more than six months continuously after you started? If so, give the names of project and reason of failure.
11. Have you ever not completed any work awarded to you? If so give name of project and reasons for not completing the work.
12. In how many projects were penalties imposed for delay? Please give details.
13. In which fields of Civil Engineering construction do you claim specialization and interest?
14. Give details of your experience in modern concreting / earth work and quality control.
15. Give details of your material testing laboratory.

Signature of tenderer

Appendix IA Annex-X

ANNEX-X : FORM – B

FINANCIAL STATEMENT

(Must be given separately for each partner in case of Joint Venture)

1. Name of Firm.
2. Name of partner / Directors
3. Capital: (a) Authorized; (b) Issued and paid-up
4. (a) Details of the work completed and tenderer's performance record for last five years (vide Annex-II). (b) Details of work on hand and tenderer's performance record for last five years (vide Annex-III).
5. Furnish Balance sheet and profit & loss statement with auditor's reports for the last five years; it should include the following information: (i) Working capital; (ii) Foreign investment; (iii) Turnover for 2021-2022, 2022-2023, 2023-2024, 2024-2025 and 2025-2026; (iv) Gross income for 2021-2022, 2022-2023, 2023-2024, 2024-2025 and 2025-2026; (v) Total liabilities; Current ratio: (a) Current assets to current liabilities; (b) Total liabilities to net worth.
6. What is the maximum annual value of work that you can handle?
7. Have you ever been denied tendering facilities by any Government Department / Public Sector Undertaking? (Give details)
8. List your sources of finance: (a) Own resources; (b) Bank credit; (c) Other sources – specify, if any.
9. Certificate of financial soundness by Bank (to be signed by Senior Manager of a Nationalized Bank).
10. Name and address of Bank from whom reference can be obtained: Name; Address; Telephone No.; Fax No.
11. Have you ever been declared bankrupt? (If yes, please give details)

Signature of tenderer

Appendix IA Annex-XI

ANNEX-XI

(AFFIDAVIT)

(To be submitted in original in legal stamp paper)

I, Sri …… Aged …… years, Son / Daughter / Wife of Sri …… at present residing at …… P.O. …… P.S. …… Dist. …… Pin …… do hereby solemnly affirm as follows.

i) That I / We possess a valid license for execution of works contract issued by * …… belonging to …… Class & is valid up to ** …… . I am submitting tender before the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar, Odisha for execution of "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" in response to 'e' procurement Notice No. RFP CE MKS 01 of 2026-27 & Bid Identification No. RFP CE MKS PRD 01 of 2026-27. I am the authorized signatory on behalf of the EPC agency for the tender for the work mentioned above.

ii) I am swearing this affidavit that all tender documents and accompanying papers those being submitted by me before the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar, Odisha including E.M.D. in any shape are all authentic and bonafide documents in the eyes of the law of the land.

That the facts stated in the affidavit are true to the best of my knowledge and belief.

Signature of EPC Agency / Authorised Signatory

*Note: * Mention the license issuing authority. ** Mention the date up to which the license is valid.*

Appendix IA Annex-XII

ANNEX-XII

DETAILS OF OTHER WORKS TENDERED FOR AND WORKS IN HAND ON THE DATE OF SUBMISSION OF THE TENDER

Sl No.	Name of works with No. & Date of agreement & Division / Dept. concerned	Place & Country	Work in Hand			Work Tendered for			Remarks
			Tendered cost	Cost of work remaining to be executed	Anticipated date of completion	Estimated cost	Date when decision is expected	Stipulated date & period of completion	
1	2	3	4	5	6	7	8	9	10

Signature of Tenderer

Appendix IA Annex-XIII

ANNEX-XIII

DETAILS OF WORKS OF SIMILAR TYPE AND MAGNITUDE CARRIED ON BY THE EPC AGENCY IN THE PAST

Sl No.	Name of works with No. & Date of agreement & Division / Dept. concerned	Place & Country	Tendered cost	Time in which completed	Date of completion	Principal Features
1	2	3	4	5	6	7

Signature of Tenderer

Appendix IA Annex-XIV

ANNEX-XIV
CHECK LIST

Sl. No.	Document	Submitted (Yes / No)
1	Form-A : Structure and Organisation (Annex-IX)	
2	Form-B : Financial position (Annex-X) with (a) Balance sheet of last five years and (b) true copies of Income Tax & GST clearance certificates for the last five years	
3	Certificate of Registration (R.C.) for execution of contract, GST Registration Certificate / GSTIN and PAN Card	
4	Documentary evidence in support of Bid Capacity, Credit Facility, Availability of Plants and Machineries, Similar Works and Annual Turnover (Clause 2.2.2)	
5	Certified copy of Power of Attorney in case of partnership firm, limited company or Corporation	
6	Documentary evidence as required in the minimum qualification criteria	
7	Affidavit for authenticity of documents, EMD & Tender (Annex-XI)	
8	No Relation Certificate (Annex-VIII)	
9	Details of works in hand and works tendered for (Annex-XII) and works of similar type (Annex-XIII)	

APPENDIX -IIA

Bank Guarantee for BID Security

(Refer Clauses 2.1.5 and 2.20.1)

B.G. No. Dated:

1. In consideration of you, **Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar, Odisha** having its office at **Bhubaneswar**, (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 ..... and having its registered office at …… (and acting on behalf of its JV) (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 Project "**River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** on EPC basis (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 draft contract 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 2.1.5 read with Clause 2.1.6 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 Rs. *** ** (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 an amount not exceeding Rs. *** ** (Rupees *** ** only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) 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 which 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 Rs. *** crore (Rupees *** ** crore only). 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 180 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)

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.

(iii) The stamp papers of appropriate value shall be purchased in the name of bank who issues the "Bank Guarantee".

(iv) **The bank guarantee shall be from a Nationalised / Scheduled Indian Bank with counter guaranteed by its branch at Bhubaneswar**.

Bank Details

Name of Bank:	
Payee Name:	
(Current Account) A/c No. :	
IFSC:	**MICR:**

APPENDIX-III

Format for Power of Attorney for signing of BID

(Refer Clause 2.1.7)

Know all men by these presents, We…….. (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr/ Ms (name), …… son/daughter/wife of and presently residing at ……., who is presently employed with us/ the Lead Member of our Joint Venture 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 Project **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** proposed or being developed by the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar (the "Authority") including but not limited to signing and submission of all applications, BIDs and other documents and writings, participate in Pre-BID 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 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 until the entering into of the EPC Contract 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 ……. 2…..

Witness
1.
2.

For …….. (Signature, name, designation and address) of person authorized by Board Resolution (in case of Firm/ Company)/ partner in case of partnership firm

Accepted

……
(Signature) (Name, Title and Address of the Attorney)

(Notarised)

Person identified by me/ personally appeared before me

Attested/ Authenticated* (*Notary to specify as applicable)

(Signature Name and Address of the Notary)

Seal of the Notary

Registration No. of the Notary

Date:……

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 executant(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 Legalisation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX-IV

Format for Power of Attorney for Lead Member of Joint Venture

(Refer Clause 2.1.8)

Whereas the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar ("the Authority") has invited BIDs from bidders for the project "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" (the "Project").

Whereas, ……., ……., and …….. (collectively the "Joint Venture") being Members of the Joint Venture are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other BID documents including agreement in respect of the Project, and Whereas, it is necessary for the Members of the Joint Venture to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary in connection with the Joint Venture'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 …, M/s. … having our registered office at ….., and ….. having our registered office at ……, (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/S ……. having its registered office at ……., being one of the Members of the Joint Venture, as the Lead Member and true and lawful attorney of the Joint Venture (hereinafter referred to as the "Attorney"). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture and any one of us during the bidding process and, in the event the Joint Venture is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Joint Venture and submission of its BID for the Project, including but not limited to signing and submission of all applications, BIDs and other documents and writings, participate in pre BID and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the BID of the Joint Venture and generally to represent the Joint Venture 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 Joint Venture's BID for the in all respect Project and/ or upon award thereof till the EPC Contract 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/ Joint Venture.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ……. DAY OF ……. 2..…

For ……..	For ……..	For ……..
(Signature)	(Signature)	(Signature)
……..	……..	……..
(Name & Title)	(Name & Title)	(Name & Title)

(Executants)
(To be executed by all the Members of the Joint Venture)

Witnesses:

1.
2.
3.

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 executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure*.
- *Also, 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 Legalisation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

APPENDIX V

Format for Joint Bidding Agreement for Joint Venture

(Refer Clause 2.1.8 & 2.1.14(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, 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, having its registered office at …… } (hereinafter referred to as the "**Second Part**" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {…… Limited, 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 **Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar-751001, Odisha, India** (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. RFP CE MKS 01 of 2026-27 _Dated XX.XX.2026** (the "**RFP**") for award of contract for **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** (the "**Project**") **through Engineering, Procurement & Construction (EPC) Contract, including Operation & Maintenance for a Period of Five (5) Years**.

(B) The Parties are interested in jointly bidding for the Project as members of a Joint Venture 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 Joint Venture shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Joint Venture

2.1 The Parties do hereby irrevocably constitute a Joint Venture (the "**Joint Venture**") 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 Joint Venture and not individually and/ or through any other Joint Venture constituted for this Project, either directly or indirectly.

3. Covenants

The Parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the Project, it shall enter into an EPC Contract with the Authority for performing all its obligations as the EPC Agency in terms of the EPC Contract 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 Joint Venture and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Joint Venture **during the Bidding Process and until the Appointed Date** under the EPC Contract;

(b) Party of the Second Part shall be {the Member of the Joint Venture; and}

(c) Party of the Third Part shall be {the Member of the Joint Venture.}

5. Joint and Several Liability

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 EPC Contract, till such time as the completion of the Project is achieved under and in accordance with the EPC Contract.

6. Share of work in the Project

The Parties agree that the proportion of construction in the EPC Contract to be allocated among the members shall be as follows:

First Party:

Second Party:

{Third Party:}

Further, the Lead Member shall itself undertake and perform at least 50 (fifty) per cent of the total value of the project, if the Contract is allocated to the Joint Venture.

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 Joint Venture 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 Project completion (the "Defects Liability Period") is achieved under and in accordance with the EPC Contract, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture 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 Applicant is not pre-qualified 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 LEAD MEMBER by:** **(Signature)** **(Name)** **(Designation)** **(Address)**	**SECOND PART** **(Signature)** **(Name)** **(Designation)** **(Address)**	**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 executant(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 Joint Venture 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.

Appendix - I

Executive Instruction regarding calling for and acceptance of tenders in e-Procurement in Govt. of Odisha.

Government of Odisha Works Department

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Office Memorandum

File No.07556900042013 (Pt-II) – 7885/W Dated 23.07.2013

Sub: **Codal Provision regarding e-Procurement**

After introduction of e-procurement in Government of Odisha, necessary guidelines / procedures has been issued in Works Department Office Memorandum No.1027 dt.24.01.2009 which consists of the procedural requirement for e-procurement of tenders. After careful consideration Government have been pleased to make following modifications to codal provisions by way of addition as Appendix – IX(A) of OPWD Code Vol.II) as follows:

(Appendix-IX (A) of OPWD Code, Vol-II)

Executive instructions regarding calling for and acceptance of tenders in e-Procurement.

1. This office memorandum consists of the procedural requirement of e-procurement and shall be made part of the Detailed Tender Call Notice or Instruction to Bidder for all "works" tenders hoisted in the portal.
2. The e-procurement portal of Government of Odisha is "https://tendersodisha.gov.in".
3. Use of valid Digital Signature Certificate of appropriate class (Class II or class III) issued from registered certifying authorities (CA) as stipulated by Controller of Certifying Authorities (CCA), Government of India such as n-Code, Sify, TCS, MTNL, e-Mudhra is mandatory for all users.
4. The DSC issued to the Department users is valid for the period of two years only. All the Department users are responsible to revalidate their DSC prior to expiry.
5. For all purpose, the server time displayed in the e-Procurement portal shall be the time to be followed by all the users.
6. Government after careful consideration have decided to hoist all tenders costing 10 lakhs or above in the e-procurement portal. This will be applicable across all Engineering Departments such as Works Department, Department of Water Resources, Rural Development and Housing & Urban Development Department. Government of Odisha also welcomes hoisting of tenders by any other departments, authority, corporations, local bodies etc. of the State with prior approval from Works Department. Works Department is the Nodal Department for the implementation of e-Procurement in the State.
7. The e-procurement shall be operated compliant to relevant provisions of OGFR/ OPWD code/ Accounts code/ Government statutes including any amendments brought from time to time to suit to the requirement of the best national practice.
8. Registration in the e-procurement portal is without levy of any charges but Government reserves the right to levy any charges for such value added services in future.

9. Contractor not registered with Government of Odisha, can participate in the e-Procurement after necessary enrolment in the portal but have to subsequently register themselves with the appropriate registering authority of the State Government before award of the work as per prevalent registration norms of the State.

10. For the role management "Department" is the Administrative Department, Organisation or wing is the Chief Engineer or highest tender accepting authority or equivalent officer, Division is the Executive Engineer or equivalent Officer and Subdivision is the Assistant Engineer or equivalent officer.

11. The e-Procurement software assigns roles for operation of the module for specific function. The terminologies used in the portal and their respective functions in the software are as follows.

11.1 **Application Administrator (NIC & State Procurement Cell)**

i. Master Management

ii. Nodal Officer Creation

iii. Report Generation

iv. Transfer of Officer's login ID.

v. Blocking & unblocking of officer's and bidder's login ID.

11.2 **Nodal Officer (At organization level not below the Superintending Engineer or equivalent rank)**

i. Creation of Users

ii. Role Assignment

iii. Report Generation

iv. Transfer of Officer's login ID.

v. Blocking & unblocking of officer's Login ID.

11.3 **Procurement Officer Publisher (Officer having tender inviting power at any level)**

i. Publishing of Tender

ii. Publishing of Corrigendum / addendum / cancellation of Tender

iii. Bid Clarification

iv. Uploading of Pre-Bid minutes.

v. Report generation.

11.4 **Procurement Officer Administrator (Generally sub-ordinate officer to Officer Inviting Tender)**

i. Creation of Tender

ii. Creation of Corrigendum / addendum / cancellation of Tender

iii. Report generation.

11.5 **Procurement Officer Opener (Generally sub-ordinate officer to Officer Inviting Tender)**

i. Opening of Bid

11.6 **Procurement Officer Evaluator (Generally Sub-Ordinate Officer to Officer Inviting Tender)**

i. Evaluating Bid

11.7 **Procurement Officer-Auditor (Procurement Officer Publisher and/or Accounts Officer / Finance Officer)**

i. To take up auditing

12. **NOTICE INVITING BID (NIB) or INVITATION FOR BID (IFB):**

12.1 The Notice Inviting Bids (NIB) and Bid documents etc., shall be in the Standard formats as applicable to conventional Bids and will be finalized / approved by the officers competent as in the case of conventional Bids.

12.2 The officers competent to publish NIB in case of conventional Bids will host the NIB in portal. Simultaneously, a notification should also be published in the newspapers, as per existing rules preferably, in the following format, to effect economy:-

Government of Odisha "e" procurement Notice
Bid Identification No.----------
Name of the work: ……. Estimated cost: Rs. …… Period of completion Date & Time of availability of bid document in the portal Last Date / Time for receipt of bids in the portal Name and address of the O.I.T.:……..
Further details can be seen from the e-procurement portal "https://tendersodisha.gov.in"

12.3 The tender documents published by the Tender Inviting Officer (Procurement Officer Publisher) in the website https://tendersodisha.gov.in will appear in the "Latest Active Tender". The Bidders/ Guest Users can download the Bid documents only after the due date & time of sale. The publication of the tender will be for specific period of time till the last date of submission of bids as mentioned in the 'Notice inviting Bid' after which the same will be removed from the list of "Latest Active tenders".

13. **ISSUE OF ADDENDA/ CORRIGENDA/ CANCELLATION NOTICE:**

13.1 The Procurement Officer Publisher (Officer Inviting Tender) shall publish any addendum/ corrigendum/ cancellation of tender in the website https://tendersodisha.gov.in, notice board and through paper publication and such notice shall form part of the bidding documents.

13.2 The system generates a mail to those bidders who have already uploaded their tenders and those bidders if they wish can modify their tenders. The bidders are required to watch the website till last date and time of bid submission for any addendum/ corrigendum/

cancellation thereof. Tender Inviting Authority is not responsible for communication failure of system generated mail.

14. CREATION AND PUBLISHING OF BID:

14.1 All the volumes/documents shall be uploaded in the portal by the tender creating officer (Procurement Officer Administrator) and published by the Officer Inviting Tender (Procurement Officer Publisher) using their DSCs in appropriate format so that the document is not tampered with

14.2 The tender document comprise the notice inviting tender, bid document/ SBD, drawings in .pdf format and the schedule of quantities / BoQ in .xls format to be uploaded by the Officer Inviting Tender.

14.3 Procurement Officer Administrator creates tender by filling up the following forms:

i. BASIC DETAILS

ii. COVER CONTENT: The Procurement officer Administrator should briefly describe the name and type of documents to be uploaded by the bidder in the following format:

(a) For Single Cover/Packet:

Sr No	Cover Type	Document Description	Type
1	Fee/ Prequal/ Technical/ Finance	Tender Cost, EMD, VAT, PAN, Contractor RC	.pdf
1	Fee/ Prequal/ Technical/ Finance	Affidavits, undertakings and any other document as per SBD/DTCN.	.pdf
1	Fee/ Prequal/ Technical/ Finance	BoQ	.xls

(b) For Two Cover/Packet:

Sr No	Cover Type	Document Description	Type
1	Fee/ Prequal/ Technical	Tender Cost, EMD, VAT, PAN, Contractor RC	.pdf
1	Fee/ Prequal/ Technical	Affidavits, undertakings and any other document as per SBD/DTCN.	.pdf
2	Finance	BoQ	.xls
2	Finance	Special condition if any specifically mentioned by Officer Inviting Tender	.pdf

iii. TENDER DOCUMENT: The Procurement Officer Administrator should upload the NIT in.pdf format.

iv. WORK ITEM DETAILS

v. FEE DETAILS: The Procurement Officer Administrator should mention the cost of tender paper and EMD amount as laid down in DTCN/SBD.

vi. CRITICAL DATES: The Procurement Officer Administrator should mention the critical dates of tender such as publishing date, document download start date & end date, seek clarification start date & end date (optional), bid submission start date & closing date, bid opening date as per DTCN/SBD.

vii. BID OPENER SELECTION: The Procurement Officer creator can select two / three / four bid openers for a particular bid. If required the bid openers can also be selected within an organization from other procurement units (Circles /Divisions).

viii. WORK ITEM DOCUMENTS: The Procurement Officer Administrator should upload the digitally signed tender document (SBD/DTCN) or any other addition document/drawings in.pdf format and Bill of Quantities in .xls format.

14.4 PUBLISHING OF TENDER: The Procurement Officer Publisher shall publish the tender using his/her DSC after detail scrutiny of the fields created and documents uploaded by the Procurement Officer Administrator. Procurement Officer Publisher can publish tenders for multiple procurement units using multiple DSCs procured for each post separately. After being relieved from the additional charges he has to surrender the additional DSCs to the Nodal Officer of the concerned organisation.

15. **PARTICIPATION IN BID:**

15.1 PORTAL REGISTRATION: The Contractor/Bidder intending to participate in the bid is required to register in the portal using his/her active personal/official e-mail ID as his/her Login ID and attach his/her valid Digital signature certificate (DSC) to his/her unique Login ID. He/She has to submit the relevant information as asked for about the firm/contractor. The portal registration of the bidder/firm is to be authenticated by the State Procurement Cell after verification of original valid certificates/documents such as (i) PAN and (ii) Registration Certificate (RC) / VAT Clearance Certificate (for procurement of goods) of the concerned bidder. The time period of validity in the portal is at par with validity of RC/ VAT Clearance. Any change of information by the bidder is to be re-authenticated by the State Procurement Cell. After successful authentication bidder can participate in the online bidding process.

15.1.1 Bidders participating through Joint Venture shall declare the authorised signatory through Memorandum of Understanding duly registered and enrol in the portal in the name and style of the Joint venture Company. It is mandatory that the DSC issued in the name of the authorised signatory is used in the portal.

15.1.2 Any third party/company/person under a service contract for operation of e-Procurement system in the State or his/their subsidiaries or their parent companies shall be ineligible to participate in the procurement process that are undertaken through the e-Procurement system irrespective of who operates the system.

15.2 LOGGING TO THE PORTAL: The Contractor/Bidder is required to type his/her *Login ID* and password. *The* system *will again ask to* select the DSC and confirm it with the password of DSC as a second stage authentication. For each login, a user's DSC will be validated against its date of validity and also against the Certificate Revocation List (CRL) of respective CAs stored in system database. The system checks the unique Login ID, password and DSC combination and authenticates the login process for use of portal.

15.3 DOWNLOADING OF BID: The bidder can download the tender of his choice and save it in his system and undertake the necessary preparatory work off-line and upload the completed tender at his convenience before the closing date and time of submission.

15.4 CLARIFICATION ON BID: The bidder may ask question related to tender online in the e-procurement portal using his/her DSC; provided the questions are raised within the period of seeking clarification as mentioned in tender call notice/Bid. The Officer Inviting the Bid / Procurement Officer-Publisher will clarify queries related to the tender.

15.5 **PREPARATION OF BID**

15.5.1 The bids may consist of general arrangements drawings or typical or any other drawings relevant to the work for which bid has been invited. Bidder may download these drawings and takeout print for detail study and preparation of his bid. Any other drawings and documents pertaining to the works available with the Officer Inviting The bid will be open for inspection by the bidders.

15.5.2 The Bidder shall go through the Bid carefully and list the documents those are asked for submission. He shall prepare all documents including cost of Bid Document, Bid Security, Declaration form, price bid etc. and store in the system.

15.6 **PAYMENT OF EMD/BID SECURITY AND COST OF BID DOCUMENTS:**

15.6.1 The Bidder shall furnish, as part of his Bid, a Bid security for the amount mentioned under NIT/Contract Data. The bidder shall scan all the written/printed pages of the bid security and up load the same in portable document format (PDF) to the system in designated place of the technical BID. Furnishing scanned copy of such documents is mandatory otherwise his/her bid shall be declared as non-responsive and liable for rejection.

15.6.2 The EMD or Bid Security payable along with the bid is 1% of the estimated contract value (ECV) or as mentioned in the bid document. The validity period of the EMD or Bid Security shall be as mentioned in the bid document. Any bid not accompanied by an acceptable Bid Security and not secured as indicated in the bid document shall be rejected as non-responsive. The bid security shall be retained till such time the successful bidder furnishes Initial Security Deposit (ISD) or Performance Security acceptable to the Officer Inviting the Bid. Failure of the successful Bidder to comply with the requirements shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security. The Bid security in the form of FD / BG shall be from a Nationalized Bank valid for a period of 45 days beyond the validity of the bid. Bid security in other form is acceptable if the bid documents provides for it.

15.6.3 The Fixed Deposit / Bank Guarantee or any other form as mentioned in detailed tender call notice in respect of Earnest Money Deposit / Bid Security and the Bank Draft in respect of cost of Bid are to be scanned and up loaded in portable document format (PDF) along with the bid.

15.6.4 The tender accepting authority will verify the originals of all the scanned documents of the successful lowest bidder only within 5 days of opening of the tender. In the eventuality of failure on the part of the lowest successful bidder to produce the original documents, he will be debarred in future from participating in tender for 3 years and

will be black listed by the competent authority. In such a situation, successful L-2 bidder will be required to produce his original documents for consideration of his tender at the negotiated rate equal to L1 bidder.

15.6.5 Contractor exempted from payment of EMD will be able to participate in the tender directly by uploading documentary evidences towards his eligibility for such exemption

15.6.6 Government of Odisha has been actively considering integrating e-payment gateway into the portal for payment of Cost of Bid and Bid Security/ Earnest Money Deposit. The process of using e-payment gateway shall be issued separately after it is established.

16. **SUBMISSION OF BID:**

16.1 The bidder shall carefully go through the tender and prepare the required documents. The bid shall have a Technical Bid & a Financial Bid. The Technical bid generally consist of cost of Bid documents, EMD/ Bid Security, VAT, PAN / TIN, Registration Certificate, Affidavits, Profit Loss statement, Joint venture agreement, List of similar nature of works, work in hand, list of machineries, and any other information required by OIT. The Financial Bid shall consist of the Bill of Quantities (BOQ) and any other price related information/undertaking including rebates.

16.2 Bidders are to submit only the original BoQ (in .xls format) uploaded by Procurement Officer Publisher (Officer Inviting Tender) after entering the relevant fields without any alteration/ deletion / modification. Multiple BoQ submission by bidder shall lead to cancellation of bid. In case of item rate tender, bidders shall fill in their rates other than zero value in the specified cells without keeping it blank. In the percentage rate tender the bidder quoting zero percentage is valid and will be taken at par with the estimated rate of the work put to tender.

16.3 The bidder shall upload the scanned copy/copies of document in support of eligibility criteria and qualification information in prescribed format in Portable Document Format (PDF) to the portal in the designated locations of Technical Bid.

16.4 The bidder shall write his name in the space provided in the specified location in the Protected Bill of Quantities (BoQ) published by the Officer Inviting Tender. The bidder shall type rates in figure only in the rate column of respective item(s) without any blank cell in the rate column in case of item rate tender and type percentage excess or less up to **two decimal** place only in case of percentage rate tender.

16.5 The bidder shall log on to the portal with his/her DSC and move to the desired tender for up loading the documents in appropriate place one by one simultaneously checking the documents.

16.5.1 Bids cannot be submitted after due date and time. The bids once submitted cannot be viewed, retrieved or corrected. The Bidder should ensure correctness of the bid prior to uploading and take print out of the system generated summary of submission to confirm successful uploading of bid. The bids cannot be opened even by the OIT or the Procurement Officer Publisher/ opener before the due date and time of opening.

16.5.2 Each process in the e-procurement is time stamped and the system can detect the time of log in of each user including the Bidder.

16.5.3 The Bidder should ensure clarity/legibility of the document uploaded by him to the portal.

16.5.4 The system shall require all the mandatory forms and fields filled up by the contractor during the process of submission of the bid/tender.

16.5.5 The bidder should check the system generated confirmation statement on the status of the submission.

16.5.6 The Bidder should upload sufficiently ahead of the bid closure time to avoid traffic rush and failure in the network.

16.5.7 The Tender Inviting Officer is not responsible for any failure, malfunction or breakdown of the electronic system used during the e-procurement process.

16.5.8 The Bidder is required to upload documents related to his eligibility criteria and qualification information and Bill of Quantity duly filled in. It is not necessary for the part of the Bidder to up-load the drawings and the other Bid documents (after signing) while uploading his bid. It is assumed that the bidder has referred all the drawings and documents uploaded by the Officer Inviting the Bid.

16.5.9 The Bidder will not be able to submit his bid after expiry of the date and time of submission of bid (server time). The date and time of bid submission shall remain unaltered even if the specified date for the submission of bids declared as a holiday for the Officer Inviting the Bid.

16.6 **SIGNING OF BID:** The 'online bidder' shall digitally sign on all statements, documents, certificates uploaded by him, owning responsibility for their correctness / authenticity as per IT ACT 2000. If any of the information furnished by the bidder is found to be false / fabricated / bogus, his EMD/Bid Security shall stand forfeited & his registration in the portal shall be blocked and the bidder is liable to be blacklisted.

17. **SECURITY OF BID SUBMISSION:**

17.1 All bid uploaded by the Bidder to the portal will be encrypted.

17.2 The encrypted Bid can only be decrypted / opened by the authorised openers on or after the due date and time.

18. **RESUBMISSION AND WITHDRAWAL OF BIDS:**

18.1 Resubmission of bid by the bidders for any number of times before the final date and time of submission is allowed.

18.2 Resubmission of bid shall require uploading of all documents including price bid afresh.

18.3 If the bidder fails to submit his modified bids within the pre-defined time of receipt, the system shall consider only the last bid submitted.

18.4 The bidder should avoid submission of bid at the last moment to avoid system failure or malfunction of internet or traffic jam or power failure etc.

18.5 The Bidder can withdraw his bid before the closure date and time of receipt of the bid by uploading scanned copy of a letter addressing to the Procurement Officer Publisher

(Officer Inviting Tender) citing reasons for withdrawal. The system shall not allow any withdrawal after expiry of the closure time of the bid.

19. **OPENING OF THE BID:**

19.1 Bid opening date and time is specified during tender creation or can be extended through corrigendum. Bids cannot be opened before the specified date & time.

19.2 All bid openers have to log-on to the portal to decrypt the bid submitted by the bidders.

19.3 The bidders & guest users can view the summary of opening of bids from any system. Contractors are not required to be present during the bid opening at the opening location if they so desire.

19.4 In the event of the specified date of bid opening being declared a holiday for the Officer Inviting the Bid, the bids will be opened at the appointed time on the next working day.

19.5 Combined bid security for more than one work is not acceptable.

19.6 The electronically submitted bids may be permitted to be opened by the predefined Bid opening officer from their new location if they are transferred after the issue of Notice Inviting Bid and before bid opening. Further, action on bid documents shall be taken by the new incumbent of the post.

19.7 In case of non-responsive tender the officer inviting tender should complete the e-Procurement process by uploading the official letter for cancelled / re-tender.

20. **EVALUATION OF BIDS:**

20.1 All the opened bids shall be downloaded and printed for taking up evaluation. The officer authorized to open the tender shall sign and number on each page of the documents downloaded and furnish a certificate that “the documents as available in the portal containing_ nos. of pages”.

20.2 The bidder may be asked in writing/ online (in their registered e-mail ids) to clarify on the uploaded documents provided in the Technical Bid, if necessary, with respect to any doubts or illegible documents. The Officer Inviting Tender may ask for any other document of historical nature during Technical Evaluation of the tender. Provided in all such cases, furnishing of any document in no way alters the Bidder’s price bid. Non submission of legible documents may render the bid non-responsive. The authority inviting bid may reserve the right to accept any additional document.

20.3 The bidders will respond in not more than 7 days of issue of the clarification letter, failing which the bid of the bidder will be evaluated on its own merit.

20.4 The Technical evaluation of all the bids shall be carried out as per information furnished by Bidders.

20.5 The Procurement Officer-Evaluators; will evaluate bid and finalize list of responsive bidders.

20.6 The financial bids of the technically responsive bidders shall be opened on the due date of opening. The Procurement Officer-Openers shall log on to the system in sequence and open the financial bids.

20.6.1 The Financial Bid will be opened on the notified date & time in the presence of bidders or their authorised representative who wish to be present.

20.6.2 At the time of opening of "Financial Bid", bidders whose technical bids were found responsive will be opened.

20.6.3 The responsive bidders' name, bid prices, item wise rates, total amount of each item in case of item rate tender and percentage above or less in case of percentage rate tenders will be announced.

20.6.4 Procurement Officer-Openers shall sign on each page of the downloaded BoQ and the Comparative Statement and furnish a certificate to that respect.

20.6.5 Bidder can witness the principal activities and view the documents/summary reports for that particular work by logging on to the portal with his DSC from anywhere.

20.6.6 System provides an option to Procurement Officer Publisher for reconsidering the rejected bid with the approval of concern Chief Engineer / Head of Department.

21. NEGOTIATION OF BIDS:

21.1 For examination, evaluation, and comparison of bids, the officer inviting the bid may, at his discretion, ask the lowest bidder for clarification of his rates including reduction of rate on negotiation and breakdown of unit rates.

22. NOTIFICATION OF AWARD AND SIGNING OF AGREEMENT:

22.1 The Employer/Engineer-in-Charge shall notify acceptance of the work prior to expiry of the validity period by cable, telex or facsimile or e-mail confirmed by registered letter. This Letter of Acceptance will state the sum that the Engineer-in-Charge will pay the contractor in consideration of execution & completion of the Works by the contractor as prescribed by the contract & the amount of Performance Security and Additional Performance Security required to be furnished. The issue of the letter of Acceptance shall be treated as closure of the Bid process and commencement of the contract.

22.2 The Contractor after furnishing the required acceptable Performance Security & Additional Performance Security, "Letter to Proceed" or "Work Order" shall be issued by the Engineer-in-Charge with copy thereof to the Procurement Officer –Publisher. The Procurement Officer-Publisher shall up load the summary and declare the process as complete.

22.3 If the L-1 bidder does not turn up for agreement after finalization of the tender, then he shall be debarred from participation in bidding for three years and action will be taken to blacklist the contractor. Besides the consortium / JV / firm where such an agency / firm already happens to be or is going to be a partner/member/proprietor, he/ they shall neither be allowed for participation in bidding for three years nor his/ their application will be considered for registration and action will be initiated to blacklist him / them. In that case, the L-2 bidder, if fulfils other required criteria, would be called for drawing agreement for execution of work subject to condition that the L-2 bidder negotiates at par with the rate quoted by the L-1 bidder, otherwise the tender will be cancelled.

23. BLOCKING OF PORTAL REGISTRATION:

23.1 If the Registration Certificate of the Contractor is cancelled /suspended by the registering authority/ blacklisted by the competent authority his portal registration shall be blocked automatically on receipt of information to that effect.

23.2 The portal registration blocked in the ground mentioned in the above Para-23.1 shall be unblocked automatically in receipt of revocation order of cancellation / suspension/ blacklisting from the concerned authority.

23.3 The Officer Inviting Tender shall make due inquiry and issue show cause notice to the concerned contractor who in turn shall furnish his reply, if any, within a fortnight from the date of issue of show cause notice. Thereafter the Officer Inviting Tender is required to issue an intimation to the defaulting bidder about his unsatisfactory reply and recommend to the Chief Manager (Tech.) for blocking of portal registration within 10 days of intimation to the defaulting bidder regarding his unsatisfactory reply with intimation to the Registering Authority and concerned Chief Engineer/ Heads of Office if any of the following provisions are violated.

23.3.1 Fails to furnish original Technical / Financial (Tender Paper Cost, EMD/Bid Security) instruments before the designated officer within the stipulated date and time.

23.3.2 Backs out from the bid on any day after the last date of receipt of tender till expiry of the bid validity period.

23.3.3 Fails to execute the agreement within the stipulated date.

23.3.4 If any of the information furnished by the bidder is found to be false / fabricated / bogus.

Accordingly the Officer Inviting Tender shall recommend to the Chief Manager (Tech.), State Procurement Cell, Odisha for blocking of portal registration of bidder and simultaneously action shall also be initiated by OFFICER INVITING TENDER for blacklisting as per Appendix- XXXIV of OPWD Code, Volume-II.

24. GUIDELINES FOR UNBLOCKING OF PORTAL REGISTRATION:

24.1 UNBLOCKING OF PORTAL REGISTRATION:

Unblocking of portal registration of a contractor shall be done by a Committee consisting of the following members.

EIC (Civil)-cum-CPO,	Chairman
Engineer-in-Chief (WR)	Member
Concerned Chief Engineer	Member
Sr. Manager (Finance), SPC	Member
Officer Inviting Tender	Member
Chief Manager (Technical), SPC	Convener

24.2 The Chief Manager (Tech), State Procurement Cell will be the convener and he will maintain all records for this purpose. The Committee shall meet not less than once in a

month if required & shall consider the recommendation of the officer inviting tender for unblocking of portal registration. The quorum of the meeting will be four.

24.3 The minimum period of blocking of Portal Registration shall in no case be less than 90 days. After blocking of Portal Registration, the Contractor whose Portal Registration has been blocked may file application to the concerned officer inviting tender showing sufficient ground for unblocking of his portal registration along with a Treasury Challan showing deposit of Rs. 10,000/- (Rupees ten thousand) only (non-refundable) under the head of accounts '0059 - Public Works' as processing fees. The officer inviting tender shall forward the application filed by the contractor to the Chief Manager (Tech), State Procurement Cell.

24.4 On receipt of recommendation from the concerned Chief Engineer along with the copy of challan as mentioned above, the Chief Manager (Tech) being the member Convener of the Committee shall place the case before the Committee for examination and taking a decision in this regard. After examination the Committee may recommend for unblocking of the portal registration of said contractor if the Committee is satisfied that the fault committed by the contractor is either unintentional or done for the first time.

24.5 After scrutiny by the State Procurement Cell if it is found that the portal registration of a contractor has been blocked for the 2nd time the Chief Manager (Tech), SPC may not consider his case to be placed before the Committee and may advice the concerned officer inviting tender to issue show cause notice to the contractor asking him to explain as to why his portal registration shall not remain blocked. On receipt of show cause reply from the contractor the officer inviting tender shall examine the same & if considered proper he may report to the Chief Manager (Tech), SPC along with his views furnishing the copy of the show cause reply for placement of the same before the Committee for taking a decision in respect of blocking/ unblocking. If the Committee found that the contractor is in habit of committing such fault again and again intentionally the committee may advice the concerned officer inviting tender to initiate proceeding for blacklisting as per the existing rule.

1. These amendments shall take effect from the date of issue of the order.
2. This amendment is an addition to the existing provision and will be placed below Appendix-IX to OPWD Code, Vol-II.
3. Accordingly Office Memorandum No.1027 dt.24.01.2009 stands modified.
4. This has been concurred in by the Finance Department vide their UOR No.3-WF-1 dt.04.01.2013.

Sd/19.07.2013
E.I.C-cum-Secretary to Govt.

Appendix – II

Online Receipt of Tender Paper Cost & Earnest Money Deposit through e-Procurement Portal
as per Works Department Letter No.17276/W Dt.06.12.2017

Government of Odisha
Works Department
***

Office Memorandum
File No.07556900012016–17254/W Dt.05.12.2017

Sub: **Electronic receipt, accounting and reporting of Cost of Tender Paper and Earnest Money Deposit on submission of bids.**

1. The State Government have formulated rules and procedures for Electronic receipt, accounting and reporting of the receipt of Cost of Tender Paper and Earnest Money Deposit on submission of bids through the e-procurement portal of Government of Odisha i.e. "https://tendersodisha.gov.in".

2. Electronic receipt of cost of tender paper has been successfully tested through SBI payment gateway. Now it has been decided to introduce electronic receipt of **Cost of Tender Paper and Earnest Money Deposit on submission of bids** through payment gateway of designated banks such as **SBI/ICICI Bank/HDFC Bank** for all Government Departments, State PSUs. Statutory Corporations, Autonomous Bodies and Local Bodies etc. in phases (ANNEXURE-I). The process outline as well as accounting and reporting structure are indicated below :

   a) It will be carried out through a single banking transaction by the bidder for multiple payments like **Cost of Tender Paper and Earnest Money Deposit on submission of bids.**

   b) Various payment modes like **Internet banking/ NEFT/RTGS** of Designated Banks and their Aggregator Banks as well can be accessed by the intending bidders.

   c) Reporting and accounting of the **e-receipts** will be made from a single source.

   d) Credit of receipts into the Government accounts and to the designated Bank account of the participating entities indicated in Para 2 above would be faster.

3. Only those bidders who successfully remit their **Cost of Tender Paper and Earnest Money Deposit on submission of bids would be eligible to** participate in the tender/bid process. The bidders with pending or failure payment status shall not be able to submit their bid. Tender inviting authority, State Procurement Cell, NIC, the designated Banks shall not be held responsible for such pendency or failure.

4. **Banking arrangement:**

   a) Designated Banks **(SBI/ICICI Bank/HDFC Bank)** payment gateway are being integrated with e-Procurement portal of Government of Odisha (https://tendersodisha.gov.in)

b) The Designated Banks participating in **Electronic receipt, accounting and reporting of Cost of Tender Paper and Earnest Money Deposit on submission of bids** will nominate a **Focal Point Branch** called e-FPB, who is authorized to collect and collate all e-Receipts. Each such branch will act as the Receiving branch and Focal Point Branch notwithstanding the fact that the bidder might have debited his account in any of the bank's branches while making payment.

5. **Procedures of bid submission using electronic payment of tender paper cost and EMD by bidder:**

a) **Log on to e-Procurement Portal:** The bidders have to log onto **the** Odisha e-Procurement portal (https://tendersodisha.gov.in) using his/her digital signature certificate and then search and then select the required active tender from the "Search Active Tender" option. Now, submit button can be clicked against the selected tender so that it comes to the "My Tenders" section.

b) **Uploading of Prequalification/Technical/Financial bid:** The bidders have to upload the required Prequalification /Technical/Financial bid, as mentioned in the bidding document and in line with Works Department office memorandum no.7885, dt.23.07.2013.

c) **Electronic payment of tender paper cost and EMD:** Then the bidders have to select and submit the bank name as available in the payment options

i. A bidder shall make electronic payment using his/her **internet banking** enabled account with designated Banks or their aggregator banks.

ii. A bidder having account in other Banks can make payment using **NEFT/RTGS** facility of designated Banks.

- Online NEFT/RTGS payment using internet banking of the bank in which the bidder holds his account, by adding the account number as mentioned in the challan as an interbank beneficiary.

d) **Bid submission:** Only after receipt of intimation at the e-Procurement portal regarding successful transaction by bidder the system will activate the 'Freeze Bid Submission' button to conclude the bid submission process.

e) **System generated acknowledgement receipt for successful bid submission:** System will generate an acknowledgement receipt for successful bid submission. The bidder should make a note of **'Bid ID'** generated in the acknowledgement receipt for tracking their bid status.

6. **Settlement of Cost of Tender Paper;**

a) **Cost of Tender Paper:** In respect of Government receipts on account of **Cost of Tender Paper,** the e-Procurement portal shall generate a MIS for the State Procurement Cell (SPC). The MIS will contain an abstract of the cost of tender paper collected with reference to **Bid Identification Number.** The State Procurement Cell shall generate Bank-wise-head-wise challans separately for **Cost of Tender Paper** and instruct the designated Banks to remit the money to the State Government account under different heads. In respect of the cost of tender paper received through the e-procurement portal, the remittance to the Cyber Treasury account will be made

to the Head of Account 0075-Misc, General Services-800-Other Receipts -0097-Misc. Receipts-02237-Cost of Tender Paper.

b) For the time being, the State Procurement Cell (SPC) will use over the counter payment facility of the Odisha Treasury portal. Thereafter, remittance through NEFT & RTGS will be facilitated through the Odisha Treasury portal.

c) Similarly, in case of State PSUs, Statutory Corporations, Autonomous Bodies and Local Bodies etc., **Cost of Tender Paper,** the e-Procurement portal shall generate a MIS for the State Procurement Cell (SPC). The MIS will contain an abstract of the cost of tender paper collected with reference to **Bid Identification Number.** The State Procurement Cell shall generate Bank-wise list of challans and instruct the designated Banks to remit the money through the Odisha Treasury portal. The cost of tender papers will be credited to the registered Bank account of the concerned State PSUs, Statutory Corporations, Autonomous Bodies and Local Bodies etc.

d) Bank will refund (in case the Tender Inviting Authority (TIA) issues such instructions) the tender fee, EMD to the bidder, in case the tender is cancelled before opening of Bid as per direction received from TIA through e-procurement system.

e) Back-end Transaction Matrix of Electronic receipt of Cost of Tender Paper and Earnest Money Deposit on submission of bids is enclosed in the Annexure.

7. **Settlement of Earnest Money Deposit on submission of bids:**

a) The Bank will remit the **Earnest Money Deposit on submission/ cancellation of bids** to respective bidders accounts as per direction received from TIA through e-procurement system.

8. **Forfeiture of EMD:**

Forfeiture of **Earnest Money Deposit on submission of bid** of defaulting bidder is occasioned for various reasons.

a) In case the **Earnest Money Deposit on submission of bid** is forfeited, the e-Procurement portal will direct the Bank to transfer the EMD value from the Pooling Account of SPC to the registered account of the tender inviting authority.

b) The Tender inviting authorities of the Government Departments will deposit the forfeited **Earnest Money Deposit on submission of bid,** in the State Government Treasury under the appropriate head (8782-Cash Remittances and Adjustments between the officers rendering accounts to the same Accounts Officer-102-P.W.Remittances -1683-Remittances-91028-Remittances into Treasury) after taking the amount as a revenue receipt in their Cash Book under the head 0075-Misc. General Services-00-101 - Unclaimed Deposits-0097-Misc, Receipts-02080-Misc. Deposits and submit the detail account to DAG (Puri) as a deposit of the Division.

c) By clicking submit button, system will initiate the forfeiture of EMD. System will not allow the evaluator to edit the initiation after clicking the submit button. Forfeiture option can be carried out in phased manner like one bidder at a time.

9. **Role of the Banks:**

a) Make necessary provision / customizations at their end to enable the provision for online payments / refunds as per this document.

b) Provide necessary real-time message to bidders regarding successful or unsuccessful transactions during online payment processes and redirect them to e-Procurement website with necessary transaction reference details enabling them to submit their bids.

c) The bank shall ensure transfer of funds from the pooling account to the Government Head/current account of PSUs/ULBs within the next bank working day as per the directions generated from e-Procurement portal.

d) Bank should provide timely reports and reference details to NIC enabling them to carry out their role as stated below.

e) Refund of amount to bidders as per the XML file provided by e-Procurement system on the next bank working day from the date of generation of the XML file and also provide a confirmation to NIC on the same.

10. **Role of State Procurement Cell:**

a) Communicate requirements of Government departments/ State PSUs/ Autonomous Bodies/ ULBs online payment requirements to National Informatics Centre / the authorised Banks for mapping/ customization.

b) In every working day, the State Procurement Cell shall generate MIS from the e-Procurement portal to ascertain the tender paper cost received in the e-Tendering process separately bank-wise for the Government Department and the PSUs/ULBs. The SPC shall generate bank-wise separate online challans from the Odisha Treasury portal and make the remittance through over the counter facility or NEFT/RTGS (as and when this functionality is available in Treasury portal) and issue instruction to the bank for remittance of the receipt to the State Government account.

c) The State Procurement Cell shall be responsible for providing challan details and MIS in respect of the remittance towards tender paper cost to the Tender inviting authorities for their record.

d) State Procurement Cell shall monitor the progress of e-Tendering by different Government departments / State PSUs/ Autonomous Bodies / ULBs through an MIS. State Procurement Cell shall monitor and send monthly progress reports to the Government.

e) The e-Procurement system will generate a consolidated refund & settlement XML file as an end of the day activity.

f) e-procurement system will provide a web service for payment gateway (PG) provider to pull the encrypted refund and settlement details in XML file against a day.

g) Similarly, payment gateway (PG) provider will provide a web service to pull the refund and settlement status against a day

h) e-procurement system will update the status accordingly for reconciliation report.

11. **Role of National Informatics Centre :**

a) Customize e-Procurement software and web-pages of Government of Odisha (https://tendersodisha.gov.in) to enable the provision for electronic payment.

b) The NIC, Odisha will modify / rectify the errors in electronic data relating to the Chart of Account.

c) NIC will provide an interface to organisations to download the electronic receipt data.

d) Enable automatic generation of daily XML files from e-Procurement system and ensure delivery of the same to the authorised Banks for enabling automatic refund/settlement of funds.

e) NIC shall enable the e-Procurement portal to generate MIS as required for the State Procurement Cell in order to make remittance of the tender paper cost to the State Government account using the Odisha Treasury portal.

12. **Role of Cyber Treasury :**

a) The cost of the tender paper deposited by the SPC using the Odisha Treasury Portal which will be accounted for by the Cyber Treasury and it shall submit the accounts to A.G (O) as per the established process.

b) The Cyber Treasury will provide MIS as required to the SPC for the purpose of accounting and reconciliation of the electronic remittances made to the State Government account.

13. **Redressal of Public grievances :**

a) The State Procurement Cell, Odisha, National Informatics Centre, Odisha and the e-FPB will have an effective procedure for dealing with, public complaint for e-Receipt related matters. In case, any mistake is detected by any of the stakeholders in reporting of receipt of tender paper cost and EMD, either suo motu or on being brought to its notice, the State Procurement Cell, Odisha, National Informatics Centre, Odisha unit, Cyber Treasury and the bank will promptly take steps for rectification. The e-Focal Point Branch of the participating Banks, National Informatics Centre, Odisha and the State Procurement Cell, Odisha will notify the contact number and address of the Help Desk for resolution of any dispute regarding e-Receipt.

14. **Applicability and modification of existing rules / orders:**

The modalities prescribed in this Office Memorandum for downloading of tender paper, submission and rejection of bid, acceptance of Bids as well as refund and forfeiture of earnest deposit will be applicable for electronic submission of bids through e-procurement portal. Existing provisions regulating cost of tender paper, earnest money deposit in OPWD Code and OGFR would stand modified to the extent prescribed.

15. These arrangements would be made effective after signing of MoU between the designated Banks and the State Procurement Cell, firming up of Banking arrangements and technical integration between designated Bank and e-Procurement Portal.

1. This shall take effect from the date of issue of this Office Memorandum.

2. Accordingly, relevant existing codal/ contractual provision exist vide Office Memorandum No.6785/W Dt.09.05.2017 of Works Department stands modified to the above extent.

3. This has been concurred in by the Finance Department vide their UOR No.-39-WF-I Dt.09.11.2017.

Sd/05.12.2017
E.I.C-cum-Secretary to Govt.

[For any Technical related queries please call at Help desk numbers of State Procurement Cell (SPC), Govt. of Odisha – 1800 3456 765, 0674-2530998, 2530996]

ANNEXURE-I of Appendix - II

Back-end Transaction Matrix of Electronic receipt and remittance of Cost of Tender Paper and Earnest Money Deposit on submission of bids.

	Cost of Tender Paper on submission of bids	Earnest Money Deposit on submission of bids
Government Departments	I. The payment towards the **cost of Tender Paper**, in case Government Departments, shall be collected in separate Pooling accounts opened in Focal Point Branch called e-FPB of respective designated banks [as stated in Para 2] at Bhubaneswar on T+1_day.	I. In case of tenders of Government Departments, amount towards **Earnest Money Deposit** on submission of bids shall be collected in a pooling account opened for this purpose at Focal Point Branch called e-FPB of respective designated banks at Bhubaneswar and the banks will remit the amount to respective bidder's account within two working days on receipt of instruction from TIA through refund and settlement of e-procurement system.
	II. With reference to the Notice Inviting Tender/ Bid Identification Number, the amount so realized is to be remitted to Government Account under the Head of Account 0075-Misc. General Services- 800-Other Receipts -0097-Misc. Receipts -02237-Cost of Tender Paper through Odisha Treasury Portal after opening of the bid.	II. In case of forfeiture of **Earnest Money Deposit** on submission of bids, the e-Procurement portal will direct the Bank to transfer the EMD value from the Pooling Account of SPC to the registered account of the tender inviting authority within two working days of receipt of instruction from TIA.
State PSUs Statutory Corporations, Autonomous Bodies and Local Bodies.	I. In case of State PSUs, Statutory corporations, Autonomous Bodies and Local Bodies etc. the amount towards **Cost of Tender Paper,** on submission of bids shall be collected in separated pooling accounts opened in Focal Point Branch called e-FPB of respective designated Banks at Bhubaneswar on T+1 days.	I. Amount towards **EMD** on submission of bids shall be collected in a separate pooling account of Focal Point Branch called e-FPB of respective designated banks at Bhubaneswar and the banks will remit the amount to respective bidder's account on receipt of instruction from TIA through refund and settlement of e-procurement system within two working days from receipt of such instruction.
	II. The **Paper cost** will be transferred to the respective current accounts of concerned State PSUs, Statutory Corporation, Autonomous Bodies and Local Bodies etc. after opening of bid.	II. In case of forfeiture of **Earnest Money deposit** on submission of bids, the e-Procurement portal will direct the Bank to transfer the EMD value from the Pooling Account of SPC to the registered account of the tender inviting authority within two working days of receipt of instruction from TIA.

BILL OF QUANTITY (BoQ) FORMAT

Name of Work	:	"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"
Bid Identification No.	:	RFP CE MKS PRD 01 of 2026-27
e-Procurement Notice No.	:	RFP CE MKS 01 of 2026-27

Sl. No	Description of Item of Work	Unit	Quantity	Rate in Rs.	Amount in Rs.
1	**2**	**3**	**4**	**5**	**6**
1	River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 (five) years – survey, investigation, preparation of DPR / Master Layout Plan, detailed design, engineering, procurement and construction of all components of the Project as per the Scope of Work, and Comprehensive Operation and Maintenance of the Project for 05 (five) years after completion (including energy charges), complete as per the Agreement.	1 Job	1	67,20,00,000.00	67,20,00,000.00
Total Rs.					**67,20,00,000.00**
Total amount in words: Rupees Sixty Seven Crore Twenty Lakh only					

Note: The BoQ in MS-Excel format shall be made available through the e-procurement portal. The bidder shall fill in the rates / amounts in the appropriate cells only and shall not change or modify the format of the excel sheet in any form. Multiple BoQ submission shall lead to cancellation of bid.

DEPARTMENT OF WATER RESOURCES

Bid Identification No. RFP CE MKS PRD 01 of 2026-27

AGREEMENT

"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"

INDICATIVE ESTIMATED COST: Rs. 672000000.00
(including cost of Construction, Operation & Maintenance and energy charges)

BID PROCESSING FEE: Rs. 10000.00

Chief Engineer & Basin Manager
Mahanadi Kathajodi System, Bhubaneswar
e-mail :- celmbbbsr@yahoo.co.in

***

September-2026

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PART I
PRELIMINARY

ENGINEERING, PROCUREMENT AND CONSTRUCTION AGREEMENT

THIS AGREEMENT is entered into on this the …….. day of ……, 2026.

BETWEEN

Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar having its office at Bhubaneswar, under the Government of Odisha (hereinafter referred to as the "Authority", which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors, and assigns), of the One Part;

AND

{----------,} means the selected bidder having its registered office at , (hereinafter referred to as the "**EPC Agency**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the Other Part.

WHEREAS:

(A) The Government of Odisha had entrusted to the Authority the project **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"**

(B) The Authority had resolved to implement the project **titled "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" on** Engineering, Procurement and Construction ("**EPC**") basis in accordance with the terms and conditions to be set forth in an agreement to be entered into.

(C) The Authority had accordingly invited single stage two-part bidding proposal by its [Request for Proposal vide Tender ID No. RFP CE MKS 01 of 2026-27: **Dated _**] (the "**Request for Proposal" or "RFP**") from bidders for EPC of the above referred Project.

(D) The Authority had prescribed the technical and commercial terms and conditions, and invited bids (the "**Request for Proposals**" or "**RFP**") from the bidders pursuant to the RFP for undertaking the Project.

(E) After evaluation of the bids received, the Authority had accepted the bid of the selected bidder and issued its Letter of Acceptance No. …….. dated (hereinafter called the "**LOA**") to the selected bidder for the work **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** at the contract price specified hereinafter, requiring the selected bidder to inter alia:

   (i) deliver to the Authority a legal opinion from the legal counsel of the selected bidder with respect to the authority of the selected bidder to enter into this Agreement and the enforceability of the provisions thereof, within 10 (ten) days of the date of issue of LOA; and

(ii) execute this Agreement within **15 (fifteen) days** of the date of issue of LOA.

(F) The EPC Agency has fulfilled the requirements specified in Recital (E) above;

NOW THEREFORE in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, the Authority hereby covenants to pay the EPC Agency, in consideration of the obligations specified herein, the Contract Price or such other sum as may become payable under the provisions of the Agreement at the times and in the manner specified by the Agreement and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definition

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 28) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

(b) references to laws of Odisha/ India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

(c) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words "include" and "including" are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;

(f) references to "construction" or "building" include, unless the context otherwise requires, survey and investigation, design, developing, engineering,

procurement, materials, equipment, labour, delivery, transportation, installation, processing, fabrication, testing, and commissioning of the Project, including Operation & Maintenance and removing of defects, if any, and other activities incidental to the construction and "construct" or "build" shall be construed accordingly;

(g) references to "development" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental thereto during the Construction Period, and "develop" shall be construed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian standard time;

(i) any reference to day shall mean a reference to a calendar day;

(j) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in Odisha are generally open for business;

(k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(l) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;

(m) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(n) the words importing singular shall include plural and vice versa;

(o) references to any gender shall include the other and the neuter gender;

(p) "lakh" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);

(q) "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

(r) references to the "winding-up", "dissolution", "insolvency", or "reorganisation" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;

(s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument,

license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

(t) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Authority's Engineer shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Authority's Engineer, as the case may be, in this behalf and not otherwise;

(u) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(v) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

(w) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**"); and

(x) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended for the reasons specified in the Agreement, such extended time shall also be of the essence.

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the EPC Agency to the Authority shall be provided free of cost and in three copies, and if the Authority is required to return any such Documentation with its comments and/or approval, it shall be entitled to retain two copies thereof.

1.2.3 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.

1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements and errors/discrepancies

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

(a) this Agreement; and

(b) all other agreements and documents forming part hereof or referred to herein; i.e. this Agreement at (a) above shall prevail over the agreements and documents at (b).

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

(a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

(b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

(c) between any two Schedules, the Schedule relevant to the issue shall prevail;

(d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

(f) between any value written in numerals and that in words, the latter shall prevail.

1.5 Joint and several liability

1.5.1 If the EPC Agency has formed a Consortium of two or more persons for implementing the Project:

(a) these persons shall, without prejudice to the provisions of this Agreement, be deemed to be jointly and severally liable to the Authority for the performance of the Agreement; and

(b) the EPC Agency shall ensure that no change in the composition of the Consortium is effected without the prior consent of the Authority.

1.5.2 Without prejudice to the joint and several liability of all the members of the Consortium, **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 EPC Agency. The EPC Agency shall ensure 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. **The Authority shall have the right to release payments**

solely to the Lead Member and shall not in any manner be responsible or liable for the *inter se* allocation of payments among members of the Consortium.} [$]

$ [$]This Clause 1.5 may be omitted if the EPC Agency is not a Consortium. Even if the EPC Agency is a Consortium, the Authority may, at its discretion, delete this provision.

PART II
SCOPE OF PROJECT

ARTICLE 2
SCOPE OF THE PROJECT

2.1 Scope of the Project

Under this Agreement, the scope of the Project (the "**Scope of the Project**") shall mean and include:

(a) **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"** set forth in Schedule-A (Project) and as specified in Schedule-B together with provision of Project Facilities as specified in Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D;

(b) Operation & maintenance of the Project in accordance with the provisions of this Agreement and in conformity with the requirements set forth in Schedule-E; and

(c) Performance and fulfilment of all other obligations of the EPC Agency in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the EPC Agency under this Agreement.

ARTICLE 3
OBLIGATIONS OF THE EPC AGENCY

3.1 Obligations of the EPC Agency

3.1.1 Subject to and on the terms and conditions of this Agreement, the EPC Agency shall undertake the survey, investigation, design, engineering, procurement, construction, operation and maintenance of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.

3.1.2 The EPC Agency shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.

3.1.3 Subject to the provisions of Clauses 3.1.1 and 3.1.2, the EPC Agency shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

3.1.4 The EPC Agency shall remedy any and all loss or damage to the Project from the Appointed Date until the end of the Construction Period at the EPC Agency's cost, save and except to the extent that any such loss or damage shall have arisen from any default or neglect of the Authority.

3.1.5 The EPC Agency shall remedy any and all loss or damage to the Project during the Defects Liability Period at the EPC Agency's cost to the extent that such loss or damage shall have arisen out of the reasons specified in Clause 17.3.

3.1.6 The EPC Agency shall remedy any and all loss or damage to the Project during the Operation & Maintenance Period at the EPC Agency's cost, including those stated in Clause 14.1.2, save and except to the extent that any such loss or damage shall have arisen on account of any default or neglect of the Authority or on account of a Force Majeure Event.

3.1.7 The EPC Agency shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits set forth in Schedule-F and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;

(b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for Materials, methods, processes and systems used or incorporated into the **"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years"**

(c) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it in connection with the performance of its obligations under this Agreement;

(d) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(e) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;

(f) ensure that the EPC Agency complies with the safety and welfare measures for labour in accordance with the Applicable Laws and Good Industry Practice;

(g) keep, on the Site, a copy of this Agreement, publications named in this Agreement, the Drawings, Documents relating to the Project, and Change of Scope Orders and other communications given under this Agreement. The Authority's Engineer and its authorised personnel shall have the right of access to all these documents at all reasonable times;

(h) cooperate with other EPC agencies employed by the Authority and personnel of any public authority; and

(i) not interfere unnecessarily or improperly with the convenience of the public, or the access to and use and occupation of all roads and footpaths, irrespective of whether they are public or in the possession of the Authority or of others.

3.1.8 The EPC Agency shall undertake all necessary superintendence to plan, arrange, direct, manage, inspect and test the Works.

3.2 Prohibition of sub-contracting

3.2.1 **The EPC Agency shall not sub-contract any part of the Works of the Project, including Operation & Maintenance. All the Works shall be carried out by the EPC Agency directly under its own supervision and through its own personnel. Provided, however, that in respect of the Works carried out by the EPC Agency, it may enter into contracts for the supply and installation of Materials, equipment, road furniture, safety devices and labour, as the case may be, for such Works. The Parties further agree that all obligations and liabilities under this Agreement for the entire project shall at all times remain with the EPC Agency.**

3.2.2 It is expressly agreed that the EPC Agency shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in any other agreement that may be entered into by the EPC Agency, and no default under any such agreement shall excuse the EPC Agency from its obligations or liability hereunder.

3.3 EPC Agency's personnel

3.3.1 The EPC Agency shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times appropriately qualified, skilled and experienced in their respective functions in conformity with Good Industry Practice.

3.3.2 The Authority's Engineer may, for reasons to be specified in writing, direct the EPC Agency to remove any member of the EPC Agency's personnel. Provided that any such direction issued by the Authority's Engineer shall specify the reasons for the removal of such person.

3.3.3 The EPC Agency shall on receiving such a direction from the Authority's Engineer order for the removal of such person or persons with immediate effect. It shall be the duty of the EPC Agency to ensure that such persons are evicted from the Site within 10 (ten) days of any such direction being issued in pursuance of Clause 3.3.2. The EPC Agency shall further ensure that such persons have no further connection with the Works or **Operation & Maintenance** under this Agreement. The EPC Agency shall then appoint (or cause to be appointed) a replacement.

3.4 Advertisement of the Project

The Project or any part thereof shall not be used in any manner to advertise any commercial product or services by the EPC agency.

3.5 EPC Agency's care of the Works

The EPC Agency shall bear full risk in and take full responsibility for the care of the Works, and of the Materials, goods and equipment for incorporation therein, from the Appointed Date until the date of Provisional Certificate (with respect to the Works completed prior to the issuance of the Provisional Certificate) and/or Completion Certificate (with respect to the Works referred to in the Punch List), save and except

to the extent that any such loss or damage shall have arisen from any default or neglect of the Authority.

3.6 Electricity, water and other services

The EPC Agency shall be responsible for procuring of all power, water and other services that it may require.

3.7 Unforeseeable difficulties

Except as otherwise stated in the Agreement:

(a) the EPC Agency accepts complete responsibility for having foreseen all difficulties and costs of successfully completing the Works;

(b) the Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs; and

(c) the Scheduled Completion Date shall not be adjusted to take account of any unforeseen difficulties or costs.

ARTICLE 4
OBLIGATIONS OF THE AUTHORITY

4.1 Obligations of the Authority

4.1.1 The Authority shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

4.1.2 The Authority shall be responsible for the correctness of the Scope of the Project, Project Facilities, Specifications and Standards and the criteria for testing of the completed Works.

4.1.3 The Authority shall provide to the EPC Agency:

(a) upon receiving the Performance Security under Clause 7.1.1, the land/site in accordance with the provisions of Clauses 8.2 and 8.3, within a period of 30 (Thirty) days from the date of this Agreement, on not less than 90% (ninety per cent) of the total land/site requirement for the proposed Project;

(b) The Authority shall facilitate approval of the General Arrangement Drawings (the "GAD") from the competent authorities, wherever required for the Project, within a period of **90** (ninety) days from the Appointed Date. Any statutory charges paid by the EPC Agency for such approvals shall be reimbursed by the Authority.

(c) all environmental clearances as required under Clause 4.3.[7]

(d) Any delay in providing access to the Site or in approval of the General Arrangement Drawings (GAD) by the appropriate authorities, as applicable and in accordance with the provisions of Clause 4.1.3, shall entitle the EPC Agency to Damages calculated in accordance with the provisions of Clause 8.3 of this Agreement and to an Extension of Time in accordance with the provisions of Clause 10.4 of this Agreement.

4.1.4 Notwithstanding anything to the contrary contained in this Agreement, the Parties expressly agree that the aggregate Damages payable under Clauses 4.1.4, 8.3 and 9.2 shall not exceed 1% (one per cent) of the Contract Price. For the avoidance of doubt, the Damages payable by the Authority under the aforesaid Clauses shall not be additive if they arise concurrently from more than one cause but relate to the same part of the Project.

Both the parties agree that payment of these Damages shall be full and final settlement of all claims of the EPC Agency and such compensation shall be the sole remedy against delays of the Authority and both parties further agree this as final cure against delays of the Authority.

4.1.5 The Authority agrees to provide support to the EPC Agency and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

(a) upon written request from the EPC Agency, and subject to the EPC Agency complying with Applicable Laws, provide reasonable support to the EPC Agency in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;

(b) upon written request from the EPC Agency, provide reasonable assistance to the EPC Agency in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable than those generally available to commercial customers receiving substantially equivalent services;

(c) procure and ensure that no barriers, obstructions, or restrictions that may have a material adverse effect on the execution of the Works are erected or placed on, adjacent to, or in the vicinity of the Project Site by any Government Instrumentality or by any person claiming through or under it, except in cases of emergency, public safety, maintenance of law and order, or as required under Applicable Laws.

(d) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(e) support, cooperate with and facilitate the EPC Agency in the implementation of the Project in accordance with the provisions of this Agreement; and

4.2 Environmental Clearances

The Authority represents and warrants that the environmental clearances required **if any** for construction of the Project shall be procured by the Authority prior to the date of issue of LOA. All statutory clearances shall be obtained as per the applicable rules and regulations. For the avoidance of doubt, the present status of environmental clearances is specified in Schedule-A.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties of the EPC Agency

The EPC Agency represents and warrants to the Authority that:

(a) it is duly organised and validly existing under the laws of Odisha/India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and/or other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(d) it is subject to the laws of Odisha/ India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;

(e) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(f) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its memorandum and articles of association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(g) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(h) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement 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;

(i) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal

liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(j) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(k) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the contract or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;

(l) all information provided by the {selected bidder/ members of the Consortium} in response to the Request for Proposal is to the best of its knowledge and belief, true and accurate in all material respects; and

(m) nothing contained in this Agreement shall create any contractual relationship or obligation between the Authority and any designers, consultants or agents of the EPC Agency.

5.2 Representations and warranties of the Authority

The Authority represents and warrants to the EPC Agency that:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

(b) It has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;

(c) It has the financial standing and capacity to perform its obligations under this Agreement;

(d) This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;

(f) It has complied with Applicable Laws in all material respects;

(g) It has good and valid right to the Site and has the power and authority to grant the clearance in respect thereof to the EPC Agency; and

(h) It has made available the Project Site and obtained all applicable statutory and environmental clearances, as required for the implementation of the Project, enabling the EPC Agency to commence the Works forthwith on at least 90% (ninety per cent) of the total Site requirement for the Project.

5.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

ARTICLE 6
DISCLAIMER

6.1 Disclaimer

6.1.1 The EPC Agency acknowledges that prior to the execution of this Agreement, the EPC Agency has, after a complete and careful examination, made an independent evaluation of the Request for Proposal, Scope of the Project, Specifications and Standards of design, construction and Operation & Maintenance, Site, local conditions, physical qualities of ground, subsoil and geology, suitability and availability of access routes to the Site and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 4.1.2 and Clause 5.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the EPC Agency confirms that it shall have no claim whatsoever against the Authority in this regard.

6.1.2 The EPC Agency acknowledges and hereby accepts to have satisfied itself as to the correctness and sufficiency of the Contract Price.

6.1.3 The EPC Agency acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the EPC Agency, or any person claiming through or under any of them, and shall not lead to any adjustment of Contract Price or Scheduled Completion Date.

6.1.4 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 6.1.1 above shall not vitiate this Agreement, or render it voidable.

6.1.5 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 6.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error.

6.1.6 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the EPC Agency; and the Authority shall not be liable in any manner for such risks or the consequences thereof.

Part III
CONSTRUCTION AND OPERATION & MAINTENANCE

ARTICLE 7
PERFORMANCE SECURITY

7.1 Performance Security

(i) (A) Within 7 (seven) days of issue of the Letter of Acceptance, the Selected Bidder shall make an Initial Security Deposit @ 2% (two per cent) of the accepted Bid Price in the form of NSC, Post Office Time Deposit Account, Post Office Saving Bank Account / Kisan Vikas Patra / Bank Guarantee in favour of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar from any Nationalised / Scheduled Bank in India counter guaranteed by its local Bank at Bhubaneswar / e-Bank Guarantee executed on the National e-Governance Services Limited (NeSL) Digital Document Execution Portal, towards EMD/ISD (the "Performance Security"). In case the Bid Price is less than the estimated cost put to bid, the Selected Bidder shall also furnish an Additional Performance Security (the "Additional Performance Security") on an incremental basis as under (as per Works Department OM No.173 dt.03.01.2026):

I. where the bid price is below 0% but not below 10% of the project cost put to bid, no additional performance guarantee/security percentage is required;

II. where the bid price is below 10% but not below 20% of the project cost put to bid, the additional performance guarantee/security percentage shall be incremented by 0.1% for every percentage of bid price below 10% of the project cost put to bid starting at 11% with the additional bid performance guarantee being 0.1% and this additional performance guarantee percentage shall be applied on the bid price;

III. where the bid price is 20% or more below of the project cost put to bid, the additional performance guarantee percentage shall be incremented by 0.2% for every percentage of bid price below 20% of the project cost put to bid in addition to 1% of the bid price and this additional performance guarantee percentage shall be applied on the bid price;

IV. the additional performance guarantee percentage shall be rounded off to the next lower percentage based on whether the decimal point of the percentage of bid price is below 0.5% or next higher percentage based on whether the decimal point of the percentage of bid price is 0.5% or more;

V. the additional performance security shall be treated as part of the performance security.

The applicable Additional Performance Security (APS) shall have to be furnished by the successful bidder in shape of Term Deposit Receipt pledged in favour of the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar / Bank Guarantee in favour of the Chief Engineer & Basin

Manager, Mahanadi Kathajodi System, Bhubaneswar, from any Nationalised / Scheduled Bank in India counter guaranteed by its local branch at Bhubaneswar within 7 (seven) days of issue of Letter of Acceptance (LoA) (by e-mail) to the successful bidder, otherwise the bid of the successful bidder shall be cancelled. Further, proceeding for blacklisting shall be initiated against the bidder (vide Office Memorandum No.14459/W dated 20.09.2018 of Works Department, Govt. of Odisha).

(B) The Performance Security shall be valid until 60 (sixty) days after the Defects Liability Period. The Additional Performance Security shall be valid until 28 (twenty-eight) days after Project Completion Date.

(ii) For avoidance of any doubt, in case of failure of submission of Performance Security and Additional Performance Security, if any, within the period prescribed above, the award shall be deemed to be cancelled/ withdrawn and the Bid Security shall be encashed and the proceeds thereof appropriated by the Authority. Thereupon all rights, privileges, claims and entitlements of the EPC Agency under or arising out of the Award shall be deemed to have been waived by, and to have ceased with the concurrence of the EPC Agency, and the Award shall be deemed to have been withdrawn by the Authority.

7.2 Extension of Performance Security and Additional Performance Security

The EPC Agency may initially provide the Performance Security for a period of 3 (three) years; provided that it shall procure the extension of the validity of the Performance Security, as necessary, at least 2 (two) months prior to the date of expiry thereof. Upon the EPC Agency providing an extended Performance Security, the previous Performance Security shall be deemed to be released and the Authority shall return the same to the EPC Agency within a period of 7 (seven) business days from the date of submission of the extended Performance Security.

7.3 Appropriation of Performance Security

(i) Upon occurrence of an EPC Agency's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such EPC Agency's Default.

(ii) Upon such encashment and appropriation from the Performance Security, the EPC Agency shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the EPC Agency shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate the Agreement in accordance with Article 23. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the EPC Agency shall be entitled to an additional Cure Period of 30 (thirty) days for remedying the EPC Agency's Default, and in the event of the EPC Agency not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such

Performance Security as Damages, and to terminate this Agreement in accordance with Article 23.

7.4 Release of Performance Security

(i) The security (Initial Security Deposit together with the deductions made under Clause 7.5) will be refunded after one year on completion of the work in all respects provided the final bill is passed and will not carry any interest. Any defect noticed during the period of one year after the actual date of completion shall be rectified by the EPC Agency at its own cost; failing which, the cost involved to carry out the defective work shall be met from its dues available with the Authority (Ref. Works Department Order No.17823/WE dt.11.10.2006).

(ii) The Authority shall return the Additional Performance Security to the EPC Agency within 28 (twenty-eight) days from the date of issue of Completion Certificate under Article 12 of this Agreement.

(iii) The Authority shall be liable to pay interest @ 9% (nine per cent) per annum for any delay in the return of Performance Security and Additional Performance Security, if any, beyond the period prescribed above for the period of delay.

7.4.1 The selected Bidder shall furnish to the Authority an irrevocable and unconditional guarantee from a Bank in the form set forth in Annex-I of Schedule-G (the "**Performance Security**") for an amount equal to **5% (five percent) of the total O&M Price determined under Clause 19.1.1** prior to commencement of the **O&M period.** This Performance Security for O&M shall be an irrevocable and unconditional guarantee from a Nationalized Bank, counter guaranteed by its branch at Bhubaneswar in the form set forth in Schedule-G. The performance security shall be valid until 60 days after the O&M period of 5 (five) years. The Authority shall return the performance security for O&M within 60 (sixty) days of the expiry of the operation & maintenance period of 5 years. **In case the O&M Price so determined is less than the estimated** cost by more than **10%,** the successful bidder will deposit additional performance security to the extent of the differential cost of the O&M Price and 90% of the estimated cost relating to O&M cost in shape of Bank Guarantee in Schedule-G within 10 working days of signing of agreement and the same shall remain valid until 60 days after the O&M period.

7.5 Retention Money

(i) From every payment for Works due to the EPC Agency in accordance with the provisions of Clause 19.5, the Authority shall deduct so much, not exceeding 5% (five per cent) thereof, as may be necessary to make up the balance of the total security of 7% (seven per cent) of the Contract Price (including the Initial Security Deposit), as security money for performance of the obligations of the EPC Agency during the Construction Period (the "**Retention Money**").

(ii) Upon occurrence of an EPC Agency's Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to

appropriate the relevant amounts from the Retention Money as Damages for such EPC Agency's Default.

(iii) After one year on completion of the work in all respects provided the final bill is passed, the Authority shall refund the balance of Retention Money remaining with the Authority after adjusting the amounts appropriated under the provisions of Clause 7.5 (ii).

(iv) The Parties agree that in the event of Termination of this Agreement, the Retention Money specified in this Clause 7.5 shall be treated as if they are Performance Security and shall be reckoned as such for the purposes of Termination Payment under Clause 23.6.

ARTICLE 8
SITES FOR THE PROJECT

8.1 The Site

The site of the Project "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" (the "**Site**") shall comprise the site described in Schedule-A in respect of which the land shall be provided by the Authority to the EPC Agency. The Authority shall be responsible for:

(a) acquiring and providing the site in accordance with the alignment finalised by the Authority, free from all encroachments and encumbrances, and free access thereto for the execution of this Agreement; and

(b) obtaining licenses and permits for environment clearance for the Projects if required.

8.2 Procurement of the Site for construction of structures:

8.2.1 The Authority's Representative and the EPC Agency shall, within 10 (ten) days of issue of LOA inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site. Subject to the provisions of Clause 8.2.3, such memorandum shall have appended thereto an appendix (the "**Appendix**") specifying in reasonable detail those parts of the Site to which vacant access and land has not been given to the EPC Agency. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorised representatives of the Parties shall be deemed to constitute valid evidence of giving the land to the EPC Agency for discharging its obligations under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

Whenever the Authority is ready to hand over any part or parts of the Site included in the Appendix, it shall inform the EPC Agency, by notice, the proposed date and time of such handing over. The Authority Representative and the EPC Agency shall, on the date so notified, inspect the specified parts of the Site, and prepare a memorandum containing an inventory of the vacant and unencumbered land,

buildings, structures, road works, trees and any other immovable property on or attached to the Site so handed over. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorised representatives of the Parties shall be deemed to constitute valid evidence of giving the relevant land to the EPC Agency.

8.2.2 The Authority shall provide **all land to the EPC Agency** included in the Appendix by the date specified in **Schedule-A** for those parts of the Site referred to therein, or no later than 90 (ninety) days of the Appointed Date for those parts of the Site which have not been specified in Schedule-A, and in the event of delay for any reason other than Force Majeure or breach of this Agreement by the EPC Agency, it shall pay to the EPC Agency, Damages in a sum calculated in accordance with Clause 8.3.

8.2.3 Notwithstanding anything to the contrary contained in this Clause 8.2, the Authority shall specify the parts of the Site, if any, for which land shall be provided to the EPC Agency on the dates specified in Schedule-A. Such parts shall also be included in the Appendix prepared in pursuance of Clause 8.2.1. For avoidance of doubt, the Parties expressly agree that the Appendix shall in no event contain areas required for the Said Project cumulative area of which exceeds 10% (ten per cent) of the total area of the Said Project.

8.3 Damages for delay in handing over the Site for construction of structures.

8.3.1 In the event any part of the construction Site is not provided by the Authority on or before the date(s) specified in Clause 8.2 for any reason other than Force Majeure or breach of this Agreement by the EPC Agency, the Authority shall pay Damages to the EPC Agency in a sum calculated in accordance with the following formula for and in respect of those parts of the Site which has not been provided: **Amount of Damages shall be paid in a sum calculated at the rate of Rs.5.00 (Rupees Five) per day for every 1000 (One thousand) square meters or part thereof, commencing from the 91st (Ninety first) day of the appointed date and until such site is procured.**

In the event that any Damages are due and payable to the EPC Agency under the provisions of this Clause 8.3.1 for delay in providing the land, the EPC Agency shall, subject to the provisions of Clause 10.4, be entitled to Time Extension equal to the period for which the Damages have become due and payable under this Clause 8.3.1, save and except that:

(a) if any delays involve time overlaps, the overlaps shall not be additive; and

(b) such Time Extension shall be restricted only to the Works which are affected by the delay in providing the land.

For the avoidance of doubt, the Parties expressly agree that the Damages specified hereunder and the Time Extension specified in Clause 10.4 shall be restricted only to failure of the Authority to provide the land for and in respect of the construction of major structures.

8.3.2 Notwithstanding anything to the contrary contained in this Agreement, the EPC Agency expressly agrees that Works on all parts of the Site for which land is granted

within 90 (ninety) days of the Appointed Date, or with respect to the parts of the Site provided in Schedule-A, no later than the date(s) specified therein, as the case may be, shall be completed before the Scheduled Completion Date and shall not qualify for any Time Extension under the provisions of Clause 8.3.1.

8.3.3 **Notwithstanding anything to the contrary contained in this Agreement, the Authority** may at any time withdraw any Works forming part of this Agreement, subject to such Works not exceeding an aggregate value, such value to be determined in accordance with Schedule-H, equal to 10 (ten) percent of the Contract Price.

Provided that if any Works cannot be undertaken within the municipal limits of a town or within any area falling in a reserved forest or wildlife sanctuary, as the case may be, because the requisite clearances or approvals for commencing construction of Works therein have not been given within 240 (two hundred and forty) days of the Appointed date, the affected Works shall be deemed to be withdrawn under the provisions of this Clause 8.3.3 unless the Parties agree to the contrary, and such Works shall not be computed for the purposes of the aforesaid ceiling of 10% (ten per cent) hereunder.

8.3.4 **In the event of withdrawal of Works under Clause 8.3.3**, the Contract Price shall be reduced by an amount equal to 90 (ninety) per cent of the value of the Works withdrawn and the EPC Agency shall not be entitled to any other compensation or Damages for the withdrawal of Works.

Provided that if any Works are withdrawn after commencement of the Construction of such works, the Authority shall pay to the EPC Agency 110% (one hundred and ten per cent) of the fair value of the work done, as assessed by the Authority's Engineer:

8.4 Site to be free from Encumbrances

Subject to the provisions of Clause 8.2, the Site shall be made available by the Authority to the EPC Agency pursuant hereto free from all Encumbrances and occupations and without the EPC Agency being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Project Completion Schedule. For the avoidance of doubt, it is agreed that the existing rights of way, easements, privileges, liberties and appurtenances to the Site shall not be deemed to be Encumbrances. It is further agreed that, unless otherwise specified in this Agreement, the EPC Agency accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

8.5 Protection of Site from encroachments

On and after signing the memorandum and/or subsequent memorandum referred to in Clause 8.2.1, and until the issue of the Completion Certificate, the EPC Agency shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place. During the Construction Period, the EPC Agency shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any person claiming through or under the

Agreement to place or create any Encumbrance or security threat over all or any part of the Site or the Project Assets, or on any rights of the EPC Agency therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement. In the event of any encroachment or occupation on any part of the Site, the EPC Agency shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its own cost and expenses.

8.6 Special/temporary land

The EPC Agency shall bear all costs and charges for any special or temporary land required by it in connection with access to the Site. The EPC Agency shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

8.7 Access to the Authority and the Authority's Engineer

8.7.1 The land given to the EPC Agency hereunder shall always be subject to the right of access of the Authority and the Authority's Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

8.7.2 The EPC Agency shall ensure, subject to all relevant safety procedures, that the Authority has un-restricted access to the Site during any emergency situation, as decided by the Authority's Engineer.

8.8 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of this Agreement with the EPC Agency for the Works, and the EPC Agency hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Authority or the concerned Government Instrumentality. The EPC Agency shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the EPC Agency hereunder shall be reimbursed by the Authority. It is also agreed that the Authority shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

ARTICLE 9
UTILITIES AND TREES

9.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the EPC Agency shall ensure that the respective entities owning the existing roads, land, level crossings,

structures, or utilities on, under or above the Site are enabled by it to keep them in continuous satisfactory use, if necessary, by providing suitable temporary diversions with the authority of the controlling body of that road, land or utility.

9.2 Shifting of obstructing utilities

The EPC Agency shall, in accordance with Applicable Laws and with assistance of the Authority, cause shifting of any utility (including electric lines, water pipes and telephone cables) to an appropriate location or alignment, if such utility or obstruction adversely affects the execution of the Works or Operation & Maintenance of the Said Project in accordance with this Agreement. The actual cost of such shifting, as approved and communicated by the entity owning the utility, shall be paid by the EPC Agency and reimbursed by the Authority to the EPC Agency on certification by the entity owning such utility that the work has been satisfactorily executed by the EPC Agency. In the event of any delay in such shifting by the entity owning the utility beyond a period of 180 (one hundred and eighty) days from the date of notice by the EPC Agency to the entity owning the utility and to the Authority, the EPC Agency shall be entitled to Damages in a sum calculated in accordance with the formula specified in Clause 8.3.1 for the period of delay, and to Time Extension in accordance with Clause 10.4 for and in respect of the part(s) of the Works affected by such delay; provided that if the delays involve any time overlaps, the overlaps shall not be additive.

9.3 Felling of trees

The Authority shall assist the EPC Agency in obtaining the Applicable Permits for felling of trees to be identified by the Authority for this purpose if and only if such trees cause a Material Adverse Effect on the construction or operation & maintenance of the Project. The cost of such felling shall be borne by the Authority and in the event of any delay in felling thereof for reasons beyond the control of the EPC Agency; it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. The Parties hereto agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate. For the avoidance of doubt, the Parties agree that if any felling of trees hereunder is in a forest area, the Applicable Permit thereof shall be procured by the Authority within the time specified in the Agreement.

ARTICLE 10
DESIGN AND CONSTRUCTION OF THE PROJECT

10.1 Obligations prior to commencement of Works

10.1.1 Within 20 (twenty) days of the Appointed Date, the EPC Agency shall:

(a) appoint its representative, duly authorised to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;

(b) appoint a design director (the "**Design Director**") who will head the EPC Agency's design unit and shall be responsible for surveys, investigations, collection of data, and preparation of preliminary and detailed designs;

(c) undertake and perform all such acts, deeds and things as may be necessary or required before commencement of Works under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and

(d) make its own arrangements for quarrying of materials needed for the Project under and in accordance with the Applicable Laws and Applicable Permits.

10.1.2 The Authority shall, within 15 (fifteen) days of the date of this Agreement, appoint an engineer (the "**Authority's Engineer**") to discharge the functions and duties specified in this Agreement, and shall notify to the EPC Agency the name, address and the date of appointment of the Authority's Engineer forthwith.

10.1.3 Within 30 (thirty) days of the Appointed Date, the EPC Agency shall submit to the Authority and the Authority's Engineer a programme (the **"Programme")** for the Works, developed using networking techniques giving the following details:

Part I EPC Agency's organisation for the Project, the general methods and arrangements for design and construction, environmental management plan, Quality Assurance Plan including design quality plan and safety plan covering safety of users and workers during construction, EPC Agency's key personnel and equipment.

Part II Programme for completion of all stages of construction given in Schedule-H and Project Milestones of the Works as specified in Project Completion Schedule set forth in Schedule-J. The Programme shall include:

(a) the order in which the EPC Agency intends to carry out the Works, including the anticipated timing of design and stages of Works;

(b) the periods for reviews under Clause 10.2;

(c) the sequence and timing of inspections and tests specified in this Agreement.

The EPC Agency shall submit a revised programme whenever the previous programme is inconsistent with the actual progress or with the EPC Agency's obligations.

10.1.4 The EPC Agency shall compute, on the basis of the Drawings prepared in accordance with Clause 10.2.4, and provide to the Authority's Engineer, the length, area and numbers, as the case may be, in respect of the various items of work specified in Schedule-H and comprising the Scope of the Project. The Parties expressly agree that these details shall form the basis for estimating the interim payments for the Works in accordance with the provisions of Clause 19.3. For the avoidance of doubt, the sum of payments to be computed in respect of all the items of work shall not exceed the Contract Price, as may be adjusted in accordance with the provisions of this Agreement.

10.1.5 The EPC Agency shall appoint a safety consultant (the "**Safety Consultant**") to carry out safety audit at the design / construction stage of the Project in accordance with the Applicable Laws and Good Industry Practice.

10.1.6 The safety audit pursuant to Clause 10.1.5 shall be carried out by the Safety Consultant in respect of all such design details that have a bearing on safety of Users involved in or associated with accidents. The recommendations of the Safety Consultant shall be incorporated in the design of the Project and the EPC Agency shall forward to the Authority's Engineer a certificate to this effect together with the recommendations of the Safety Consultant. In the event that any works required by the Safety Consultant shall fall beyond the scope of Schedule-B, Schedule-C or Schedule-D, the EPC Agency shall make a report thereon and seek the instructions of the Authority for Change in Scope. For the avoidance of doubt, the Safety Consultant to be engaged by the EPC Agency shall be independent of the design and implementation team of the EPC Agency.

10.2 Design and Drawings

10.2.1 Design and Drawings shall be developed in conformity with the Specifications and Standards set forth in Schedule-D. In the event, the EPC Agency requires any relaxation in design standards due to restricted area in any section, the alternative design criteria for such section shall be provided for review of the Authority's Engineer.

10.2.2 The EPC Agency shall appoint a proof check consultant (the "**Proof Consultant**") after proposing to the Authority a panel of three names of qualified and experienced firms from whom the Authority may choose one to be the Proof Consultant.

10.2.3 The Proof Consultant shall:

(a) evolve a systems approach with the Design Director so as to minimise the time required for final designs and construction drawings; and

(b) proof check the detailed calculations, drawings and designs, which have been approved by the Design Director.

10.2.4 In respect of the EPC Agency's obligations with respect to the design and Drawings of the Project as set forth in Schedule-I, the following shall apply:

(a) The EPC Agency shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, three copies each of the design and Drawings, duly certified by the Proof Consultant, to the Authority's Engineer for review. Provided, however, that in respect of Major Structures, the Authority's Engineer may require additional drawings for its review in accordance with Good Industry Practice.

(b) by submitting the Drawings for review to the Authority's Engineer, the EPC Agency shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related thereto, are in conformity with the Scope of the Project, the Specifications and Standards and the Applicable Laws;

(c) within 15 (fifteen) days of the receipt of the Drawings, the Authority's Engineer shall review the same and convey its observations to the EPC Agency with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. The EPC Agency shall not be

obliged to await the observations of the Authority's Engineer on the Drawings submitted pursuant hereto beyond the said period of 15 (fifteen) days and may begin or continue Works at its own discretion and risk; Provided, however that in case of a Major Structure, the aforesaid period of 15 (fifteen) days may be extended up to 30 (thirty) days;

(d) if the aforesaid observations of the Authority's Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the EPC Agency in conformity with the provisions of this Agreement and resubmitted to the Authority's Engineer for review. The Authority's Engineer shall give its observations, if any, within 10 (ten) days of receipt of the revised Drawings. In the event the EPC Agency fails to revise and resubmit such Drawings to the Authority's Engineer for review as aforesaid, the Authority's Engineer may withhold the payment for the affected works in accordance with the provisions of Clause 19.5.4. If the EPC Agency disputes any decision, direction or determination of the Authority's Engineer hereunder, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure;

(e) no review and/or observation of the Authority's Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the EPC Agency of its obligations and liabilities under this Agreement in any manner nor shall the Authority's Engineer or the Authority be liable for the same in any manner; and if errors, omissions, ambiguities, inconsistencies, inadequacies or other Defects are found in the Drawings, they and the construction works shall be corrected at the EPC Agency's cost, notwithstanding any review under this Article 10;

(f) the EPC Agency shall be responsible for delays in submitting the Drawing as set forth in Schedule-I caused by reason of delays in surveys and field investigations, and shall not be entitled to seek any relief in that regard from the Authority; and

(g) the EPC Agency warrants that its designers, including any third parties engaged by it, shall have the required experience and capability in accordance with Good Industry Practice and it shall indemnify the Authority against any damage, expense, liability, loss or claim, which the Authority might incur, sustain or be subject to arising from any breach of the EPC Agency's design responsibility and/or warranty set out in this Clause.

10.2.5 Any cost or delay in construction arising from review by the Authority's Engineer shall be borne by the EPC Agency.

10.2.6 Works shall be executed in accordance with the Drawings provided by the EPC Agency in accordance with the provisions of this Clause 10.2 and the observations of the Authority's Engineer thereon as communicated pursuant to the provisions of Clause 10.2.4 (d). Such Drawings shall not be amended or altered without prior written notice to the Authority's Engineer. If a Party becomes aware of an error or

defect of a technical nature in the design or Drawings, that Party shall promptly give notice to the other Party of such error or defect.

10.2.7 Within 90 (ninety) days from the Project Completion Date, the EPC Agency shall furnish to the Authority and the Authority's Engineer a complete and accurate set of as-built Drawings, reflecting the Project as actually designed, engineered, and constructed.

The as-built Drawings shall be provided in **two (2) hard copies** and in **digital format** (or in such other medium as may be acceptable to the Authority). These Drawings shall include an **as-built survey** clearly indicating the **final layout, alignment, levels, and dimensions of the Project Facilities**, together with the **setback lines**, if any, of buildings, structures, and other permanent works forming part of the Project.

10.3 Construction of the Project

10.3.1 The EPC Agency shall construct the **Project** in accordance with the provisions of **Schedule-B and Schedule-C**, and in conformity with the **Specifications and Standards** set forth in **Schedule-D**. The EPC Agency shall be solely responsible for the **accurate setting-out and correct positioning** of all parts of the Works and shall, at its own cost and expense, **rectify any errors** in the position, levels, dimensions, or alignment of the Works.

The day on which 24 (twenty-four) months are completed from the Appointed Date shall be the **scheduled completion date** (the *"Scheduled Completion Date"*), and the EPC Agency hereby agrees and undertakes to **complete the construction of the Works on or before the Scheduled Completion Date**, including any extensions granted in accordance with this Agreement.

10.3.2 The EPC Agency shall construct the Project in accordance with the Project Completion Schedule set forth in Schedule-J. In the event that the EPC Agency fails to achieve any Project Milestone or the Scheduled Completion Date within a period of 30 (thirty) days from the date set forth in Schedule-J, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, it shall pay Damages to the Authority of a sum calculated at the rate of **0.05% (zero point zero five percent)** of the Contract Price for delay of each day reckoned from the date specified in Schedule –J and until such Project Milestone is achieved or the Works are completed; provided that if the period for any or all Project Milestones or the Scheduled Completion Date is extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-J shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-J has been amended as above; provided further that in the event the Works are completed within or before the Scheduled Completion Date including any Time Extension, applicable for that work or section, the Damages paid under this Clause 10.3.2 shall be refunded by the Authority to the EPC Agency, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 10.3.2 shall be without prejudice to the rights of the Authority under this Agreement including the right of Termination thereof. The Parties further agree that Time

Extension hereunder shall only be reckoned for and in respect of the affected works as specified in Clause 10.4.2.

10.3.3 The Authority shall notify the EPC Agency of its decision to impose Damages in pursuance with the provisions of this Clause 10.3; provided that no deduction on account of Damages shall be effected by the Authority without notifying the EPC Agency of its decision to impose the Damages, and taking into consideration the representation, if any, made by the EPC Agency within 20 (twenty) days of such notice. The Parties expressly agree that the total amount of Damages under Clause 10.3.2 **shall not exceed 10% (ten percent) of the Contract Price**.

10.4 Extension of time for completion

10.4.1 Without prejudice to any other provision of this Agreement for and in respect of extension of time, the EPC Agency shall be entitled to extension of time in the Project Completion Schedule (the **"Time Extension")** to the extent that completion of any Project Milestone is or will be delayed by any of the following, namely:

(a) delay in providing the land and clearances or approval of appropriate authorities, specified in Clause 4.1.3;

(b) Change of Scope (unless an adjustment to the Scheduled Completion Date has been agreed under Article 13);

(c) occurrence of a Force Majeure Event;

(d) any delay, impediment or prevention caused by or attributable to the Authority, the Authority's personnel or the Authority's other EPC agencies on the Site; and

(e) any other cause or delay which entitles the EPC Agency to Time Extension in accordance with the provisions of this Agreement.

10.4.2 The EPC Agency shall, no later than 15 (fifteen) business days from the occurrence of an event or circumstance specified in Clause 10.4.1, inform the Authority's Engineer by notice in writing (in the prescribed format of Government of Odisha), with a copy to the Authority, stating in reasonable detail with supporting particulars, the event or circumstances giving rise to the claim for Time Extension in accordance with the provisions of this Agreement. Provided that the period of 15 (fifteen) business days shall be calculated from the date on which the EPC Agency became aware, or should have become aware, of the occurrence of such an event or circumstance.

Provided further that notwithstanding anything to the contrary contained in this Agreement, Time Extension shall be due and applicable only for the Works which are affected by the aforesaid events or circumstances and shall not in any manner affect the Project Completion Schedule for and in respect of the Works which are not affected hereunder.

10.4.3 In the event of the failure of the EPC Agency to issue to the Authority's Engineer a notice in accordance with the provisions of Clause 10.4.2 within the time specified therein, the EPC Agency shall not be entitled to any Time Extension and shall forfeit

its right for any such claims in future. For the avoidance of doubt, in the event of failure of the EPC Agency to issue notice as specified in this clause 10.4.3, the Authority shall be discharged from all liability in connection with the claim.

10.4.4 The Authority's Engineer shall, on receipt of the claim in accordance with the provisions of Clause 10.4.2, examine the claim expeditiously within the time frame specified herein. In the event the Authority's Engineer requires any clarifications to examine the claim, the Authority's Engineer shall seek the same within 15 (fifteen) days from the date of receiving the claim. The EPC Agency shall, on receipt of the communication of the Authority's Engineer requesting for clarification, furnish the same to the Authority's Engineer within 10 (ten) days thereof. The Authority's Engineer shall, within a period of 60 (sixty) days from the date of receipt of such clarifications, forward in writing to the EPC Agency its determination of Time Extension.

Provided that when determining each extension of time under this Clause 10.4, the Authority's Engineer shall review previous determinations and may increase, but shall not decrease, the total Time Extension.

10.4.5 If the event or circumstance giving rise to the notice has a continuing effect:

(a) a fully detailed claim shall be considered as interim;

(b) the EPC Agency shall, no later than 10 (ten) days after the close of each month, send further interim claims specifying the accumulated delay, the extension of time claimed, and such further particulars as the Authority's Engineer may reasonably require; and

(c) the EPC Agency shall send a final claim within 30 (thirty) days after the effect of the event or the circumstance ceases.

Upon receipt of the claim hereunder, the Authority's Engineer shall examine the same in accordance with the provisions of Clause 10.4.4 within a period of 60 (sixty) days of the receipt thereof.

10.5 Incomplete Works

In the event the EPC Agency fails to complete the Works in accordance with the Project Completion Schedule, including any Time Extension granted under this Agreement, the EPC Agency shall endeavour to complete the balance work expeditiously and shall pay Damages to the Authority in accordance with the provisions of Clause 10.3.2 for delay of each day until the Works are completed in accordance with the provisions of this Agreement. Recovery of Damages under this Clause shall be without prejudice to the rights of the Authority under this Agreement including the right to termination under Clause 23.1.

10.6 Operation & Maintenance Manual

No later than 60 (sixty) days prior to the Project Completion Date, the EPC Agency shall, in consultation with the Authority's Engineer, evolve an operation & maintenance manual (the **"Operation & Maintenance Manual"**) for the regular and preventive operation & maintenance of the Project in conformity with the

Specifications and Standards, safety requirements and Good Industry Practice, and shall provide 5 (five) copies thereof to the Authority's Engineer. The Authority's Engineer shall review the Operation & Maintenance Manual within 15 (fifteen) days of its receipt and communicate its comments to the EPC Agency for necessary modifications, if any.

ARTICLE 11
QUALITY ASSURANCE, MONITORING AND SUPERVISION

11.1 Quality of Materials and workmanship

The EPC Agency shall ensure that the Construction, Materials and workmanship are in accordance with the requirements specified in this Agreement, Specifications and Standards and Good Industry Practice.

11.2 Quality control system

11.2.1 The EPC Agency shall establish a quality control mechanism to ensure compliance with the provisions of this Agreement (the **"Quality Assurance Plan"** or **"QAP"**).

11.2.2 The EPC Agency shall, within 30 (thirty) days of the Appointed Date, submit to the Authority's Engineer its Quality Assurance Plan which shall include the following:

(a) organization, duties and responsibilities, procedures, inspections and documentation;

(b) quality control mechanism including sampling and testing of Materials, test frequencies, standards, acceptance criteria, testing facilities, reporting, recording and interpretation of test results, approvals, check list for site activities, and proforma for testing in accordance with the Specifications for Works issued by MoRTH & relevant IS specifications and Good Industry Practice; and internal quality audit system.

The Authority's Engineer shall convey its comments to the EPC Agency within a period of 21 (twenty-one) days of receipt of the QAP stating the modifications, if any, required, and the EPC Agency shall incorporate those in the QAP to the extent required for conforming with the provisions of this Clause 11.2.

11.2.3 The EPC Agency shall procure all documents, apparatus and instruments, fuel, consumables, water, electricity, labour, Materials, samples, and qualified personnel as are necessary for examining and testing the Project Assets and workmanship in accordance with the Quality Assurance Plan.

11.2.4 The cost of testing of Construction, Materials and workmanship under this Article 11 shall be borne by the EPC Agency.

11.3 Methodology

The EPC Agency shall, at least 15 (fifteen) days prior to the commencement of the construction, submit to the Authority's Engineer for review the methodology proposed to be adopted for executing the Works, giving details of equipment to be deployed, traffic management and measures for ensuring safety. The Authority's

Engineer shall complete the review and convey its comments to the EPC Agency within a period of 10 (ten) days from the date of receipt of the proposed methodology from the EPC Agency.

11.4 Inspection and technical audit by the Authority

The Authority or any representative authorised by the Authority in this behalf may inspect and review the progress and quality of the construction of the Project and issue appropriate directions to the Authority's Engineer and the EPC Agency for taking remedial action in the event the Works are not in accordance with the provisions of this Agreement.

11.5 External technical audit

At any time during construction, the Authority may appoint an external technical auditor to conduct an audit of the quality of the Works. The findings of the audit, to the extent accepted by the Authority, shall be notified to the EPC Agency and the Authority's Engineer for taking remedial action in accordance with this Agreement. The EPC Agency shall provide all assistance as may be required by the auditor in the conduct of its audit hereunder. Notwithstanding anything contained in this Clause 11.5, the external technical audit shall not affect any obligations of the EPC Agency or the Authority's Engineer under this Agreement.

11.6 Inspection of construction records

The Authority shall have the right to inspect the records of the EPC Agency relating to the Works.

11.7 Monthly progress reports

During the Construction Period, the EPC Agency shall, no later than 10 (ten) days after the close of each month, furnish to the Authority and the Authority's Engineer a monthly report on progress of the Works and shall promptly give such other relevant information as may be required by the Authority's Engineer.

11.8 Inspection

11.8.1 The Authority's Engineer and its authorized representative shall at all reasonable times:

(a) have full access to all parts of the Site and to all places from which natural Materials are being obtained for use in the Works; and

(b) during production, manufacture and construction at the Site and at the place of production, be entitled to examine, inspect, measure and test the Materials and workmanship, and to check the progress of manufacture of Materials.

11.8.2 The EPC Agency shall give the Authority's Engineer and its authorized agents access, facilities and safety equipment for carrying out their obligations under this Agreement.

11.8.3 The Authority's Engineer shall submit a monthly inspection report (the "**Inspection Report**") to the Authority and the EPC Agency bringing out the results of inspections and the remedial action taken by the EPC Agency in respect of Defects

or deficiencies. For the avoidance of doubt, such inspection or submission of Inspection Report by the Authority's Engineer shall not relieve or absolve the EPC Agency of its obligations and liabilities under this Agreement in any manner whatsoever.

11.9 Samples

The EPC Agency shall submit the following samples of Materials and relevant information to the Authority's Engineer for pre-construction review:

(a) manufacturer's test reports and standard samples of manufactured Materials; and

(b) samples of such other Materials as the Authority's Engineer may require.

11.10 Tests

11.10.1 For determining that the Works conform to the Specifications and Standards, the Authority's Engineer shall require the EPC Agency to carry out or cause to be carried out tests, at such time and frequency and in such manner as specified in this Agreement, and in accordance with Good Industry Practice for quality assurance. The test checks by the Authority's Engineer shall comprise at least 20 (twenty) percent of the quantity or number of tests prescribed for each category or type of test for quality control by the EPC Agency.

11.10.2 In the event that results of any tests conducted under this Clause 11.10 establish any Defects or deficiencies in the Works, the EPC Agency shall carry out remedial measures and furnish a report to the Authority's Engineer in this behalf. The Authority's Engineer shall require the EPC Agency to carry out or cause to be carried out tests to determine that such remedial measures have brought the Works into compliance with the Specifications and Standards, and the procedure shall be repeated until such Works conform to the Specifications and Standards. For the avoidance of doubt, the cost of such tests and remedial measures in pursuance thereof shall be solely borne by the EPC Agency.

11.11 Examination of work before covering up

In respect of the work which the Authority's Engineer is entitled to examine, inspect, measure and/or test before it is covered up or put out of view or any part of the work is placed thereon, the EPC Agency shall give notice to the Authority's Engineer whenever any such work is ready and before it is covered up. The Authority's Engineer shall then either carry out the examination, inspection or testing without unreasonable delay, or promptly give notice to the EPC Agency that the Authority's Engineer does not require to do so. Provided, however, that if any work is of a continuous nature where it is not possible or prudent to keep it uncovered or incomplete, the EPC Agency shall notify the schedule of carrying out such work to give sufficient opportunity, not being less than 3 (three) business days' notice, to the Authority's Engineer to conduct its inspection, measurement or test while the work is continuing. Provided further that in the event the EPC Agency receives no response from the Authority's Engineer within a period of 3 (three) business days from the date on which the EPC Agency's notice hereunder is delivered to the Authority's

Engineer, the EPC Agency shall be entitled to assume that the Authority's Engineer would not undertake the said inspection.

11.12 Rejection

If, as a result of an examination, inspection, measurement or testing, any Plant, Materials, design or workmanship is found to be defective or otherwise not in accordance with the provisions of this Agreement, the Authority's Engineer shall reject the Plant, Materials, design or workmanship by giving notice to the EPC Agency, with reasons. The EPC Agency shall then promptly make good the Defect and ensure that the rejected item complies with the requirements of this Agreement.

If the Authority's Engineer requires the Plant, Materials, design or workmanship to be retested, the tests shall be repeated under the same terms and conditions, as applicable in each case. If the rejection and retesting cause the Authority to incur any additional costs, such cost shall be recoverable by the Authority from the EPC Agency; and may be deducted by the Authority from any monies due to be paid to the EPC Agency.

11.13 Remedial work

11.13.1 Notwithstanding any previous test or certification, the Authority's Engineer may instruct the EPC Agency to:

(a) remove from the Site and replace any Plant or Materials which are not in accordance with the provisions of this Agreement;

(b) remove and re-execute any work which is not in accordance with the provisions of this Agreement and the Specification and Standards;&

(c) execute any work which is urgently required for the safety of the Said Project, whether because of an accident, unforeseeable event or otherwise; provided that in case of any work required on account of a Force Majeure Event, the provisions of Clause 21.6 shall apply.

11.13.2 If the EPC Agency fails to comply with the instructions issued by the Authority's Engineer under Clause 11.13.1, within the time specified in the Authority's Engineer's notice or as mutually agreed, the Authority's Engineer may advise the Authority to have the work executed by another agency. The cost so incurred by the Authority for undertaking such work shall, without prejudice to the rights of the Authority to recover damages in accordance with the provisions of this Agreement, be recoverable from the EPC Agency and may be deducted by the Authority from any monies due to be paid to the EPC Agency.

11.14 Delays during construction

Without prejudice to the provisions of Clause 10.3.2, in the event the EPC Agency does not achieve any of the Project Milestones or the Authority's Engineer shall have reasonably determined that the rate of progress of Works is such that Completion of the Project is not likely to be achieved by the end of the Scheduled Completion Date, it shall notify the same to the EPC Agency, and the EPC Agency shall, within 15 (fifteen) days of such notice, by a communication inform the Authority's Engineer in

reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

11.15 Quality control records and Documents

The EPC Agency shall hand over to the Authority's Engineer a copy of all its quality control records and documents before the Completion Certificate is issued pursuant to Clause 12.2.

11.16 Video recording

During the Construction Period, the EPC Agency shall provide to the Authority for every calendar quarter, a video recording, which will be compiled into a 3 (three)-hour compact disc or digital video disc, as the case may be, covering the status and progress of Works in that quarter. The video recording shall be provided to the Authority no later than 15 (fifteen) days after the close of each quarter after the Appointed Date.

11.17 Suspension of unsafe Construction Works

11.17.1 Upon recommendation of the Authority's Engineer to this effect, the Authority may by notice require the EPC Agency to suspend forthwith the whole or any part of the Works if, in the reasonable opinion of the Authority's Engineer, such work threatens the safety of the Users.

11.17.2 The EPC Agency shall, pursuant to the notice under Clause 11.17.1, suspend the Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works & the Users. The EPC Agency may by notice require the Authority's Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Authority's Engineer, the Authority shall either revoke such suspension or instruct the EPC Agency to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 11.17 shall be repeated until the suspension hereunder is revoked.

11.17.3 Subject to the provisions of Clause 21.6, all reasonable costs incurred for maintaining and protecting the Works or part thereof during the period of suspension (the "**Preservation Costs**"), shall be borne by the EPC Agency; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

11.17.4 If suspension of Works is for reasons not attributable to the EPC Agency, the Authority's Engineer shall determine any Time Extension to which the EPC Agency is reasonably entitled.

ARTICLE 12
COMPLETION CERTIFICATE

12.1 Tests on completion

At least thirty (30) days prior to the anticipated completion of the Project, or any Section thereof, the EPC Agency shall notify the Authority's Engineer of its intention to subject the Project or such Section to Tests. The date and time of each Test shall be determined by the Authority's Engineer in consultation with the EPC Agency and notified to the Authority, which may designate its representative to witness the Tests.

The EPC Agency shall conduct the Tests as directed by the Authority's Engineer or provide such assistance as may reasonably be required for conducting the Tests. In the event the EPC Agency and the Authority's Engineer fail to mutually agree on the dates for conducting the Tests, the EPC Agency shall fix the dates by giving not less than ten (10) days' prior notice to the Authority's Engineer.

12.1.1 All Tests shall be conducted in accordance with Schedule-K. The Authority's Engineer shall either conduct or observe, monitor and review the Tests conducted by the EPC Agency and review the Test results to determine compliance of the Project or any Section thereof with the Specifications and Standards. If, during the course of any Test, it is reasonably anticipated or determined by the Authority's Engineer that the performance of the Project or any part thereof does not meet the Specifications and Standards, the Authority's Engineer shall be entitled to suspend or delay such Test and require the EPC Agency to remedy and rectify the Defects or deficiencies. Upon completion of each Test, the Authority's Engineer shall provide copies of all Test data and detailed Test results to the EPC Agency and the Authority. For the avoidance of doubt, the Authority's Engineer may require the EPC Agency to carry out additional Tests in accordance with Good Industry Practice for determining compliance of the Project or any Section thereof with the Specifications and Standards.

12.2 Provisional Certificate

12.2.1 **Upon** completion of all Works forming part of the Project, save and except Works for which Time Extension has been granted, the Authority's Engineer shall, at the request of the EPC Agency, issue a provisional certificate of completion substantially in the form set forth in Schedule-L (the "Provisional Certificate"), provided that the Tests in respect of the completed Works have been successfully completed. The Provisional Certificate shall have appended thereto a list of outstanding items of work (the "Punch List") to be completed in accordance with this Agreement. The EPC Agency shall complete:

- The minor outstanding items in respect of Sections for which the Provisional Certificate has been issued within thirty (30) days of its date
- Such Works for which Time Extension has been granted within the extended period.

For the avoidance of doubt, the Punch List may include Works for which Time Extension has been granted and minor outstanding items that do not materially affect the safe and intended use of the completed Sections. No Provisional Certificate shall be issued if the completed Works cannot be safely and reliably put to intended use by the Users.

12.2.2 Upon issue of the Provisional Certificate, the provisions of Articles 14 (Operation & Maintenance) and 17 (Defects Liability) shall apply to the completed parts of the Project, and the property and ownership of such completed Works shall vest in the Authority.

12.2.3 If the Authority's Engineer determines that any completed Works do not conform to this Agreement and cannot be safely or reliably put to use, it shall record such determination in writing and withhold issuance of the Provisional Certificate until the Defects or deficiencies are rectified and the Tests are successfully completed.

12.2.4 Notwithstanding anything to the contrary contained in Clause 12.2.3, the Authority may, at any time after receiving a report from the Authority's Engineer under that Clause, direct the Authority's Engineer to issue a Provisional Certificate under Clause 12.2.1 and such direction shall be complied forthwith.

12.3 Completion of remaining Works

All items in the Punch List shall be completed by the EPC Agency in accordance with this Agreement. For any delay not attributable to the Authority or Force Majeure, the Authority shall be entitled to recover Damages in accordance with Clause 10.3.2.

12.4 Completion Certificate

Upon completion of all Works, including the Punch List items, and upon successful completion of the Tests, the Authority's Engineer shall issue a certificate substantially in the form set forth in Schedule-L (the "Completion Certificate").

Within thirty (30) days of receipt of the Completion Certificate, the EPC Agency shall remove all equipment, materials, debris and temporary works from the Site. Failing such removal, the Authority may do so and recover from the EPC Agency one hundred and twenty percent (120%) of the actual cost incurred.

12.4.1 Without prejudice to the obligations of the EPC Agency specified in Articles 14 and 17, the property and ownership of all the completed Works forming part of the Project shall vest in the Authority.

12.5 Rescheduling of Tests

If the Authority's Engineer certifies to the Authority and the EPC Agency that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the EPC Agency shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

ARTICLE 13
CHANGE OF SCOPE

13.1 Change of Scope

13.1.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the EPC Agency to make modifications/alterations to the Works ("**Change of Scope**") before the issue of the Completion Certificate either by giving an instruction or by requesting the EPC Agency to submit a proposal for Change of Scope involving additional cost or reduction in cost. Any such Change of Scope shall be made and valued in accordance with the provisions of this Article 13.

13.1.2 Change of Scope shall mean:

(a) change in specifications of any item of Works;

(b) omission of any work from the Scope of the Project except under Clause 8.3.3; provided that, subject to Clause 13.5, the Authority shall not omit any work under this Clause in order to get it executed by any other authority; and / or

(c) any additional work, Plant, Materials or services which are not included in the Scope of the Project, including any associated Tests on completion of construction.

13.1.3 If the EPC Agency determines at any time that a Change of Scope, if adopted, would (i) accelerate completion, (ii) reduce the cost to the Authority of executing the Project, (iii) improve the efficiency, performance, or value of the completed Project to the Authority, or (iv) otherwise be beneficial to the Authority, the EPC Agency may, at its own cost, prepare and submit a detailed proposal for such Change of Scope.

The EPC Agency shall submit the proposal to the Authority along with relevant technical, financial, and implementation details, including the resulting reduction, if any, in the Contract Price, for the Authority's consideration. The Authority shall, within 15 (fifteen) days of receipt of such proposal, either accept the proposed Change of Scope (with or without modifications) and initiate further action in accordance with the provisions of this Article 13, or reject the proposal and notify the EPC Agency accordingly.

For the avoidance of doubt, it is expressly agreed that the EPC Agency shall not implement any Change of Scope without the prior written consent of the Authority, except for such Works as may be immediately necessary to address an Emergency.

13.2 Procedure for Change of Scope

13.2.1 In the event of the Authority determining that a Change of Scope is necessary, it may direct the Authority's Engineer to issue to the EPC Agency a notice specifying in reasonable detail the works and services contemplated thereunder (the "**Change of Scope Notice**").

13.2.2 Upon receipt of a Change of Scope Notice, the EPC Agency shall, with due diligence, provide to the Authority and the Authority's Engineer such information as is necessary, together with preliminary documentation in support of:

(a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the works or services are required to be carried out during the Construction Period; and

(b) the options for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time thereof, including the following details:

(i) breakdown of the quantities, unit rates and cost for different items of work;

(ii) proposed design for the Change of Scope; and

(iii) proposed modifications, if any, to the Project Completion Schedule of the Project.

For the avoidance of doubt, the Parties expressly agree that, subject to the provisions of Clause 13.4.2, the Contract Price shall be increased or decreased, as the case may be, on account of Change of Scope.

13.2.3 The EPC Agency's quotation of costs for the Change of Scope shall be determined on the following principles:

(a) For works where Schedule of Rates (SOR) for concerned area of State's Public Works / P.H. Department are available shall be applicable for determination of costs. In case of non-availability of current SOR, the available Schedule of Rates shall be applied by updating the same based on WPI.

(b) For works not similar in nature to the Works being executed, the cost of work shall be derived on the basis of CPWD analysis of rates Standard Data Book and the applicable schedule of rates for the relevant circle, as published by the State Government, and such rates shall be indexed with reference to the WPI once every year, with the base being the month and year of the publication of the said schedule of rates; provided, however, that for any item not included in the schedule of rates, the prevailing market rates as determined by the Authority's Engineer shall apply, and for any item in respect of which CPWD analysis of rate does not provide the requisite details, the Authority's Engineer shall determine the rate in accordance with Good Industry Practice.

13.2.4 Upon reaching an agreement, the Authority shall issue an order (the "**Change of Scope Order**") requiring the EPC Agency to proceed with the performance thereof. In the event that the Parties are unable to agree, the Authority may:

(a) issue a Change of Scope Order requiring the EPC Agency to proceed with the performance thereof at the rates and conditions approved by the Authority till the matter is resolved in accordance with Article 26; or

(b) proceed in accordance with Clause 13.5.

13.2.5 The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the works undertaken by the EPC Agency under this Article 13.

13.3 Payment for Change of Scope

Payment for Change of Scope shall be made in accordance with the payment schedule specified in the Change of Scope Order.

13.4 Restrictions on Change of Scope

13.4.1 No Change of Scope shall be executed unless the Authority has issued the Change of Scope Order save and except any Works necessary for meeting any Emergency.

13.4.2 Unless the Parties mutually agree to the contrary, the total value of all Change of Scope Orders **shall not exceed 10 (ten) per cent** of the Contract Price.

13.4.3 Notwithstanding anything to the contrary in this Article 13, no change made necessary because of any default of the EPC Agency in the performance of its obligations under this Agreement shall be deemed to be Change of Scope, and shall not result in any adjustment of the Contract Price or the Project Completion Schedule.

13.5 Power of the Authority to undertake works

13.5.1 In the event the Parties are unable to agree to the proposed Change of Scope Orders in accordance with Clause 13.2, the Authority may, after giving notice to the EPC Agency and considering its reply thereto, award such works or services to any person on the basis of open competitive bidding from amongst bidders who are pre-qualified for undertaking the additional work; provided that the EPC Agency shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two per cent) of the bid amount to the Authority[$], and thereupon securing the award of such works or services. For the avoidance of doubt, it is agreed that the EPC Agency shall be entitled to exercise such option only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten percent) thereof. It is also agreed that the EPC Agency shall provide assistance and cooperation to the person who undertakes the works or services hereunder, but shall not be responsible for rectification of any Defects and/ or operation & maintenance of works carried out by other agencies.

13.5.2 The works undertaken in accordance with this Clause 13.5 shall conform to the Specifications and Standards and shall be carried out in a manner that minimises the disruption in operation of the Project. The provisions of this Agreement, insofar as they relate to Works and Tests, shall apply *mutatis mutandis* to the works carried out under this Clause 13.5.

ARTICLE 14
OPERATION & MAINTENANCE

14.1 Operation & Maintenance obligations of the EPC Agency

14.1.1 The EPC Agency shall operate and maintain the infrastructure developed under the "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" for a period of five (05) years commencing from the date of issue of the Provisional Certificate (the "Operation & Maintenance Period"). The energy charges during the Operation & Maintenance Period are included in the cost put to tender and in the BID Price, and shall be paid to the EPC Agency as part of the O&M Price in accordance with the terms and conditions of this Agreement (Clauses 19.1.1, 19.6 and 19.7). The EPC Agency shall pay the electricity bills directly to the concerned electricity supply authority, and no separate or additional payment shall be made by the Authority on account of energy charges. The EPC Agency shall adopt an energy-efficient design of the electro-mechanical equipment covered under the scope of work. The O&M Price for the respective years of the O&M period (as determined under Clause 19.1.1) shall be adjusted as per the price adjustment clause of the contract (Clause 19.12).

For the avoidance of doubt, it is agreed that in the event no Provisional Certificate is issued, the Operation & Maintenance Period shall commence from the date of the Completion Certificate.

14.1.2 During the Operation & Maintenance Period, the Authority shall provide to the EPC Agency access to the Site for Operation & Maintenance in accordance with this Agreement. The obligations of the EPC Agency hereunder shall include but not limited to the following: -

(a) permitting safe & smooth functioning of Project;

(b) performing routine and preventive maintenance of the Works, including the prompt repair, replacement, and rectification of all civil, electrical, and mechanical components, to ensure uninterrupted and safe operation;

(c) undertaking repairs to structures;

(d) informing the Authority of any encroachments on the Project; and

14.1.3 In respect of any Defect or deficiency not specified in Schedule-E, the EPC Agency shall, at its own cost, undertake repair or rectification in accordance with Good Industry Practice, save and except to the extent that such Defect or deficiency shall have arisen on account of any default or neglect of the Authority or a Force Majeure Event.

14.1.4 The EPC Agency shall remove promptly from the Project any waste materials (including hazardous materials and waste water), rubbish and other debris (including without limitation, accident debris) and keep the Project in a clean, tidy and orderly condition and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice.

14.2 Operation & Maintenance Requirements

The EPC Agency shall ensure and procure that at all times during the Operation & Maintenance Period, the Project conforms to the operation & maintenance requirements set forth in Schedule-E (the "**Operation & Maintenance Requirements**").

14.3 Operation & Maintenance Programme

14.3.1 The EPC Agency shall prepare a monthly operation & maintenance programme (the **Operation & Maintenance Programme**") in consultation with the Authority and submit the same to the Authority not later than 10 (ten) days prior to the commencement of the month in which the Operation & Maintenance is to be carried out. For this purpose, a joint monthly inspection by the EPC Agency and the Authority shall be undertaken. The Operation & Maintenance Programme shall contain the following:

(a) The condition of the Civil, Electrical & Mechanical installations in the format prescribed by the Authority,

(b) the proposed operation & maintenance works; and

(c) deployment of resources for operation & maintenance works.

14.4 Zone closure

14.4.1 The EPC Agency shall not close any Zone of the Project for undertaking operation & maintenance works except with the prior written approval of the Authority. Such approval shall be sought by the EPC Agency through a written request to be made at least 10 (ten) days before the proposed closure of Zone and shall be accompanied by particulars thereof. Within 5 (five) business days of receiving such request, the Authority shall grant permission with such modifications as it may deem necessary.

14.4.2 Upon receiving the permission pursuant to Clause 14.4.1, the EPC Agency shall be entitled to close the designated Zone for the period specified therein, and in the event of any delay in re-opening such Zone, the EPC Agency shall, for each Zone or facility so closed, pay Damages to the Authority calculated at the rate of 0.1% (zero point one per cent) of the monthly operation & maintenance payment for each day of delay until the Zone has been re-opened.

14.5 Reduction of payment for non-performance of Operation & Maintenance obligations

14.5.1 In the event that the EPC Agency fails to repair or rectify any Defect or deficiency set forth in Schedule-E within the period specified therein, it shall be deemed as failure of performance of Operation & Maintenance obligations by the EPC Agency and the Authority shall be entitled to effect reduction in monthly lump sum payment for operation & maintenance in accordance with Clause 19.7 and Schedule-M, without prejudice to the rights of the Authority under this Agreement, including Termination thereof.

14.5.2 If the nature and extent of any Defect justifies more time for its repair or rectification than the time specified in Schedule-E, the EPC Agency shall be entitled to additional

time in conformity with Good Industry Practice. Such additional time shall be determined by the Authority and conveyed to the EPC Agency.

14.6 Authority's right to take remedial measures

In the event the EPC Agency does not maintain and/or repair any part thereof in conformity with the Operation & Maintenance Requirements, the Operation & Maintenance Manual or the Operation & Maintenance Programme, as the case may be, and fails to commence remedial works within 15 (fifteen) days of receipt of the Operation & Maintenance Inspection Report under Clause 15.2 or a notice in this behalf from the Authority, the Authority shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the cost of the EPC Agency, and to recover its cost from the EPC Agency. In addition to recovery of the aforesaid cost, a sum equal to 20% (twenty per cent) of such cost shall be paid by the EPC Agency to the Authority as Damages.

14.7 Restoration of loss or damage to the Project

Save and except as otherwise expressly provided in this Agreement, in the event that the Project or any part thereof suffers any loss or damage during the Operation & Maintenance from any cause attributable to the EPC Agency, the EPC Agency shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project conforms to the provisions of this Agreement.

14.8 Overriding powers of the Authority

14.8.1 If in the reasonable opinion of the Authority, the EPC Agency is in material breach of its obligations under this Agreement and, in particular, the Operation & Maintenance Requirements, and such breach is causing or likely to cause material hardship or danger to the Users and pedestrians, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the EPC Agency to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

14.8.2 In the event that the EPC Agency, upon notice under Clause 14.8.1, fails to rectify or remove any hardship or danger within a reasonable period, the Authority may exercise overriding powers under this Clause 14.8.2 and take over the performance of any or all the obligations of the EPC Agency 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 by the Authority from the EPC Agency, and the Authority shall be entitled to deduct any such costs and expenses incurred from the payments due to the EPC Agency under Clause 19.7 for the performance of its Operation & Maintenance obligations.

14.8.3 In the event of a national emergency, civil commotion or any other circumstances specified in Clause 21.3, the Authority may take over the performance of any or all the obligations of the EPC Agency to the extent deemed necessary by it, and exercise

such control over the Project or give such directions to the EPC Agency 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 of such overriding power by the Authority. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisions of Article 21. It is also agreed that the EPC Agency shall comply with such instructions as the Authority may issue in pursuance of the provisions of this Clause 14.8.3, and shall provide assistance and cooperation to the Authority, on a best effort basis, for performance of its obligations hereunder.

ARTICLE 15
SUPERVISION AND MONITORING DURING OPERATION & MAINTENANCE

15.1 Inspection by the EPC Agency

15.1.1 The Authority shall undertake regular inspections to evaluate continuously the compliance with the Operation & Maintenance Requirements.

The EPC Agency shall carry out a detailed inspection of all project structures, installations, and associated services in accordance with the applicable CPHEEO guidelines, relevant codes, and standard engineering practices. A report of this inspection, together with details of the proposed operation and maintenance works as required, shall be submitted to the Authority forthwith for review. The EPC Agency shall thereafter complete the approved operation and maintenance works and submit a compliance report to the Authority confirming satisfactory completion of the same.

15.2 .Inspection and payments

15.2.1 The Authority may inspect the Project, including all promenades, pathways, landscaped areas, forest zones, ghats, public amenities, decentralised toilets, storm water systems, utilities, lighting, surveillance systems, and other associated infrastructure, at any time and at least once in every month, to ensure compliance with the Operation & Maintenance Requirements, NGT directions, applicable statutory guidelines, and the Operation & Maintenance Manual.

The Authority shall prepare an inspection report ("Operation & Maintenance Inspection Report") describing in reasonable detail any defects, deficiencies, or instances of non-compliance, with specific reference to:

- Operation & Maintenance Requirements;
- Approved Operation & Maintenance Manual and Programme;
- Environmental safeguards and floodplain constraints; and
- Public safety, accessibility, cleanliness, and functionality of amenities.

A copy of the Inspection Report shall be communicated to the EPC Agency within ten (10) days of such inspection.

15.2.2 Upon submission by the EPC Agency of the Monthly Operation & Maintenance Statement for the Project pursuant to Clause 19.6, the Authority shall carry out an inspection within ten (10) days for the purpose of certifying the amount payable to the EPC Agency. The Authority shall notify the EPC Agency of its intention to carry out the inspection at least three (3) business days in advance. The EPC Agency shall provide all assistance, manpower, records, and site access required for verification of compliance with the Operation & Maintenance Requirements.

15.2.3 For each case of non-compliance of Operation & Maintenance Requirements as specified in the inspection report of the Authority, the Authority shall calculate the amount of reduction in payment in accordance with the formula specified in Schedule-M.

15.2.4 Any deduction made on account of non-compliance will not be paid subsequently even after establishing the compliance thereof. Such deduction will continue to be made every month until the compliance is procured.

15.3 Tests

For determining whether the Project conforms to the Operation & Maintenance Requirements, the Authority may require the EPC Agency to carry out, or cause to be carried out, such tests, inspections, measurements, or performance checks as deemed necessary.

These may include, but shall not be limited to:

- Inspection and performance verification of storm water management systems, swales, rain gardens, and drainage paths;
- Safety audits of promenades, pathways, ghats, lighting, railings, and public spaces;
- Testing of electrical, lighting, surveillance, water supply, and utility systems; and
- Environmental and ecological monitoring as per NGT conditions and Good Industry Practice.

All such tests shall be carried out diligently in accordance with the instructions of the Authority and applicable standards, and the results shall be submitted to the Authority without delay.

15.4 Reports of unusual occurrence

The EPC Agency shall, during the Operation & Maintenance Period, prior to the close of each day, send to the Authority by facsimile or e-mail, a report stating unusual occurrences on the Project relating to the safety and security of the Users. A monthly summary of such reports shall also be sent within 3 (three) business days of the closing of month.

ARTICLE 16
TRAFFIC REGULATION

16.1 Traffic regulation by the EPC Agency

The EPC Agency shall take all necessary measures and make appropriate arrangements to ensure the safety of users, pedestrians, cyclists, visitors, and service vehicles during the construction of the Project or any part thereof, in accordance with applicable laws, Good Industry Practice, approved Construction Methodology, and directions of the Authority.

The EPC Agency shall provide, erect, operate, and maintain all required barricades, fencing, safety railings, warning signs, directional signage, markings, flags, lights, and night-time illumination necessary to safely manage movement within and around the Project Area, including:

- Ring Road interfaces,
- Entry and exit zones,
- Promenade and pathway construction zones,
- Areas accessible to pedestrians and non-motorized transport.

16.2 All construction and associated activities shall be carried out in a manner that causes **minimum obstruction and inconvenience** to existing traffic on adjoining roads, pedestrian movement, non-motorized transport, and access to adjoining properties and public facilities.

In locations where construction activities affect movement:

- Safe and clearly demarcated pedestrian routes shall be provided at all times;
- Temporary access paths, crossings, or diversions of appropriate specification shall be arranged by the EPC Agency at its own cost where normal movement is disrupted;
- Vehicular access within the Project Area shall be limited to construction, emergency, and authorized service vehicles only, in conformity with the pedestrian-priority nature of the Project.

Where temporary diversions or traffic management measures are required along the Ring Road or other approach roads, the EPC Agency shall design and implement the same with adequate safety provisions and signage.

16.3 The EPC Agency shall obtain prior approval of the Authority or the Authority's Engineer for all proposed traffic management, pedestrian circulation, access control, and diversion arrangements during both the Construction Period and the Operation & Maintenance Period, including arrangements specific to events, festivals, or peak-footfall periods. Such approval shall not be unreasonably withheld.

ARTICLE 17
DEFECTS LIABILITY

17.1 Defects Liability Period

The EPC Agency shall be responsible for all defects and deficiencies, except usual wear and tear, in the Project or any Section thereof, until the expiry of a period of one (1) year commencing from the date of issuance of the Provisional Certificate (the "Defects Liability Period").

Provided that the Defects Liability Period shall in no case be less than Twelve (12) months from the date of the Completion Certificate for and in respect of the works for which an extension of time has been granted.

Provided further that where no Provisional Certificate is issued, the Defects Liability Period shall commence from the date of the Completion Certificate.

For the avoidance of doubt, any repairs, replacements, or restoration required on account of usual wear and tear to the Project or any Section thereof, including but not limited to promenades, pathways, landscaped areas, public amenities, utilities, and other project components, shall form part of the Operation & Maintenance obligations of the EPC Agency in accordance with Article 14.

17.2 Remedying Defects

The EPC Agency shall repair or rectify all Defects and deficiencies observed by the Authority's Engineer during the Defects Liability Period within a period of 15 (fifteen) days from the date of notice issued by the Authority's Engineer in this behalf, or within such reasonable period as may be determined by the Authority's Engineer at the request of the EPC Agency, in accordance with Good Industry Practice.

17.3 Cost of remedying Defects

For the avoidance of doubt, any repair or rectification undertaken in accordance with the provisions of Clause 17.2, including any additional testing, verification, or inspection, shall be carried out by the EPC Agency entirely at its own risk and cost, to the extent that such repair or rectification is attributable to:

(a) the design of the Project;

(b) any Plant, Materials, equipment, workmanship, or construction methodology not being in accordance with this Agreement and the applicable Specifications and Standards;

(c) improper operation, maintenance, protection, or care of the Project Works by the EPC Agency during the construction period; and/or

(d) failure by the EPC Agency to comply with any other obligation under this Agreement.

17.4 EPC Agency's failure to rectify Defects

In the event that the EPC Agency fails to repair or rectify such Defect or deficiency within the period specified in Clause 17.2, the Authority shall be entitled, without prejudice to any other rights available under this Agreement, to have the same repaired, rectified, or remedied at the EPC Agency's cost, so as to make the Project or the relevant Section thereof conform to the Specifications and Standards and the provisions of this Agreement. All costs incurred in this regard shall, after due consultation between the Authority and the EPC Agency, be determined by the Authority's Engineer.

The cost so determined, together with an amount equal to twenty percent (20%) of such cost as damages, shall be recoverable by the Authority from the EPC Agency and may be deducted by the Authority from any monies due or becoming due to the EPC Agency under this Agreement.

17.5 EPC Agency to search cause

The Authority's Engineer may instruct the EPC Agency to examine the cause of any Defect in the Works or part thereof before the expiry of the Defects Liability Period.

17.5.1 In the event any Defect identified under Clause 17.5.1 is attributable to the EPC Agency, the EPC Agency shall rectify such Defect within the period specified by the Authority's Engineer and shall bear the cost of the examination and rectification of such Defect.

17.5.2 In the event such Defect is not attributable to the EPC Agency, the Authority's Engineer shall, after due consultation with the Authority and the EPC Agency, determine the costs incurred by the EPC Agency on such examination and notify the same to the EPC Agency, with a copy to the Authority, and the EPC Agency shall be entitled to payment of such costs by the Authority.

17.6 . Extension of Defects Liability Period

The Defects Liability Period shall be deemed to be extended till the identified Defects under Clause 17.2 have been remedied.

ARTICLE 18
AUTHORITY'S ENGINEER

18.1 Appointment of the Authority's Engineer

18.1.1 The Authority shall appoint a consulting engineering firm substantially in accordance with the selection criteria set forth in Schedule-N, to be the engineer under this Agreement (the "**Authority's Engineer**").

18.1.2 The appointment of the Authority's Engineer shall be made no later than 15 (fifteen) days from the date of this Agreement. The Authority shall notify the appointment or replacement of the Authority's Engineer to the EPC Agency.

18.1.3 The staff of the Authority's Engineer shall include suitably qualified engineers and other professionals who are competent to assist the Authority's Engineer to carry out its duties.

18.2 Duties and authority of the Authority's Engineer

18.2.1 The Authority's Engineer shall perform the duties and exercise the authority in accordance with the provisions of this Agreement, and substantially in accordance with the terms of reference ("**Terms of Reference" or "TOR")** set forth in Annex 1 of Schedule N, but subject to obtaining prior written approval of the Authority before determining:

(a) any Time Extension;

(b) any additional cost to be paid by the Authority to the EPC Agency;

(c) the Termination Payment; or

(d) any other matter which is not specified in (a), (b) or (c) above and which creates an obligation or liability on either Party for a sum exceeding Rs.50,00,000 (Rupees fifty lakh).

18.2.2 No decision or communication of the Authority's Engineer shall be effective or valid unless it is accompanied by an attested true copy of the approval of the Authority for and in respect of any matter specified in Clause 18.2.1.

18.2.3 The Authority's Engineer shall submit regular periodic reports, at least once every month, to the Authority in respect of its duties and functions under this Agreement. Such reports shall be submitted by the Authority's Engineer within 10 (ten) days of the beginning of every month. For the avoidance of doubt, the Authority's Engineer shall include in its report, compliance of the recommendations of the Safety Consultant.

18.3 Delegation by the Authority's Engineer

18.3.1 The Authority's Engineer may, by order in writing, delegate any of his duties and responsibilities to suitably qualified and experienced personnel who are accountable to Authority's Engineer, or may revoke any such delegation, under intimation to the Authority and the EPC Agency. Provided, however, that the Authority's Engineer shall be responsible and liable for all actions and omissions of such personnel.

18.3.2 Any failure of the Authority's Engineer to disapprove any work, Plant or Materials shall not constitute approval and shall therefore not prejudice the right of the Authority to reject the work or Materials, which is not in accordance with the provisions of this Agreement and the Specifications and Standards.

18.3.3 Notwithstanding anything stated in Clause 18.3.1 above, the Authority's Engineer shall not delegate the authority to refer any matter for the Authority's prior approval wherever required in accordance with the provisions of Clause 18.2.

18.4 Instructions of the Authority's Engineer

18.4.1 The Authority's Engineer may issue to the EPC Agency instructions for remedying any Defect. The EPC Agency shall take such instructions from the Authority's Engineer, or from an assistant to whom appropriate authority has been delegated under Clause 18.3.

18.4.2 The instructions issued by the Authority's Engineer shall be in writing. However, if the Authority's Engineer issues any oral instructions to the EPC Agency, it shall confirm in writing the oral instructions within 2 (two) working days of issuing them.

18.4.3 In case the EPC Agency does not receive the confirmation of the oral instruction within the time specified in Clause 18.4.2, the EPC Agency shall seek the written confirmation of the oral instructions from the Authority's Engineer. The EPC Agency shall obtain acknowledgement from the Authority's Engineer of the communication seeking written confirmation. In case of failure of the Authority's Engineer or its delegated assistant to reply to the EPC Agency within 2 (two) days of the receipt of the communication from the EPC Agency, the EPC Agency may not carry out the instruction.

18.4.4 In case of any dispute on any of the instructions issued by the delegated assistant, the EPC Agency may refer the dispute to the Authority's Engineer, who shall then confirm, reverse or vary the instructions within [3 (three)] business days of the dispute being referred.

18.5 Determination by the Authority's Engineer

18.5.1 The Authority's Engineer shall consult with each Party in an endeavour to reach agreement wherever this Agreement provides for the determination of any matter by the Authority's Engineer. If such agreement is not achieved, the Authority's Engineer shall make a fair determination in accordance with this Agreement having due regard to all relevant circumstances. The Authority's Engineer shall give notice to both the Parties of each agreement or determination, with supporting particulars.

18.5.2 Each Party shall give effect to each agreement or determination made by the Authority's Engineer in accordance with the provisions of this Agreement. Provided, however, that if any Party disputes any instruction, decision, direction or determination of the Authority's Engineer, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

18.6 Remuneration of the Authority's Engineer

The remuneration, cost and expenses of the Authority's Engineer shall be paid by the Authority.

18.7 Termination of the Authority's Engineer

18.7.1 The Authority may, in its discretion, replace the Authority's Engineer at any time, but only after appointment of another Authority's Engineer in accordance with Clause 18.1.

18.7.2 If the EPC Agency has reasons to believe that the Authority's Engineer is not discharging its duties and functions in accordance with the provisions of this Agreement, it may make a written representation to the Authority and seek termination of the appointment of the Authority's Engineer. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the EPC Agency and Authority's Engineer and make best efforts for an amicable resolution of the representation. In the event that the appointment of the Authority's Engineer is

terminated hereunder, the Authority shall appoint forthwith another Authority's Engineer in accordance with Clause 18.1.

PART IV
FINANCIAL COVENANTS

ARTICLE 19
PAYMENTS

19.1 Contract Price

19.1.1 The Authority shall make payments to the EPC Agency for the Works on the basis of the lump sum price accepted by the Authority in consideration of the obligations specified in this Agreement for an amount of Rs (Rs. … … … … … … … … …) (the "**Contract Price**"), which shall be subject to adjustments in accordance with the provisions of this Agreement. For the avoidance of doubt, the Parties expressly agree that the Contract Price is the single lump sum price quoted in the BoQ and includes the cost of construction of the Works, Comprehensive Operation & Maintenance for 5 (five) years and the energy charges during the Operation & Maintenance Period. For the purpose of payment, the Contract Price shall be apportioned into (a) the price for construction of the Works (the "Construction Price"), payable in accordance with Clauses 19.3 to 19.5, and (b) the price for Operation & Maintenance including energy charges for each of the 5 (five) years (the "O&M Price"), payable in accordance with Clauses 19.6 and 19.7, in the same proportion as these components bear to the Authority's estimated cost of the Project. The apportionment shall be stated in the LOA and in this Agreement. The Parties further agree that save and except as provided in this Agreement, the Contract Price shall be valid and effective until issue of Completion Certificate.

19.1.2 (a) The Contract Price shall be inclusive of GST

(b) The Contract Price includes all duties, taxes, royalty, and fees that may be levied in accordance with the laws and regulations in force as on the Base Date on the EPC Agency's equipment, Plant, Materials and supplies acquired for the purpose of this Agreement and on the services performed under this Agreement. Nothing in this Agreement shall relieve the EPC Agency from its responsibility to pay any tax including any tax that may be levied in India on profits made by it in respect of this Agreement. Statutory deduction of taxes as applicable & royalty shall be made from each bill at the time of payment.

(c) The Building & Other Construction Workers Welfare Cess Act 1996: In accordance with the provisions under the said Act cess at the rate as applicable will be deducted from the R/A Bill at the time of making payment to the EPC agency and such amount shall be remitted to the Odisha Building & Other Construction Workers Welfare Board as per the applicable rules

19.1.3 The Contract Price shall not be adjusted for any change in costs stated in Clause 19.1.2 above, except as stated in Clauses 19.10 and 19.17.

19.1.4 The Contract Price shall not be adjusted to take account of any unforeseen difficulties or costs, unless otherwise provided for in this Agreement.

19.1.5 Unless otherwise stated in this Agreement, the Contract Price covers all the EPC Agency's obligations for the Works under this Agreement and all things necessary for the Construction and the remedying of any Defects in the Project.

19.1.6 All payments under this Agreement shall be made in Indian Rupees.

19.2 Advance Payment

19.2.1 The Authority shall make an interest-bearing advance payment **@10% per Annum** (the **"Advance Payment"**), equal in amount to 10 (ten) percent of the Contract Price, **for construction work** for mobilization expenses and for acquisition of equipment. The Advance Payment shall be made in four installments. The first installment shall be an amount equal to **2%** (two percent) of the Contract Price **for construction work**, the second installment shall be equal to 3% (three percent) of the Contract Price **for construction work**, the third installment shall be equal to 3% (three percent) of the Contract Price and the fourth installment shall be equal to 2% (two percent) of the Contract Price **for construction work**.

19.2.2 The EPC Agency may apply to the Authority for the first installment of Advance Payment at any time after the Appointed Date, along with an irrevocable and unconditional guarantee from a Nationalised Bank, counter guaranteed by its branch at Bhubaneswar for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at **Annex-III of Schedule-G**, to remain effective till the complete and full repayment thereof. At any time after 30 (thirty) days from the Appointed Date, the EPC Agency may apply for the second instalment of the Advance Payment along with an irrevocable and unconditional guarantee from a Nationalized Bank, counter guaranteed by its branch at Bhubaneswar for an amount equivalent to 110% (one hundred and ten per cent) of such instalment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof.

19.2.3 At any time, after 60 (sixty) days from the Appointed Date, the EPC Agency may apply to the Authority for the third instalment of the Advance Payment along with an irrevocable and unconditional guarantee from a Nationalized Bank, counter guaranteed by its branch at Bhubaneswar Bank for an amount equivalent to 110% (one hundred and ten per cent) of such instalment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof.

19.2.3.1 At any time, after 90 (Ninety) days from the Appointed Date on verification of acquisition of required materials and equipment by Engineer-in-Chief, the EPC Agency may apply to the Authority for the fourth installment of the Advance Payment along with an irrevocable and unconditional guarantee from a Nationalized Bank, counter guaranteed by its branch at Bhubaneswar for an amount equivalent to 110% (one hundred and ten per cent) of such installment, substantially in the form provided at Annex-III of Schedule-G, to remain effective till the complete and full repayment thereof

19.2.4 The first, second, third and the fourth instalments shall be paid by the Authority to the EPC Agency within 15 (fifteen) days of the receipt of its respective requests in accordance with the provisions of this Clause 19.2.

19.2.5 Each instalment of Advance Payment shall be repaid by the EPC Agency to the **Authority no later than 365 (three hundred and sixty-five) days** from the respective date of Advance Payment.

19.2.6 The EPC Agency shall repay each instalment of the Advance Payment on or before the due date of repayment. In the event of the EPC Agency's failure to make the repayment on time, the Authority shall be entitled to encash the Bank guarantee for Advance Payment. The Parties expressly agree that for any delay in repayment of the Advance Payment, the EPC Agency shall pay interest to the Authority for each day of delay, such interest to be calculated at the rate of **18% (eighteen per cent) per annum.**

19.2.7 If the Advance Payment has not been fully repaid prior to Termination under Clause 21.7 or Article 23, as the case may be, the whole of the balance then outstanding shall immediately become due and payable by the EPC Agency to the Authority. Without prejudice to the provisions of Clause 19.2.6, in the event of Termination for EPC Agency Default, the Advance Payment shall be deemed to carry interest at the rate of 10% (ten per cent) per annum from the date of Advance Payment to the date of recovery by encashment of the Bank Guarantee for the Advance Payment. For the avoidance of doubt, the aforesaid interest shall be payable on each instalment of the Advance Payment, regardless of whether the instalment or any part thereof has been repaid to the Authority prior to Termination.

19.3 Procedure for estimating the payment for the Works

19.3.1 The Authority shall make interim payments to the EPC Agency as certified by the Authority's Engineer on completion of a stage, in a length, number or areas specified and valued in accordance with the proportion of the Contract Price assigned to each item and its stage in Schedule-H.

19.3.2 The EPC Agency shall base its claim for interim payment for the stages completed till the end of the month for which the payment is claimed, valued in accordance with Clause 19.3.1, supported with necessary particulars and documents in accordance with this Agreement. Any reduction in the Contract Price arising out of Change of Scope or the works withdrawn under Clause 8.3 shall not affect the amounts payable for the items or stage payments thereof which are not affected by such Change of Scope or withdrawal. For avoidance of doubt and by way of illustration, the Parties agree that if the amount assigned to Major structures is reduced owing to Change of Scope or withdrawal of work, the reduction in payment shall be restricted to relevant payments for Major structures only and the payment due in respect of all other stage payments shall not be affected in any manner. The Parties further agree that the adjustments arising out of the aforesaid modifications shall be carried out in a manner that the impact of such modifications is restricted to the said Change of Scope or withdrawal, as the case may be, and does not alter the payments due for and

in respect of items or stage payments which do not form part of such Change of Scope or withdrawal.

19.4 Stage Payment Statement for Works

The EPC Agency shall submit a statement (the **"Stage Payment Statement")**, in 3 copies, by the 7th (seventh) day of the month to the Authority's Engineer in the form set forth in Schedule-O, showing the amount calculated in accordance with Clause 19.3 to which the EPC Agency considers himself entitled for completed stage(s) of the Works. The Stage Payment Statement shall be accompanied with the progress reports and any other supporting documents. The EPC Agency shall not submit any claim for payment of incomplete stages of work.

19.5 Stage Payment for Works

19.5.1 Within 10 (ten) days of receipt of the Stage Payment Statement from the EPC Agency pursuant to Clause 19.4, the Authority's Engineer shall broadly determine the amount due to the EPC Agency and recommend the release of 90 (ninety) percent of the amount so determined as part payment against the Stage Payment Statement, pending issue of the Interim Payment Certificate by the Authority's Engineer. Within 10 (ten) days of the receipt of recommendation of the Authority's Engineer, the Authority shall make electronic payment directly to the EPC Agency's bank account.

19.5.2 Within 15 (fifteen) days of the receipt of the Stage Payment Statement referred to in Clause 19.4, the Authority's Engineer shall determine and shall deliver to the Authority and the EPC Agency an IPC certifying the amount due and payable to the EPC Agency, after adjusting the payments already released to the EPC Agency against the said statement. For the avoidance of doubt, the Parties agree that the IPC shall specify all the amounts that have been deducted from the Stage Payment Statement and the reasons therefor.

19.5.3 In cases where there is a difference of opinion as to the value of any stage, the Authority's Engineer's view shall prevail and interim payments shall be made to the EPC Agency on this basis; provided that the foregoing shall be without prejudice to the EPC Agency's right to raise a Dispute.

19.5.4 The Authority's Engineer may, for reasons to be recorded, withhold from payment:

(a) the estimated value of work or obligation that the EPC Agency has failed to perform in accordance with this Agreement and the Authority's Engineer had notified the EPC Agency; and

(b) the estimated cost of rectification of work done being not in accordance with this Agreement.

19.5.5 Payment by the Authority shall not be deemed to indicate the Authority's acceptance, approval, consent or satisfaction with the work done.

19.6 Monthly Operation & Maintenance Statement of the Project

19.6.1 The EPC Agency shall submit to the Authority a monthly operation & maintenance statement ("**Monthly Operation & Maintenance Statement")/claim** in 3 (three)

copies by the 7th (seventh) day of each month in the format set forth in Schedule-O for the Operation & Maintenance of the Project during the previous month.

19.6.2 The monthly lump sum amount payable for Operation & Maintenance shall be 1/12th (one- twelfth) of the O&M Price for the relevant year determined under Clause 19.1.1.

19.7 Payment for Operation & Maintenance of the Project

19.7.1 Within 15 (fifteen) days of receipt of the Monthly Operation & Maintenance Statement/claim from the EPC Agency pursuant to Clause 19.6, the Authority shall verify the EPC Agency's monthly operation & maintenance statement and certify the amount to be paid to the EPC Agency taking into account:

(a) Compliance with the Operation & Maintenance Requirements; and

(b) reduction for non-compliance with the Operation & Maintenance Requirement in accordance with Clause 19.7.2.

The Authority shall approve or amend the monthly operation & maintenance statement/claim to reflect the amount due to the EPC Agency in accordance with this Agreement.

19.7.2 Payment for Operation & Maintenance shall be made in fixed monthly amounts in accordance with this Agreement. If the Operation & Maintenance Requirements set forth in Schedule-E are not met, reduction in payments shall be made in accordance with the provisions of Schedule-M. The reductions for non-compliance with the Operation & Maintenance Requirements shall be applied on the basis of monthly inspections by the Authority.

19.7.3 The deduction made on account of non-compliance with the Operation & Maintenance Requirements shall not be subsequently considered for payment after the compliance is achieved by repair or rectification.

19.7.4 The Authority shall pay to the EPC Agency every month any amount due under this Clause 19.7. The payment shall be made no later than 30 (thirty) days from the date of submission of the last claim for the relevant month.

19.8 Payment of Damages

19.8.1 The EPC Agency may claim Damages due and payable to it in accordance with the provisions of this Agreement.

19.8.2 The Authority, within 15 (fifteen) days of the receipt of the claim under Clause 19.8.1, after making adjustments in accordance with the provisions of this Agreement shall pay to the EPC Agency the amount due within a period of 30 (thirty) days from the date of the submission of the claim under this Clause 19.8. In the event of the failure of the Authority to make payment to the EPC Agency within the specified time, the Authority shall be liable to pay to the EPC Agency interest thereon and the provisions of Clause 19.9 shall apply *mutatis mutandis* thereto.

19.9 Time of payment and interest

19.9.1 The Authority shall pay to the EPC Agency any amount due under any payment certificate issued by the Authority's Engineer in accordance with the provisions of this Article 19, or in accordance with any other clause of this Agreement as follows:

(a) payment shall be made no later than 30 (thirty) days from the date of submission of the Stage Payment Statement by the EPC Agency to the Authority's Engineer for certification in accordance with the provisions of Clause 19.4 for an IPC; provided that, in the event the IPC is not issued by the Authority's Engineer within the aforesaid period of 30 (thirty) days, the Authority shall pay the amount shown in the EPC Agency's Stage Payment Statement and any discrepancy therein shall be added to, or deducted from, the next payment certificate issued to the EPC Agency; and

(b) payment shall be made no later than 30 (thirty) days from the date of submission of the Final Payment Certificate for Works along with the discharge submitted to the Authority's Engineer in accordance with the provisions of Clause 19.15 for certification.

19.9.2 In the event of the failure of the Authority to make payment to the EPC Agency within the time period stated in this Clause 19.9, the Authority shall be liable to pay to the EPC Agency interest at the Base Rate plus 2% (two percent), calculated at quarterly rests, on all sums remaining unpaid from the date on which the same should have been paid, calculated in accordance with the provisions of Clause 19.9.1(a) and (b) and till the date of actual payment.

19.10 Price adjustment for the Works

19.10.1 The amounts payable to the EPC Agency for Works shall be adjusted in accordance with the provisions of this Clause 19.10.

19.10.2 Subject to the provisions of Clause 19.10.3, the amounts payable to the EPC Agency for Works, shall be adjusted in the IPC issued by the Authority's Engineer for the increase or decrease in the index cost of inputs for the Works, by the addition or subtraction of the amounts determined by the formulae prescribed in Clause 19.10.4.

19.10.3 To the extent that full compensation for any increase or decrease in costs to the EPC Agency is not covered by the provisions of this or other Clauses in this Agreement, the costs and prices payable under this Agreement shall be deemed to include the amounts required to cover the contingency of such other increase or decrease of costs and prices.

19.10.4 The Contract Price shall be adjusted for increase or decrease in rates and price of labour, cement, steel, Plant, machinery and spares, bitumen, pipes, fuel and lubricants, and other material inputs in accordance with the principles, procedures and formulae specified below: **(as per OM No.15847/W Dt.19.11.2019 of Works Department, Govt. of Odisha)**:

(a) Price adjustment shall be applied on completion of the specified stage of the respective item of work in accordance with Schedule-H;

(b) Adjustment for each item of work/stage shall be made separately.

(c) In case an IPC relates to a month which is within 3 (three) months from the Base Date, no price adjustment shall be applicable.

19.10.5 Contract price shall be adjusted for increase or decrease in rates and price of labour, materials, fuels and lubricants in accordance with the following principles and procedures and as per formula given in following Paras.

(a) The price adjustment shall apply for the work done from the start date given in the contract data up to end of the initial intended completion date or extensions granted by the Engineer and shall not apply to the work carried out beyond the stipulated time for reasons attributable to the EPC agency.

(b) The price adjustment shall be determined during each month from the formula given in following Paras.

(c) Following expressions and meanings are assigned to the work done during each month:

R= Total value of work done during the month. It would include the amount of secured advance granted, if any, during the month, less the amount of secured advance recovered, if any during the month. It will exclude value for works executed for extra items under variations.

19.10.6 To the extent that full compensation for any rise or fall in costs to the EPC agency is not covered by the provisions of this or other clauses in the contract, the unit rates and prices included in the contract shall be deemed to include amounts to cover the contingency of such other rise or fall in costs

The formula (e) for adjustment of prices are:

19.10.6 (a)(i): Adjustment of Other Materials Component

Price adjustment for increase or decrease in cost of local materials other than cement, steel, bitumen, pipe and POL procured by the EPC agency shall be paid in accordance with the following formula:

VM = 0.85 x Pm/100 X R x (M1- M0)/M0

VM = Increase or decrease in the cost of work during the month under consideration due to changes in rates for local materials other than cement, steel, bitumen and POL.

Mo = The all India wholesale price index (all commodities) on 28 days preceding the date of opening of Bids, as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

M1 = The all India wholesale price index (all commodities) for the month under consideration as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

Pm = Percentage of local material component (other than cement, steel, bitumen and POL) of the work.

19.10.6 (a)(ii): Adjustment for Cement Component

Price adjustment for increase or decrease in the cost of cement procured by the EPC agency shall be paid in accordance with the following formula:

Vc = 0.85 x Pc/100 x R x (C1- C0)/C0

Vc = Increase or decrease in the cost of work during the month under consideration due to changes in the rates for cement

C0 =The all India wholesale price index for Ordinary Portland Cement (OPC) on 28 days preceding the date of opening of Bids as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

C1= The all India wholesale price index for Ordinary Portland Cement (OPC) for the month under consideration as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

Pc = Percentage of Cement Component of the Work.

19.10.6 (a)(iii): Adjustment for Steel Component

Price adjustment for increase or decrease in the cost of steel procured by the EPC agency shall be paid in accordance with the following formula:

Vs = 0.85 x Ps/100 x R x (S1- S0)/S0

Vs = Increase or decrease in the cost of work during the month under consideration due to changes in the rates for steel.

S0 = The all India wholesale price index for steel (Mild Steel long products) on 28 days preceding the date of opening of Bids as published by the Ministry of Commerce and Industry, Government of India, New Delhi

S1= The all India wholesale price index for steel (Mild Steel long products) for the month under consideration as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

Ps = Percentage of steel component of the work

Note: For the application of this clause, index of (Mild Steel long products) has been chosen to represent steel group.

19.10.6 (a)(iv): Adjustment of Bitumen Component

Price adjustment for increase or decrease in the cost of bitumen shall be paid in accordance with the following formula:

Vb = 0.85 x Pb/100 x R x (B1- B0)/B0

Vb = Increase or decrease in the cost of work during the month under consideration due to changes in the rate for bitumen.

B0 = The official retail price of bulk bitumen at the IOCL/BPCL depot at nearest center on the day 28 days prior to date of opening of Bids.

B1 = The official retail price of bulk bitumen at IOCL/BPCL depot at nearest center for the 15th day of the month under consideration.

Pb = Percentage of bitumen component of the work

19.10.6 (a)(v): Adjustment towards differential cost of Pipes.

Price adjustment for increase or decrease in the cost of pipe shall be paid in accordance with the following formula:

Vpi = 0.85 x Ppi/100 x R x (Pi1-Pi0)/Pi0

Vpi = Differential cost of pipe i.e. amount of increase or decrease in rupees to be paid or recovered during the month under consideration.

Ppi = Percentage of pipe component of the work

Pi1 = **All India Whole sale price index of pipe** for the period under consideration as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

Pi0 = All India Whole sale price index of pipe on 28 days preceding the date of opening of Bids as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

19.10.6 (b): Adjustment of Labour Component

Price adjustment for increase or decrease in the cost due to labour shall be paid in accordance with the following formula:

VL = 0.85 x Pl/100 x R x (L1- L0)/L0

VL = Increase or decrease in the cost of work during the month under consideration due to changes in rates for local labour.

L0= The minimum wages for unskilled labour as Notified by Government of Odisha as prevailed on the last stipulated date of receipt of tender including extension, if any.

L1 = The minimum wages for unskilled labour as Notified by Government of Odisha as prevailed on the last date of the Month previous to the one under consideration.

Pl = Percentage of labour component of the work.

19.10.6 (c) :Adjustment of POL (fuel and lubricant) Component

Price adjustment for increase or decrease in cost POL (fuel and lubricant) shall be paid in accordance with the following formula:

Vf = 0.85 *x* Pf/100 x R x (F1- F0)/F0

Vf = Increase or decrease in the cost of work during the month under consideration due to changes in the rates for fuel and lubricants.

F0 = The official retail price of High-Speed Diesel (HSD) at the existing consumer pumps of IOCL/ BPCL/ HPCL at nearest center on the day 28 days prior to the date of opening of Bids.

F1 = The official retail price of HSD at the existing consumer pumps of IOCL/BPCL/ HPCL at nearest center for the 15th day of the month under consideration.

Pf = Percentage of fuel and lubricants component of the work

Note: For the application of this clause, the price of High-Speed Diesel oil has been chosen to represent fuel and lubricants group.

19.10.6 (d): Adjustment for Plant and Machinery Spares Component

Price adjustment for increase or decrease in the cost of plant and machinery spares procured by the EPC Agency shall be paid in accordance with the following formula:

Vp = 0.85 x Pp/100 x R x (P1-P0)/P0

Vp = Increase or decrease in the cost of work during the month under consideration due to changes in the rates for plant and machinery spares.

P0 = The all India wholesale price index for manufacture of machinery for mining, quarrying and construction on 28 days preceding the date of opening of Bids as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

P1 = The all India wholesale price index for manufacture of machinery for mining, quarrying and construction for the month under consideration as published by the Ministry of Commerce and Industry, Government of India, New Delhi.

Pp = Percentage of plant and machinery spares component of the work.

Note: For the application of this clause, index of manufacturing of machinery for mining, quarrying and construction has been chosen to represent the Plant and machinery Spares group.

Regarding wholesale price Index (WPI) for appropriate commodity for payment of price adjustment, due to change of base year of WPI from 1993- 94 to 2004-05 & 2011-12, it is observed that, the commodity 'Bars and Rod', 'Cement', 'Heavy machinery and parts' included in the list of WPI 1993-94 series are not mentioned as such in the WPI 2004-05 & 2011-12 series. Therefore, the following items in the WPI 2004-05 & 2011-12 series shall be considered corresponding to items in WPI 1993-94 series:

Sl. No.	Item in WPI 1993-94 series	Item in WPI 2004-05 series	Item in WPI 2011-12 series
1.	Cement	Grey Cement	Ordinary Portland cement
2.	Bars & rods	Rebars	Mild steel long products
3.	Heavy Machinery & parts	Construction Machinery	Manufacture of machinery for mining, quarrying & construction.

19.10.6 (e): APPLICATION OF ESCALATION CLAUSE:

The EPC agency shall for the purpose of availing reimbursement/refund of differential cost of steel, bitumen, cement, pipe, POL and wages, keep such books of account and other documents as are necessary to show that the amount of increase claimed or reduction available and shall allow inspection of the same by a duly authorized representative of Government and further, shall at the request of the Engineer-in-Charge, furnish documents to be verified in such a manner as the Engineer-in-Charge may require any document and information kept. The EPC agency shall within a reasonable time of 15 days of his becoming aware of any alteration in the price of such material, wages of Labour and/or price of POL give notice thereof to the Engineer-in-Charge stating that the same is given pursuant to this condition along with information relating thereto which he may be in a position to supply.

Percentage Table

Sl. No.	Category of works		% Component (cost wise)		
			Labour (Pl)	P.O.L (Pf)	Steel (Ps)+ Cement(Pc)+ Bitumen (Pb)+ Pipes (Ppi) + Plant & Machinery Spare & Component (Pp) + Other Materials*
1.	R&B works (% of component)	Road works	5	5	90
		Bridge works	5	5	90
		Building works	5	5	90
2.	Irrigation works (% of component)	Structural work	5	5	90
		Earth, Canal & Embankment work	5	5	90
3.	P.H. Work	Structural work	5	5	90
		Pipeline work	5	5	Pipe – 70% * Machinery + Other material - 20%
		Sewer line	5	5	Pipe – 70% * Machinery + Other material - 20%

Note: Further break up may be worked out considering the consumption of Cement. Steel, Bitumen, pipe and Plant & Machinery Spare Component in the concerned works and shall be provided in the bid document in shape of "Schedule of Adjustment Data" as an "Appendix to Bid". (Enclosed herewith).

Appendix to Bid
Schedule of Adjustment Data

[For all works, adjustment factor for Labour and POL shall be considered @ 5% each. Steel, Cement, Pipes, other Materials and Machinery shall contribute to 90% of Price Adjustment and shall be calculated for each work separately during preparation of estimate, shall be approved

by the authority during technical sanction as a "Schedule of Adjustment Data" and shall form part of the Bid Document]

Cl. No.6.19 ofF2/P1 Contracts Sl. No.	Index description	Source of index	Base value *	Base Date*	Weightage of Item**
19.10.6 (a)(i)	Other Materials	All India Whole sale price index (all commodities) as published by the Office of the Economic Advisor to the Govt. of India, Ministry of Commerce and industry.			90% (combined for items 19.10.6 (a)(i) to (a)(v) and (d))
19.10.6 (a)(ii)	Cement	All India Whole sale price index for Cement (Ordinary Portland Cement) as published by the Office of the Economic Advisor to the Govt. of India, Ministry of Commerce and industry.			
19.10.6 (a)(iii)	Steel	All India Whole sale price index for Steel (Mild Steel-Long Products) as published by the Office of the Economic Advisor to the Govt. of India, Ministry of Commerce and Industry			
19.10.6 (a)(iv)	Bitumen (VG-30)	Official retail price of bulk bitumen at the nearest IOC/HPCL Depot.			
19.10.6 (a)(v)	Pipes	All India Whole sale price index for the **type of pipe under consideration**, as published by the Office of the Economic Advisor to the Govt. of India, Ministry of Commerce and Industry			
19.10.6 (b)	Labour	Minimum Wage notified by the Labour and Employee's State Insurance Department of Government of Odisha, India.			5%
19.10.6 (c)	POL	Official retail price of HSD at nearest IOCL/ HPCL/ BPCL Consumer Pump Depot.			5%
19.10.6 (d)	Plant and Machinery	All India Whole sale price index for Manufacture of Machinery for Mining, Quarrying and Construction as published by the Office of the Economic Advisor to the Govt. of India, Ministry of Commerce and Industry.			
Total :					**100%**

**** Values to be filled up at the time of drawl of contract.***
***** Values to be filled up in the bid document.***

19.11 Restrictions on price adjustment

Price adjustment shall be due and payable only in respect of the stages of Works for which the Stage Payment Statement has been submitted by the EPC Agency no later than 30 (thirty) days from the date of the applicable Project Milestone or the

Scheduled Completion Date, as the case may be, including any Time Extension granted therefor in accordance with the provisions of this Agreement. For the avoidance of doubt, in the event of submission of any Stage Payment Statement after the period specified herein, price adjustment shall be applicable until the date of the respective Project Milestone or the Scheduled Completion Date, as the case may be.

19.12 Price adjustment on labour for Operation & Maintenance of the Project. The O&M Price determined under Clause 19.1.1 shall be adjusted quarterly for increase or decrease in rates and prices of labour, materials & spare parts, fuel & lubricants & chemicals etc. in accordance with the principles, procedures & formula specified below.

19.12.1 : Price Adjustment on labour component

Differential cost of labour due to enhancement of minimum wages by the State Government will be adjusted in accordance with the following formula. VOL = 0.85 PL x R (L1 – L0)/L0

Where,

VOL = Increase in the payment on labour

PL = % of Labour component of the O&M contract price.

L0 = Minimum wages prevailing on the bid due date

L1 = The minimum wages for the first day of relevant quarter under consideration for determining price adjustment.

R = Value of O&M work done**.**

19.12.2 : Price adjustment on O&M materials & Spare parts

Price adjustment for O&M materials & Spare parts component of the contract price for O&M shall be made in accordance with Wholesale Price Index (WPI) as per following formula.

VOM = 0.85 PM x R (M1 – M0)/M0

Where,

VOM = Increase or decrease in the cost of O&M materials & Spare parts component during the period under consideration due to changes in the rates for relevant components as stated in 19.12.5.

PM = Materials & spare parts component of the O&M contract price.

M1 = The WPI for materials & Spare parts on the first day of month three months prior to the month to which the IPC relates.

M0 = The wholesale price index as published by the Ministry of Commerce & Industry, Government of India (Hereinafter called as “WPI”) for materials & Spare parts for the month of base date. R = Value of O&M work done.

19.12.3 : Price adjustment on Fuel & Lubricants

VOF = 0.85 PF x R(F1 – F0)/F0

VOF = Increase or decrease in the cost of Fuel & Lubricants component during the period under consideration due to changes in the rates for relevant components as stated in 19.12.5

PF is the percentage of fuel & lubricant component for the relevant item as stated in sub-paragraph 19.12.5

F1 = The official retail price of HSD at the existing consumer pumps of IOC in the State of Odisha on the first day of the month three months prior to the month to which the IPC relates.

F0 = The official retail price of high speed diesel (HSD) oil at the existing consumer pumps of Indian Oil Corporation ("IOC") in the State of Odisha on the Base Date.

R = Value of O&M work done.

19.12.4 : Price adjustment on Chemicals & chemicals products

VOC = 0.85 PC x R(C1 – C0)/C0

VOC = Increase or decrease in the cost of Chemicals & chemicals products component during the period under consideration due to changes in the rates for relevant components as stated in 19.12.5

PC is the percentage of chemicals, chemical product for the relevant item as stated in sub-paragraph 19.12.5.

C1 = The WPI for chemical & chemical products on the 1st day of month three months prior to the month to which the IPC relates.

C0 = The WPI for chemical & chemical products for the month of base date

R = Value of O&M work done.

19.12.5 The following percentages shall govern the price adjustment of the O&M Price excluding the energy component.

Sl.No	Components	Percentage
01	Labour component (PL)	**60 %**
02	O&M materials & Spare parts (PM)	**29 %**
03	Fuel & Lubricants (PF)	**3 %**
04	Chemicals, chemicals products (PC)	**8 %**
	Total	**100%**

19.13 Final Payment Statement

19.13.1 Within 60 (sixty) days after receiving the Completion Certificate under Clause 12.4, the EPC Agency shall submit to the Authority's Engineer for consideration six copies of a Final Payment Statement (the "**Final Payment Statement**") for Works, with supporting documents showing in detail, in the form prescribed by the Authority's Engineer:

(a) the summary of EPC Agency's Stage Payment claims for Works as submitted in accordance with Clause 19.4;

(b) the amounts received from the Authority against each claim; and

(c) any further sums which the EPC Agency considers due to it from the Authority.

If the Authority's Engineer disagrees with or cannot verify any part of the Final Payment Statement, the EPC Agency shall submit such further information as the Authority's Engineer may reasonably require. The Authority's Engineer shall deliver to the Authority:

(i) an IPC for those parts of the Final Payment Statement which are not in dispute, along with a list of disputed items which shall then be settled in accordance with the provisions of Article 26; or

(ii) a Final Payment Certificate in accordance with Clause 19.15 if there are no disputed items.

19.13.2 If the Authority's Engineer does not prescribe the form referred to in Clause 19.13.1 within 15 (fifteen) days of the date of issue of the Completion Certificate, the EPC Agency shall submit the statement in such form as it deems fit.

19.14 Discharge

Upon submission of the Final Payment Statement for Works under Clause 19.13, the EPC Agency shall give to the Authority, with a copy to the Authority's Engineer, a written discharge confirming that the total of the Final Payment Statement represents full and final settlement of all monies due to the EPC Agency in respect of this Agreement for all the Works arising out of this Agreement, except for any monies due to either Party on account of any Defect. Provided that such discharge shall become effective only after the payment due has been made in accordance with the Final Payment Certificate issued pursuant to Clause 19.15.

19.15 Final Payment Certificate

19.15.1 Within 30 (thirty) days after receipt of the Final Payment Statement for Works under Clause 19.13, and the written discharge under Clause 19.14, and there being no disputed items of claim, the Authority's Engineer shall deliver to the Authority, with a copy to the EPC Agency, a final payment certificate (the "**Final Payment Certificate")** stating the amount which, in the opinion of the Authority's Engineer, is finally due under this Agreement or otherwise. For the avoidance of doubt, before issuing the Final Payment Certificate, the Authority's Engineer shall ascertain from the Authority all amounts previously paid by the Authority and for all sums to which the Authority is entitled, the balance, if any, due from the Authority to the EPC Agency or from the EPC Agency to the Authority, as the case may be.

19.15.2 The Authority shall, in accordance with the provisions of Clause 19.9, pay to the EPC Agency the amount which is stated as being finally due in the **Final Payment Certificate**.

19.16 Final payment statement for Operation & Maintenance of the Project.

19.16.1 Within 30 (thirty) days after completion of the Operation & Maintenance Period, the EPC Agency shall submit to the Authority six copies of the final payment statement for Operation & Maintenance of the Project, with supporting documents showing the details set forth below in the form prescribed by the Authority:

(a) the total amount claimed in accordance with the monthly statement for Operation & Maintenance of this Project;

(b) the amount paid in accordance with the **Interim Payment Certificates**/claims; and

(c) any sums which the EPC Agency considers to be due to it, with supporting documents.

19.16.2 The Authority shall check and approve the final payment within 30 (thirty) days of the receipt of the final payment statement of Operation & Maintenance under Clause 19.16.1, segregating the items of amount payable from the items of amount disallowed. The Authority shall make payment on the basis of the final payment statement within a period of 30 (thirty) days thereafter.

19.16.3 If the Authority does not prescribe the form within 15 (fifteen) days of the date of issue of the Completion Certificate, the EPC Agency shall submit the statement in such form as it deems fit.

19.17 Change in law

19.17.1 If as a result of Change in Law, the EPC Agency suffers any additional costs in the execution of the Works or in relation to the performance of its other obligations under this Agreement, the EPC Agency shall, within 15 (fifteen) days from the date it becomes reasonably aware of such addition in cost, notify the Authority with a copy to the Authority's Engineer of such additional cost due to Change in Law.

19.17.2 If as a result of Change in Law, the EPC Agency benefits from any reduction in costs for the execution of this Agreement or in accordance with the provisions of this Agreement, either Party shall, within 15 (fifteen) days from the date it becomes reasonably aware of such reduction in cost, notify the other Party with a copy to the Authority's Engineer of such reduction in cost due to Change in Law.

19.17.3 The Authority's Engineer shall, within 15 (fifteen) days from the date of receipt of the notice from the EPC Agency or the Authority, determine any addition or reduction to the Contract Price, as the case may be, due to the Change in Law.

19.18 Correction of Interim Payment Certificates

The Authority's Engineer may by an Interim Payment Certificate make any correction or modification in any previous Interim Payment Certificate issued by the Authority's Engineer.

19.19 Authority's claims

If the Authority considers itself to be entitled to any payment from the EPC Agency under any Clause of this Agreement, it shall give notice and particulars to the EPC

Agency 20 (twenty) days before making the recovery from any amount due to the EPC Agency, and shall take into consideration the representation, if any, made by the EPC Agency in this behalf, before making such recovery.

19.20 Bonus for early completion

In the event that the Project Completion Date occurs prior to the Scheduled Completion Date, the EPC Agency shall be entitled to receive a payment of bonus equivalent to **0.03%** (zero point zero three percent) of the Contract Price **for each day** by which the Project Completion Date precedes the Scheduled Completion Date, but subject to a **maximum of 3% (three percent)** of the Contract Price. Provided, however, that the payment of bonus, if any, shall be made only after the issue of the Completion Certificate. For the avoidance of the doubt, the Parties agree that for the purpose of determining the bonus payable hereunder, the Contract Price shall always be deemed to be the amount specified in Clause 19.1.1, and shall exclude any revision thereof for any reason. The Parties also agree that bonus shall be payable only if each work for which Extension of Time has been granted is completed within respective Extended Time.

ARTICLE 20
INSURANCE

The EPC Agency shall effect and maintain at its own cost the insurances specified in Schedule-P and as per the requirements under the Applicable Laws.

20.1 Insurance for Work

20.1.1 Subject to the provisions of Clause 21.6, the Authority and the EPC Agency shall, in accordance with its obligations as provided for in this Agreement, be liable to bear the cost of any loss or damage that does not fall within the scope of this Article 20 or cannot be recovered from the insurers.

20.1.2 Subject to the exceptions specified in Clause 20.1.3 below, the EPC Agency shall, save and except as provided for in this Agreement, fully indemnify, hold harmless and defend the Authority from and against any and all losses, damages, costs, charges and/or claims with respect to:

(a) the death of or injury to any person; or

(b) the loss of or damage to any property (other than the Works);

that may arise out of or in consequence of any breach by the EPC Agency of this Agreement during the execution of the Works or the remedying of any Defects therein.

20.1.3 Notwithstanding anything stated above in Clause 20.1.2, the Authority shall fully indemnify the EPC Agency from and against any and all losses, damages, costs, charges, proceedings and/or claims arising out of or with respect to

(a) the use or occupation of land or any part thereof by the Authority;

(b) the right of the Authority to execute the Works, or any part thereof, on, over, under, in or through any land;

(c) the damage to property which is the unavoidable result of the execution and completion of the Works, or the remedying of any Defects therein, in accordance with this Agreement; and

(d) the death of or injury to persons or loss of or damage to property resulting from any act or neglect of the Authority, its agents, servants or other EPC agencies, not being employed by the EPC Agency.

Provided that, in the event of any injury or damage as a result of the contributory negligence of the EPC Agency, the Authority shall be liable to indemnify the EPC Agency from and against any and all losses, damages, costs, charges, proceedings and/or claims to the extent as may be proportionately determined to be the liability of the Authority, its servants or agents or other EPC agencies not associated with the EPC Agency in such injury or damage.

20.1.4 Without prejudice to the obligations of the Parties as specified under Clauses 20.1.2 and 20.1.3, the EPC Agency shall maintain or effect such third-party insurances as may be required under the Applicable Laws.

20.1.5 The EPC Agency shall provide to the Authority, within 30 days of the Appointed Date, evidence of professional liability insurance maintained by its Design Director and/or consultants to cover the risk of professional negligence in the design of Works. The professional liability coverage shall be for a sum of not less than [3% (three per cent)] of the Contract Price and shall be maintained until the end of the Defects Liability Period.

20.1.6 Insurance for Construction as well as O & M period shall be in the scope of bidder

20.2 Notice to the Authority

No later than 15 (fifteen) days after the date of this Agreement, the EPC Agency shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 20. Within 15 (fifteen) days of receipt of such notice, the Authority may require the EPC Agency to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

20.3 Evidence of Insurance Cover

20.3.1 All insurances obtained by the EPC Agency in accordance with this Article 20 shall be maintained with insurers on terms consistent with Good Industry Practice. Within10 (ten) days from the Appointed Date, the EPC Agency shall furnish to the Authority notarised true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty-five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the EPC Agency to the Authority. The EPC Agency shall act in accordance with the directions of the Authority.

Provided that the EPC Agency shall produce to the Authority the insurance policies in force and the receipts for payment of the current premium.

20.3.2 The EPC Agency shall ensure the adequacy of the insurances at all times in accordance with the provisions of this Agreement.

20.4 Remedy for failure to insure

If the EPC Agency shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premium and recover the costs thereof from the EPC Agency, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the EPC Agency.

20.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the EPC Agency pursuant to this Article 20 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, Affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

20.6 EPC Agency's waiver

The EPC Agency hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, Affiliates, employees, successors, insurers and underwriters, which the EPC Agency may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the EPC Agency pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

20.7 Cross liabilities

Any such insurance maintained or effected in pursuance of **this Article 20** shall include a cross liability clause such that the insurance shall apply to the EPC Agency and to the Authority as separately insured.

20.8 Accident or injury to workmen

Notwithstanding anything stated in this Agreement, it is hereby expressly agreed between the Parties that the Authority shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of the EPC Agency, save and except as for death or injury resulting from any act, omission or default of the Authority, its agents or servants. The EPC Agency shall indemnify and keep indemnified the Authority from and against all such claims, proceedings, damages, costs, charges, and expenses whatsoever in

respect of the above save and except for those acts, omissions or defaults for which the Authority shall be liable.

20.9 Insurance against accident to workmen

The EPC Agency shall effect and maintain during the Agreement such insurances as may be required to insure the EPC Agency's personnel and any other persons employed by it on the Project from and against any liability incurred in pursuance of this Article 20.

20.10 Application of insurance proceeds

The proceeds from all insurance claims, except for life and injury, shall be applied for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project and the provisions of this Agreement in respect of construction of works shall apply *mutatis mutandis* to the works undertaken out of the proceeds of insurance.

20.11 Compliance with policy conditions

Each Party hereby expressly agrees to fully indemnify the other Party from and against all losses and claims arising from its failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

Part V
FORCE MAJEURE AND TERMINATION

ARTICLE 21
FORCE MAJEURE

21.1 Force Majeure

As used in this Agreement, the expression "Force Majeure" or "Force Majeure Event" shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 21.2, 21.3 and 21.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

21.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

(a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);

(b) strikes or boycotts (other than those involving the EPC Agency or its employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty-four) hours and an aggregate period exceeding 30 (thirty) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 21.3;

(c) any judgement or order of any court of competent jurisdiction or statutory authority made against the EPC Agency in any proceedings for reasons other than (i) failure of the EPC Agency to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

(d) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or

(e) any event or circumstances of a nature analogous to any of the foregoing.

21.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

(b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 30 (thirty) days in an Accounting Year;

(c) any civil commotion, boycott or political agitation which prevents construction of the Project by the EPC Agency for an aggregate period exceeding 30 (thirty) days in an Accounting Year;

(d) any Indirect Political Event that causes a Non-Political Event; or

(e) any event or circumstances of a nature analogous to any of the foregoing.

21.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

(a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Clause 19.17;

(b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the EPC Agency;

(c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorisation, no objection certificate, consent, approval or exemption required by the EPC Agency to perform its obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the EPC Agency's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorisation, no objection certificate, exemption, consent, approval or permit; or

(d) any event or circumstances of a nature analogous to any of the foregoing.

21.5 Duty to report Force Majeure Event

21.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

(a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 21 with evidence in support thereof;

(b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

(d) any other information relevant to the Affected Party's claim.

21.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 10 (ten) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

21.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 21.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

21.6 Effect of Force Majeure Event on the Agreement

21.6.1 Upon the occurrence of any Force Majeure after the Appointed Date, the costs incurred and attributable to such event and directly relating to this Agreement (the "**Force Majeure costs**") shall be allocated and paid as follows:

(a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure costs and neither Party shall be required to pay to the other Party any costs thereof;

(b) upon occurrence of an Indirect Political Event, all Force Majeure costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the EPC Agency, and to the extent Force Majeure costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the EPC Agency for the Force Majeure events; and

(c) upon occurrence of a Political Event, all Force Majeure costs attributable to such Political Event shall be reimbursed by the Authority to the EPC Agency.

For the avoidance of doubt, Force Majeure costs may include costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations, if any, of the EPC Agency.

21.6.2 Save and except as expressly provided in this Article 21, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

21.6.3 Upon the occurrence of any Force Majeure Event during the Construction Period, the Project Completion Schedule for and in respect of the affected Works shall be extended on a day for day basis for such period as performance of the EPC Agency's obligations is affected on account of the Force Majeure Event or its subsisting effects.

21.7 Termination Notice for Force Majeure Event

21.7.1 If a Force Majeure Event subsists for a period of 60 (sixty) days or more within a continuous period of 120 (one hundred and twenty) days, either Party may in its

discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 21, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

21.8 Termination Payment for Force Majeure Event

21.8.1 In the event of this Agreement being terminated on account of a Non-Political Event, the Termination Payment shall be an amount equal to the sum payable under Clause 23.5.

Provided that in the event Termination occurs during the Operation & Maintenance Period, the Authority's Engineer shall only determine the value of Works associated with Operation & Maintenance.

21.8.2 If Termination is on account of an Indirect Political Event, the Termination Payment shall include:

(a) any sums due and payable under Clause 23.5; and

(b) the reasonable cost, as determined by the Authority's Engineer, of the Plant and Materials procured by the EPC Agency and transferred to the Authority for use in Construction or Operation & Maintenance only if such Plant and Materials are in conformity with the Specifications and Standards;

Provided that in the event Termination occurs during the Operation & Maintenance Period, the Authority's Engineer shall only determine the value of Works associated with Operation & Maintenance.

21.8.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the EPC Agency in an amount that would be payable under Clause 23.6.2 as if it were an Authority Default.

21.9 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

21.10 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 22
SUSPENSION OF EPC AGENCY'S RIGHTS

22.1 Suspension upon EPC Agency Default

Upon occurrence of an EPC Agency Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend carrying out of the Works or Operation & Maintenance or any part thereof, and (ii) carry out such Works or Operation & Maintenance itself or authorise any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the EPC Agency and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice.

22.2 Authority to act on behalf of EPC Agency

During the period of Suspension hereunder, all rights and liabilities vested in the EPC Agency in accordance with the provisions of this Agreement shall continue to vest therein, and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the EPC Agency under and in accordance with this Agreement shall be deemed to have been done or taken for and on behalf of the EPC Agency, and the EPC Agency undertakes to indemnify the Authority for all costs incurred during such period. The EPC Agency hereby licenses and sub-licenses respectively the Authority or any other person authorised by it under Clause 22.1, to use during Suspension all Intellectual Property belonging to or licensed to the EPC Agency with respect to the Project, including its design, engineering, construction and operation & maintenance, and which is used or created by the EPC Agency in performing its obligations under this Agreement.

22.3 Revocation of Suspension

22.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 60 (sixty) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the EPC Agency under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

22.3.2 Upon the EPC Agency having cured the EPC Agency Default within a period not exceeding 60 (sixty) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the EPC Agency under this Agreement.

22.4 Termination

22.4.1 At any time during the period of Suspension under this Article 22, the EPC Agency may by notice require the Authority to revoke the Suspension and issue a Termination Notice. The Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 23.

22.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension hereunder, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of an EPC Agency Default.

ARTICLE 23
TERMINATION

23.1 Termination for EPC Agency Default

23.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the EPC Agency fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the EPC Agency shall be deemed to be in default of this Agreement (the "**EPC Agency Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

(a) the EPC Agency fails to provide, extend or replenish, as the case may be, the Performance Security in accordance with this Agreement;

(b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 7.3, the EPC Agency fails to cure, within a Cure Period of 30 (thirty) days, the EPC Agency Default for which the whole or part of the Performance Security was appropriated;

(c) the EPC Agency does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-J, subject to any Time Extension, and continues to be in default for 45 (forty five) days;

(d) the EPC Agency abandons or manifests intention to abandon the construction or Operation & Maintenance of the Project without the prior written consent of the Authority;

(e) the EPC Agency fails to proceed with the Works in accordance with the provisions of Clause 10.1 or stops Works and/or the operation & maintenance

for 30 (thirty) days without reflecting the same in the current programme and such stoppage has not been authorized by the Authority's Engineer;

(f) the Project Completion Date does not occur within the period specified in Schedule-J for the Scheduled Completion Date, or any extension thereof;

(g) failure to complete the Punch List items within the periods stipulated therefore in Clause 12.2.1;

(h) the EPC Agency fails to rectify any Defect, the non-rectification of which shall have a Material Adverse Effect on the Project, within the time specified in this Agreement or as directed by the Authority's Engineer;

(i) the EPC Agency subcontracts the Works or any part thereof in violation of this Agreement or assigns any part of the Works without the prior approval of the Authority;

(j) the EPC Agency creates any Encumbrance in breach of this Agreement;

(k) an execution levied on any of the assets of the EPC Agency has caused a Material Adverse Effect;

(l) the EPC Agency is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the EPC Agency or for the whole or material part of its assets that has a material bearing on the Project;

(m) the EPC Agency has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

(n) a resolution for winding up of the EPC Agency is passed, or any petition for winding up of the EPC Agency is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the EPC Agency is ordered to be wound up by court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the EPC Agency are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the EPC Agency under this Agreement; and provided that:

(i) the amalgamated or reconstructed entity has the capability and experience necessary for the performance of its obligations under this Agreement; and

(ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the EPC Agency as at the Appointed Date;

(o) any representation or warranty of the EPC Agency herein contained which is, as of the date hereof, found to be materially false or the EPC Agency is at any time hereafter found to be in breach thereof;

(p) the EPC Agency submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

(q) the EPC Agency has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement; or

(r) the EPC Agency commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Project or on the Authority.

23.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of an EPC Agency Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the EPC Agency; provided that before issuing the Termination Notice, the Authority shall by a notice inform the EPC Agency of its intention to issue such Termination Notice and grant 15 (fifteen) days to the EPC Agency to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

23.1.3 After termination of this Agreement for EPC Agency Default, the Authority may complete the Works and/or arrange for any other entities to do so. The Authority and these entities may then use any Materials, Plant and equipment, EPC Agency's documents and other design documents made by or on behalf of the EPC Agency.

23.2 Termination for Authority Default

23.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the EPC Agency or due to Force Majeure. The defaults referred to herein shall include:

(a) the Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the EPC Agency;

(b) the Authority has failed to make payment of any amount due and payable to the EPC Agency within the period specified in this Agreement;

(c) the Authority has failed to provide, within a period of 180 (one hundred and eighty) days from the Appointed Date, the environmental clearances required for construction of the Project;

(d) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or

(e) the Authority's Engineer fails to issue the relevant Interim Payment Certificate within 60 (sixty) days after receiving a statement and supporting documents.

23.2.2 Without prejudice to any other right or remedy which the EPC Agency may have under this Agreement, upon occurrence of an Authority Default, the EPC Agency shall be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the EPC Agency shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

If on the consideration of the Authority's representation or otherwise, the EPC agency does not issue the Termination Notice on such 15th day and prefers to continue with the project, it is deemed that the cause of action of the Termination Notice has been condoned by the EPC Agency. Hence, he forfeits his right to any other remedy on that count.

23.3 Termination for Authority's convenience

Notwithstanding anything stated hereinabove, the Authority may terminate this Agreement for convenience. The termination shall **take effect 30 (thirty) days** from the date of notice hereunder.

23.4 Requirements after Termination

Upon Termination of this Agreement in accordance with the terms of this Article 23, the EPC Agency shall comply with and conform to the following:

(a) deliver to the Authority all Plant and Materials which shall have become the property of the Authority under this Article 23;

(b) deliver all relevant records, reports, Intellectual Property and other licences pertaining to the Works, Operation & Maintenance other design documents and in case of Termination occurring after the Provisional Certificate has been issued, the "as built" Drawings for the Works;

(c) transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws; and

(d) vacate the Site within 15 (fifteen) days.

23.5 Valuation of Unpaid Works

23.5.1 Within a period of 45 (forty-five) days after Termination under Clause 23.1, 23.2 or 23.3, as the case may be, has taken effect, the Authority's Engineer shall proceed in accordance with Clause 18.5 to determine as follows the valuation of unpaid Works (the "**Valuation of Unpaid Works**"):

(a) value of the completed stage of the Works, less payments already made;

(b) reasonable value of the partially completed stages of works as on the date of Termination, only if such works conform with the Specifications and Standards; and

and shall adjust from the sum thereof (i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement; and (ii) all taxes due to be deducted at source.

23.5.2 The Valuation of Unpaid Works shall be communicated to the Authority, with a copy to the EPC Agency, within a period of 30 (thirty) days from the date of Termination.

23.6 Termination Payment

23.6.1 Upon Termination on account of EPC Agency's Default under Clause 23.1, the Authority shall:

(a) **encash** and appropriate the Performance Security and Retention Money, or in the event the EPC Agency has failed to replenish or extend the Performance Security, claim the amount stipulated in Clause 7.1.1, as agreed pre-determined compensation to the Authority for any losses, delays and cost of completing the Works and Operation & Maintenance if any;

(b) **encash** and appropriate the bank guarantee, if any, for and in respect of the outstanding Advance Payment and interest thereon; and

(c) pay to the EPC Agency, by way of Termination Payment, an amount equivalent to the Valuation of Unpaid Works after adjusting any other sums payable or recoverable, as the case may be, in accordance with the provisions of this Agreement.

23.6.2 Upon Termination on account of an Authority Default under Clause 23.2 or for Authority's convenience under Clause 23.3, the Authority shall:

(a) return the Performance Security and Retention Money forthwith;

(b) encash and appropriate the bank guarantee, if any, for and in respect of the outstanding Advance Payment; and

(c) pay to the EPC Agency, by way of Termination Payment, an amount equal to:

(i) Valuation of Unpaid Works;

(ii) the reasonable cost, as determined by the Authority's Engineer, of the Plant and Materials procured by the EPC Agency and transferred to the Authority for its use, only if such Plant and Materials are in conformity with the Specifications and Standards;

(iii) the reasonable cost of temporary works, as determined by the Authority's Engineer; and

(iv) **10% (ten percent)** of the cost of the Works Operation & Maintenance that are not commenced or not completed,

and shall adjust from the sum thereof(i) any other amounts payable or recoverable, as the case may be, in accordance with the provisions of this Agreement, and (ii) all taxes due to be deducted at source.

23.6.3 Termination Payment shall become due and payable to the EPC Agency within 30 (thirty) days of a demand being made by the EPC Agency to the Authority with the

necessary particulars, and in the event of any delay, the Authority shall pay interest at the Base Rate plus 2% (two percent), calculated at quarterly rests, on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

23.6.4 The EPC Agency expressly agrees that Termination Payment under this Article 23 shall constitute a full and final settlement of all claims of the EPC Agency on account of Termination of this Agreement and that it shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

23.7 Other rights and obligations of the Parties

Upon Termination for any reason whatsoever

(a) property and ownership in all Materials, Plant and Works and the Project shall, as between the EPC Agency and the Authority, vest in the Authority in whole; provided that the foregoing shall be without prejudice to Clause 23.6

b) risk of loss or damage to any Materials, Plant or Works and the care and custody thereof shall pass from the EPC Agency to the Authority; and

(c) the Authority shall be entitled to restrain the EPC Agency and any person claiming through or under the Agreement from entering upon the Site or any part of the Project except for taking possession of materials, stores, implements, construction plants and equipment of the EPC Agency, which have not been vested in the Authority in accordance with the provisions of this Agreement.

23.8 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or Agreement. All rights and obligations of either Party under this Agreement, including Termination Payments, shall survive the Termination up to a period of 3 (three) years for giving effect to such rights and obligations.

PART VI
OTHER PROVISIONS

ARTICLE 24
ASSIGNMENT AND CHARGES

24.1 Restrictions on assignment and charges

This Agreement shall not be assigned by the EPC Agency to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

24.2 Hypothecation of Materials or Plant

Notwithstanding the provisions of Clause 24.1, the EPC Agency may pledge or hypothecate to its lenders, any Materials or Plant prior to their incorporation in the Works. Further, the EPC Agency may, by written notice to the Authority, assign its right to receive payments under this Agreement either absolutely or by way of charge, to any person providing financing to the EPC Agency in connection with the performance of the EPC Agency's obligations under this Agreement. The EPC Agency acknowledges that any such assignment by the EPC Agency shall not relieve the EPC Agency from any obligations, duty or responsibility under this Agreement.

ARTICLE 25
LIABILITY AND INDEMNITY

25.1 General indemnity

25.1.1 The EPC Agency will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the "**Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the EPC Agency of any of its obligations under this Agreement or from any negligence under the Agreement, including any errors or deficiencies in the design documents, or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

25.2 Indemnity by the EPC Agency

25.2.1 Without limiting the generality of Clause 25.1, the EPC Agency shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

(a) failure of the EPC Agency to comply with Applicable Laws and Applicable Permits;

(b) payment of taxes required to be made by the EPC Agency in respect of the income or other taxes of its suppliers and representatives; or

(c) non-payment of amounts due as a result of Materials or services furnished to the EPC Agency which are payable by the EPC Agency.

25.2.2 Without limiting the generality of the provisions of this Article 25, the EPC Agency shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the EPC Agency or by the Sub- EPC agencies in performing the EPC Agency's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the EPC Agency shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project or any part thereof is held to constitute an infringement and its use is permanently enjoined, the EPC Agency shall promptly make every reasonable effort to secure for the Authority a licence, at no cost to the Authority, authorising continued use of the infringing work. If the EPC Agency is unable to secure such licence within a reasonable time, the EPC Agency shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non- infringing work or part or process, or modify the same so that it becomes non- infringing.

25.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 25 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

25.4 Defence of claims

25.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 25, the

Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

25.4.2 If the Indemnifying Party has exercised its rights under Clause 25.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

25.4.3 If the Indemnifying Party exercises its rights under Clause 25.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

(a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or

(b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or

(c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

(d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

(i) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or

(ii) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 25.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

25.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 25, the indemnities herein provided shall not include any claim or recovery in respect of any

cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

25.6 Survival on Termination

The provisions of this Article 25 shall survive Termination.

ARTICLE 26
DISPUTE RESOLUTION

26.1 Dispute Resolution

26.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 26.2.

26.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

26.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Authority's Engineer, or such other person as the Parties may mutually agree upon (the "**Conciliator**") to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Conciliator or without the intervention of the Conciliator, either Party may require such Dispute to be referred to the Chief Engineer & Basin Manager, Mahanadi Kathajodi System, Bhubaneswar and the said persons shall meet no later than 7 (seven) business days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) business day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 26.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 26.3.

26.3 Arbitration

26.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 26.2, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 26.3.2. Such arbitration shall be held in accordance with the Arbitration and Conciliation Act, 1996 of India. **The venue of such arbitration shall be Bhubaneswar**, and the language of arbitration proceedings shall be English.

26.3.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the

event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

26.3.3 The arbitrators shall make a reasoned award (the "**Award**"). Any Award made in any arbitration held pursuant to this Article 26 shall be final and binding on the Parties as from the date it is made, and the EPC Agency and the Authority agree and undertake to carry out such Award without delay.

26.3.4 The EPC Agency and the Authority agree that an Award may be enforced against the EPC Agency and/or the Authority, as the case may be, and their respective assets wherever situated.

26.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

26.3.6 In the event the Party against whom the Award has been granted challenges the Award for any reason in a court of law, it shall make an interim payment to the other Party for an amount equal to 75% (seventy-five per cent) of the Award, pending final settlement of the Dispute. The aforesaid amount shall be paid forthwith upon furnishing an irrevocable Bank Guarantee for a sum equal to 120 % (one hundred and twenty per cent) of the aforesaid amount. Upon final settlement of the Dispute, the aforesaid interim payment shall be adjusted and any balance amount due to be paid or returned, as the case may be, shall be paid or returned with interest calculated at the rate of 10% (ten per cent) per annum from the date of interim payment to the date of final settlement of such balance.

26.4 Adjudication by Regulatory Authority, Tribunal or Commission

In the event of constitution of a statutory regulatory authority, tribunal or commission, as the case may be, with powers to adjudicate upon disputes between the EPC Agency and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 26.3, be adjudicated upon by such regulatory authority, tribunal or commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or court of competent jurisdiction, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

ARTICLE 27
MISCELLANEOUS

27.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of Odisha/ India, and the courts at Bhubaneswar shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

27.2 Waiver of immunity

Each Party unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

27.3 Delayed payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to Base Rate plus 2 (two) percent, calculated at quarterly rests, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

27.4 Waiver

27.4.1 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 Agreement:-

(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 Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

27.4.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder 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.

27.5 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

(a) no review, comment or approval by the Authority or the Authority's Engineer of any Document or Drawing submitted by the EPC Agency nor any observation or inspection of the construction or operation & maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the EPC Agency from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and

(b) the Authority shall not be liable to the EPC Agency by reason of any review, comment, approval, observation or inspection referred to in Sub-clause above.

27.6 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

27.7 Survival

27.7.1 Termination shall:

(a) not relieve the EPC Agency or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and

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

27.7.2 All obligations surviving Termination/ final settlements shall only survive for a period of 3 (three) years following the date of such Termination/ final settlements.

27.8 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the EPC Agency arising from

the Request for Proposal or Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.

27.9 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties 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 Agreement or otherwise.

27.10 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

27.11 Third parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

27.12 Successors and assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

27.13 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 Agreement shall be in writing and shall:

(a) in the case of the EPC Agency, 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 EPC Agency may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address within Odisha 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 person as the EPC Agency may from time to time designate by notice to the Authority;

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

(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.

27.14 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

27.15 Counterparts

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

27.16 Confidentiality

The Parties shall treat the details of this Agreement as private and confidential, except to the extent necessary to carry out obligations under it or to comply with Applicable Laws. The EPC Agency shall not publish, permit to be published, or disclose any particulars of the Works in any trade or technical paper or elsewhere without the previous agreement of the Authority.

27.17 Copyright and Intellectual Property rights

27.17.1 As between the Parties, the EPC Agency shall retain the copyright and other intellectual property rights in the EPC Agency's Documents and other design documents made by (or on behalf of) the EPC Agency. The EPC Agency shall be deemed (by signing this Agreement) to give to the Authority a non-terminable transferable non-exclusive royalty-free license to copy, use and communicate the EPC Agency's Documents, including making and using modifications of them. This license shall:

(a) apply throughout the actual or intended working life (whichever is longer) of the relevant parts of the Works,

(b) entitle any person in proper possession of the relevant part of the Works to copy, use and communicate the EPC Agency's Documents for the purposes of completing, operating, maintaining, altering, adjusting, repairing and demolishing the Works, and

(c) in the case of EPC Agency's Documents which are in the form of computer programs and other software, permit their use on any computer on the Site and other places as envisaged by this Agreement, including replacements of any computers supplied by the EPC Agency:

27.17.2 The EPC Agency's Documents and other design documents made by (or on behalf of) the EPC Agency shall not, without the EPC Agency's consent, be used, copied or communicated to a third party by (or on behalf of) the Authority for purposes other than those permitted under this Clause 27.17.

27.17.3 As between the Parties, the Authority shall retain the copyright and other intellectual property rights in this Agreement and other documents made by (or on behalf of) the Authority. The EPC Agency may, at its cost, copy, use, and obtain communication of these documents for the purposes of this Agreement. They shall not, without the Authority's consent, be copied, used or communicated to a third party by the EPC Agency, except as necessary for the purposes of the contract.

27.18 Limitation of Liability

27.18.1 Neither Party shall be liable to the other Party for loss of use of any Works, loss of profit, loss of any contract or for any indirect or consequential loss or damage which may be suffered by the other Party in connection with this Agreement, save and except as provided under Articles 23 and 25.

27.18.2 The total liability of one Party to the other Party under and in accordance with the provisions of this Agreement, save and except as provided in Articles 23 and 25,shall not exceed the Contract Price. For the avoidance of doubt, this Clause shall not limit the liability in any case of fraud, deliberate default or reckless misconduct by the defaulting Party.

ARTICLE 28
DEFINITIONS

28.1 Definitions

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

"**Accounting Year**" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

"**Advance Payment**" shall have the meaning set forth in Clause 19.2;

"**Affected Party**" shall have the meaning set forth in Clause 21.1;

"**Affiliate**" means, in relation to either Party {and/or Members}, a person who controls, is controlled by, or is under the common control with such Party {or 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);

"Agreement" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

"Applicable Laws" means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"Applicable Permits" means all clearances, licenses, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Projects during the subsistence of this Agreement;

"**Appointed Date**" means that date which is later of the 15th day of the date of this Agreement, the date on which the EPC Agency has delivered the Performance Security in accordance with the provisions of Article 7 and the date on which the Authority has provided the land / site on no less than 90% (Ninety per cent) of the required **area of major structures of the Project**;

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"Authority" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Authority's Default" shall have the meaning set forth in Clause 23.2;

"Authority's Engineer" shall have the meaning set forth in Clause 18.1;

"Authority's Representative" means such person or persons as may be Authorized in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"Bank" means a Nationalised Bank in India;

"Base Rate" means the 1 (one) year Marginal Cost of Funds based Lending Rate (MCLR) announced by the State Bank of India;

"Base Date" means the last date of that calendar month, which date precedes the Bid Due Date by at least 28 (twenty-eight) days;

"Bid" means the documents in their entirety comprised in the bid submitted by the [selected bidder/Consortium] in response to the Request for Proposals in accordance with the provisions thereof;

"**Bid Security**" means the bid security provided by the EPC Agency to the Authority in accordance with the Request for Proposal, and which is to remain in force until substituted by the Performance Security;

"Change in Law" means the occurrence of any of the following after the Base Date:

(a) the enactment of any new Indian law;

(b) the repeal, modification or re-enactment of any existing Indian law;

(c) the commencement of any Indian law which has not entered into effect until the Base Date;

(d) a change in the interpretation or application of any Indian law by a judgement of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Base Date; or

(e) any change in the rates of any of the Taxes or royalties that have a direct effect on the Project;

"Change of Scope" shall have the meaning set forth in Article 13;

"Change of Scope Notice" shall have the meaning set forth in Clause 13.2.1;

"Change of Scope Order" shall have the meaning set forth in Clause 13.2.4;

"Completion Certificate" shall have the meaning set forth in Clause 12.4;

{"Consortium "means the consortium of entities which have formed a joint venture for implementation of this Project;}$

"Construction" shall have the meaning set forth in Clause 1.2.1 (f);

"Construction Period" means the period commencing from the Appointed Date and ending on the date of the Completion Certificate;

"Contract Price" means the amount specified in Clause 19.1.1;

"EPC Agency" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"EPC Agency Default" shall have the meaning set forth in Clause 23.1;

"Cure Period" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

(a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;

(b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

(c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the EPC Agency requires any reasonable action by the EPC Agency that must be approved by the Authority

or the Authority's Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Authority's Engineer to accord their approval;

"Damages" shall have the meaning set forth in paragraph (w) of Clause 1.2.1;

"Defect" means any defect or deficiency in Construction of the Works or any part thereof, which does not conform with the Specifications and Standards, and in the case of Operation & Maintenance, means any defect or deficiency which is specified in Schedule-E;

"Defects Liability Period" shall have the meaning set forth in Clause 17.1;

"Dispute" shall have the meaning set forth in Clause 26.1.1;

"Dispute Resolution Procedure" means the procedure for resolution of Disputes set forth in Article 26;

"Drawings" means all of the drawings, calculations and documents pertaining to the Project as set forth in Schedule-I, and shall include 'as built' drawings of the Project;

"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"Emergency" means a condition or situation that is likely to endanger the safety or security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Encumbrances" means, in relation to the Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities referred to in Clause 9.1;

"EPC" means engineering, procurement and construction;

"Final Payment Certificate "shall have the meaning set forth in Clause 19.15.1;

"**Final Payment Statement** "shall have the meaning set forth in Clause 19.13.1;

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Clause 21.1;

"GAD" or "General Arrangement Drawings" shall have the meaning set forth in Clause 4.1.3 (b);

"GOI" or "Government" means the Government of India or the Government of Odisha, as the case may be;

"Good Industry Practice" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced EPC agency engaged in the same type of undertaking as envisaged under this Agreement and

which would be expected to result in the performance of its obligations by the EPC Agency in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"Government Instrumentality" means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the EPC Agency under or pursuant to this Agreement;

"Indemnified Party" means the Party entitled to the benefit of an indemnity pursuant to Article 25;

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Article 25;

"Indirect Political Event" shall have the meaning set forth in Clause 21.3;

"Insurance Cover" means the aggregate of the maximum sums insured under the insurances taken out by the EPC Agency pursuant to Article 20, and includes all insurances required to be taken out by the EPC Agency under Clauses 20.1 and 20.9 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

"Intellectual Property" means all patents, trademarks, service marks, logos, get- up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"**Interim Payment Certificate**" or "**IPC**" the interim payment certificate issued by the Authority's Engineer for payment to the EPC Agency in respect of EPC Agency's claims for payment raised in accordance with the provisions of this Agreement;

{"Lead Member" shall, in the case of a consortium, mean the member of such consortium who shall have the authority to bind the EPC agency and each member of the Consortium; and shall be deemed to be the EPC Agency for the purposes of this Agreement;}$

"LOA" or "Letter of Acceptance" means the letter of acceptance referred to in Recital (E);

"Operation & Maintenance" means the operation & maintenance of the Project as set forth in Article 14 for the period specified therein;

"**Operation & Maintenance Inspection Report**" shall have the meaning set forth in Clause 15.2.1;

"Operation & Maintenance Manual" shall have the meaning ascribed to it in Clause 10.6;

"Operation & Maintenance Programme" shall have the meaning set forth in Clause 14.3;

"Operation & Maintenance Period" shall have the meaning set forth in Clause 14.1.1;

"Operation & Maintenance Requirements" shall have the meaning set forth in Clause 14.2;

"Major structures" means the key permanent civil and structural works forming part of the Project, as identified in the Scope of the Project, Schedule-C and the Specifications and Standards. "**Manual**" shall mean the applicable manuals, guidelines, codes of practice, standards and technical specifications issued by the Government of India, Government of Odisha, relevant statutory authorities, and recognised professional bodies, including but not limited to manuals and guidelines issued by MoHUA, CPWD, IRC, BIS, NBC, NGT directions, and any other standards specified in the Specifications and Standards, as relevant to the Project. **"Material Adverse Effect"** means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

"Materials" are all the supplies used by the EPC Agency for incorporation in the Works or for the Operation & Maintenance of the Project;

"Monthly Operation & Maintenance Statement shall have the meaning set forth in Clause 19.6.1;

"**MoUD**" means the Ministry of Urban Development, GoI;

"**Non-Political Event**" shall have the meaning set forth in Clause 21.2;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually;

"Performance Security" shall have the meaning set forth in Clause 7.1;

"Plant" means the apparatus and machinery intended to form or forming part of the Works;

"Political Event" shall have the meaning set forth in Clause 21.4;

"Programme" shall have the meaning set forth in Clause 10.1.3;

"**Project"** means the planning, design, engineering, procurement, construction, development, completion, operation and maintenance of the project titled "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years", in accordance with the provisions of this Agreement, and

includes all works, services, facilities, utilities, structures, assets, equipment and activities relating to or in respect of the Scope of the Project;

"Project Assets" means all physical and other assets relating to the Project, including: (a) tangible assets such as civil works, structural works, electrical works, mechanical works, utilities, lighting systems, drainage systems, riverfront protection works, promenades, ghats, landscaping works, public buildings, amenities, service structures, parking facilities, electrical and communication systems, street furniture, signage, administrative and maintenance facilities; and

(b) all Project Facilities situated on the Site, together with any other assets constructed, installed or created as part of the Project.

"Project Completion Date" means the date on which the Provisional Certificate is issued and, in the event, no Provisional Certificate is issued, the date on which the Completion Certificate is issued;

"Project Completion Schedule" means the progressive Project Milestones set forth in Schedule-J for completion of the Project on or before the Scheduled Completion Date;

"Project Facilities" means all the amenities and facilities situated on the Site, as described in Schedule-C;

"River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and Maintenance for 05 years" means the proposed Project to be executed as mentioned at Annex –I of schedule –A in accordance with this Agreement;

"Project Milestone" means the project milestone set forth in Schedule-J;

"Proof Consultant" shall have the meaning set forth in Clause 10.2.2;

"Provisional Certificate" shall have the meaning set forth in Clause 12.2;

"Punch List" shall have the meaning set forth in Clause 12.2.1;

"Quality Assurance Plan" or **"QAP"** shall have the meaning set forth in Clause 11.2**;**

"Re.", "Rs." or "Rupees" or "Indian Rupees" means the lawful currency of the Republic of India;

"**Request for Proposals**" *or* "**RFP**" shall have the meaning set forth in Recital 'D';

"Retention Money" shall have the meaning set forth in Clause 7.5.1;

"Land / Site" means the constructive possession of the Site free from encroachments and encumbrances, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction and operation & maintenance of the Project in accordance with this Agreement;

"**Safety Consultant**" shall have the meaning set forth in Clause 10.1.5;

"Scheduled Completion Date" shall be the date set forth in Clause 10.3.1;**"Scope of the Project"** shall have the meaning set forth in Clause 2.1;

"Section" means a part of the ***Project***;

"Site" shall have the meaning set forth in Clause 8.1;

"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule-D, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the EPC Agency to, and expressly approved by, the Authority;

"**Stage Payment Statement**" shall have the meaning set forth in Clause 19.4;

"**Structures**" means all civil, electrical and mechanical installations, as the case may be;

"Suspension" shall have the meaning set forth in Article 22;

"Taxes" means any Indian taxes including **GST**, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, Materials, equipment and services incorporated in and forming part of the ***Project*** charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

"Termination" means the expiry or termination of this Agreement;

"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Termination Payment" means the amount payable by either Party to the other upon Termination in accordance with Article 23;

"Terms of Reference" or "TOR" shall have the meaning set forth in Clause 18.2.1;

"Tests" means the tests set forth in Schedule-K to determine the completion of Works in accordance with the provisions of this Agreement;

"Time Extension" shall have the meaning set forth in Clause 10.4.1;

"User" means any person, group, visitor, or entity who uses or intends to use any part of the Project, including promenades, ghats, public spaces, landscaped areas, recreational facilities, amenities, accessways or other facilities developed under the Project. "**Valuation of Unpaid works**" shall have the meaning set forth in Clause 23.5.1;

"Works" means all works and activities including survey and investigation, planning, design, engineering, procurement, construction, development, installation, provision of Plant and Materials, operation and maintenance, temporary works and all other things necessary for the implementation and completion of the Project titled "River Front Development on Mahanadi River at Kuakhai and Kushabhadra Rivers near Pandara (Bhubaneswar) on EPC Mode with Comprehensive Operation and

Maintenance for 05 years", in accordance with the provisions of this Agreement. **"WPI"** means the wholesale price index for various commodities as published by the Ministry of Commerce and Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the WPI published for the period ending with the preceding month.

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

SIGNED, SEALED AND DELIVERED **For and on behalf of** **CE&BM, MKS by:**	**SIGNED, SEALED AND DELIVERED** **For and on behalf of THE EPC AGENCY by:**
(Signature) **(Name)** **(Designation)**	**(Signature)** **(Name)** **(Designation)**
In the presence of: 1.	2.
(Signature) (Name) (Designation)	(Signature) (Name) (Designation)

{COUNTERSIGNED and accepted by: Name and particulars of other members of the Consortium}