APPENDICES

Appendix-1

Draft Letter of Award (LoA)

(This will be issued by National Fisheries Development Board (NFDB) to the 'Preferred Bidder' upon completion of Bid Evaluation Process and acceptance of the Bid by the NFDB).

[Date]
[Ref Number]

To
[Preferred Bidder]
[Address]

Kind Attention: [Authorized Representative of Preferred Bidder]

Sub: Letter of Award (LoA) for Development of Integrated Coastal Aquaculture Facilities at Mulapolam Village, Srikakulam District, Andhra Pradesh on PPP Mode ("Project")

Sir,

1) This is with reference to your Bid dated _____("**Bid**") submitted in accordance with & in response to the Request for Bid document (the '**RFP**') released by National Fisheries Development Board (NFDB), dated, _____ towards selection of a private sector entity for development of Integrated Coastal Aquaculture Facilities at Mulapolam Village, Srikakulam District, Andhra Pradesh on PPP Mode (the "**Project**").

2) For avoidance of doubt, it is hereby clarified that unless otherwise referred hereunder or repugnant to the context or usage thereof, the capitalized terms used under this LoA shall have the meaning as respectively ascribed thereto under the RFP Document and/or the draft Concession Agreement to be executed in terms of the RFP and this LoA.

3) We are pleased to inform you that your Bid (attached hereto as **Annexure A**) has been accepted and you have been identified as the Preferred Bidder for undertaking the implementation of the Project, subject always & exclusively to the terms hereof, the RFP and the Concession Agreement to be executed as per the terms of the RFP and this LoA.

4) It is hereby understood and, for abundant clarity, reiterated that as per your Price Bid the "Unit Price" for each category of species' payable by the NFDB, commencing from the 1st year of Agreement until 6th year of the Concession Period, shall be the amount quoted by you in the Price Bid.

5) Further, as per the terms of the RFP, you are requested to comply with and fulfill the following terms and conditions within the time period and in the manner as prescribed hereunder:

(a) Make a non-refundable and irrevocable payment of Project Development Fees of **Rs. 24.25 lakhs (Rupees Twenty Four Lakhs Twenty Five Thousand only)** plus applicable GST, duties and levies to NFDB in the form of a demand draft drawn in favour of "National Fisheries Development Board" drawn on any Nationalized or Scheduled (excluding cooperative) Bank, payable at Hyderabad within fifteen (15) days from date of issue this LoA.

(b) Furnish two (2) Unconditional and irrevocable Construction Performance Security' Bank Guarantees for an amount of **Rs.72,75,000 (Rupees Seventy Two Lakhs Lakhs Seventy Five Thousand Only)** and **Rs.1,65,00,000 (Rupees One Crore Sixty Five Lakhs Only),** in favor of "National Fisheries Development Board" from a Nationalized Bank/ Scheduled Bank (excluding Co-Operative Banks) having an operational branch in Hyderabad as per the format appended to the draft Concession Agreement within Fifteen (15) days from the date of issue of this LoA.

(c) Within Fifteen (15) days from the date of issue of this LOA, pay an amount of **Rs. 5.50 Lakhs (Rupees Five Lakhs Fifty Thousand Only)** equivalent to the first six months Annual Lease Amount (computed on the basis of the Annual Lease Amount payable in the first year of Concession), in the form of a bank draft (irrevocable demand draft) drawn on any Nationalized Bank / Scheduled Bank (excluding Co-Operative Banks) in favor of "National Fisheries Development Board" payable at Hyderabad, towards the interest free security deposit for the due payment of Annual Lease Amount during the term of the Concession Agreement in accordance with the terms thereof.

(d) Incorporate a Special Purpose Company (SPC) under the provision of Companies Act, 2013, with the equity shareholding as prescribed in the RFP, to act as the Concessionaire for executing the Concession Agreement and implementing the Project in accordance with the terms thereof, within forty-five (45) days from the date of issue of this LOA.

Please note that your firm's failure or inability to fulfill any of the requirements stipulated in para [5] above shall render your Bid liable for rejection/disqualification and forfeiture of the Bid Security furnished by you and this LoA shall stand withdrawn.

6) After absolute & unconditional fulfilment of the conditions mentioned hereinabove and in addition thereof, you are requested to also execute and cause execution of the Concession Agreement with the NFDB, in the format attached as Section III of the RFP Document.

7) In addition to the above, you shall, throughout the Concession Period, be under an obligation to unconditionally comply and ensure unconditional compliance by the Concessionaire, as the case may be, with all the requirements of the RFP as well as the terms of the Concession Agreement

8) It may also be noted that in the event of any failure to comply with any one or more of the terms and conditions mentioned in this LoA and/or the RFP document within the time and in accordance with the manner prescribed thereof, including without limitation the acceptance of this LoA, the NFDB shall, in addition to all other rights and remedies that may be available to it under the provisions of the RFP, this LoA, law and equity or otherwise, at its absolute discretion be entitled to treat your Bid as rejected and unilaterally cancel/revoke this LoA and deal with the captioned Project as it may deem fit in our sole and absolute discretion.

9) In such an event the Preferred Bidder (or any person claiming under it) shall have no claim or demand against the NFDB (or any of their Affiliates), of any nature whatsoever. Further, under any circumstances, the NFDB (or any of their Affiliates), shall not be liable or responsible to the Preferred Bidder or to any other entity whomsoever, for any loss of business, business competition, loss of investment, or any other loss or damage, costs or expenses, for any reason whatsoever. The Preferred Bidder (or any person claiming under it) shall not be entitled to claim any direct or indirect damages, costs, expenses for loss of business, loss of investment etc., upon rejection of its Bid or cancellation/revocation of this LoA, howsoever and whatsoever caused.

10) The Preferred Bidder shall indemnify and keep indemnified the NFDB, (or any of their Affiliates), its respective directors, consultants, contractors, officers, employees and/or agents, against all claims and loss, that they may suffer/ sustain or are likely to suffer/ sustain, due to or in relation to all/ any acts and omissions of the Preferred Bidder, its employees, staff, personnel etc. pursuant to or in relation to this LoA, the RFP or the Concession Agreement.

11) Notwithstanding anything to the contrary contained hereinabove, the arbitration clause here-under shall be a final and binding agreement between the NFDB and the Preferred Bidder and shall survive the cancellation/ revocation /annulment of this LoA:

(i) Any and all disputes controversy or claim, relating to or arising out of the LoA or the rights and obligations of the NFDB and the Preferred Bidder, under this LoA, including but not limited to validity, interpretation, scope, effect, termination of the terms contained in this LoA, shall be settled by arbitration by a sole arbitrator to be appointed by the NFDB or his nominee within thirty (30) days after receipt of a request for appointment of arbitrator, which notice should contain all information regarding the dispute(s) between the parties.

(ii) The arbitration shall be conducted in accordance with the Arbitration and Conciliation at, 1996 as amended. The venue of arbitration shall be at Hyderabad, India and it shall be conducted in the English language.

(iii) The arbitral award shall be in writing, state the reasons for the award and be final and binding on the NFDB and the Preferred Bidder. The award may include an award of costs, including reasonable attorney's fees and disbursements.

12) The LoA shall be governed by the laws of India and in relation to all matters arising out or relating to this LoA, the courts at Hyderabad, India shall have exclusive jurisdiction.

13) It may additionally be noted that this LoA by itself does not create any rights or contractual relationship with the NFDB or casts any corresponding obligation with respect to the Project or otherwise on the NFDB. Any such right or relationship shall come into effect only upon your unconditional compliance with terms conditions set out herein and the execution of Concession Agreement as per term hereof and the RFP.

14) Without prejudice to anything stated in this LoA and/or the RFP, you are hereby requested to return the duplicate copy of this Letter of Award within two (2) days from the date of this Letter of Award, as a token of the receipt & acknowledgement of this LoA.

Thanking You

_____

For & On Behalf of NFDB

AGREED, ACKNOWLEDGED & ACCEPTED BY

We, _____ (the 'Preferred Bidder'), do hereby acknowledge the receipt of the LoA and undertake to absolutely and unconditionally comply with the terms and conditions contained herein.

SIGNATURE: **********

NAME OF AUTHORIZED. SIGNATORY:

DESIGNATION: (the **'Preferred Bidder'**)

Appendix-2

Consortium Agreement

[As furnished by the Preferred Bidder along with the Request for Proposal (RFP)]

Appendix-3

PROJECT FACILITIES

Minimum Development Obligations:

Phase-1

Operation & Management of 'Coastal Aquaculture Facilities' being developed and completed by the NFDB.

1. Producing the Specified Outputs and Supplying Specified Quantities of the 'Fry/Crab Instars' and 'Fingerlings/Crablets' Output (excluding Marketable Size from Grow-Out Ponds) to the NFDB at the 'Discovered Price' as per the 'Buy-back Agreement' for the initial period of Six (6) Years including implementation period. In case of excess Requirement of 'Fry' and 'Fingerlings' Output, during the initial period of Six (6) Years, NFDB shall have the first option to buy the required quantity.
2. The NFDB shall have the first option to 'Buy-back the Output' for the rest of the Concession Period also.
3. The Concessionaire shall pay Royalty to the Authority towards the sale of output produced from hatcheries, nurseries, grow-out ponds or in any manner whatsoever within the Project Facility beyond the Guaranteed Buy-back by NFDB and additional output purchased by NFDB, if any, in the first 6 years of the Concession Period and 100% of the output, excluding the output purchased by NFDB, for the rest of the Concession Period.

Phase-2

1. Development and Operation & Management of the following 'Coastal Aquaculture Facilities' by the 'Private Bidding Entity' -
   - Multi Species Marine Fin Fish Hatchery Complexes (2 Units)
   - Mud Crab Hatchery Complexes (1 Unit)
   - Scampi Hatchery Complexes (1 Unit)
   - Polychaetae (SPF) Production Facility.
   - Nursery Ponds (2 Units)
   - Reservoir Earthen Ponds (2 Units)
   - Raw Water Circular Reservoir (3 Units)
   - Additional Water Supply Facilities for Phase-2 Area.
   - Additional ETP-2.
   - External Electrical Works & Transformers 4 Nos.
   - Compound Wall, Additional Roads, Parking, Landscaping, Gardens & Greenbelt.
2. Producing the Specified Outputs and Supplying specified quantities of the 'Fry/Crab Instars', 'PLs' and 'Fingerlings/Crablets' and 'Polychaetes (SPF)' Output (excluding Marketable Size from Grow-Out Ponds) to the NFDB at the 'Discovered Price' as per the

'Buy-back Agreement' for the initial period of Six (6) Years including implementation period. In case of excess requirement of ''Fry/Crab Instars', 'PLs' and 'Fingerlings/Crablets' and 'Polychaetes (SPF)' Output, during the initial period of Six (6) Years, NFDB shall have the first option to buy the required quantity.

3. The NFDB shall have the first option to 'Buy-back the Output' for the rest of the Concession Period also.
4. The Concessionaire shall pay Royalty to the Authority towards the sale of output produced from hatcheries, nurseries, grow-out ponds or in any manner whatsoever within the Project Facility beyond the Guaranteed Buy-back by NFDB and additional output purchased by NFDB, if any, in the first 6 years of the Concession Period and 100% of the output, excluding the output purchased by NFDB, for the rest of the Concession Period.

Notes:

Phase-1 of the MDOs shall be completed within Three (3) Months from the date of signing of Concession Agreement.

Phase-2 of the MDOs shall be completed within Twenty Four (24) Months from the date of signing of the Concession Agreement.

Appendix-4

A. "DEVELOPMENT CONTROLS"

B. "SPECIFICATIONS & STANDARDS"

C. "MAINTENANCE AND PERFORMANCE STANDARDS"

(All the above as specified in the Section IV of RFP)

Appendix-5

OFF-SITE INFRASTRUCTURE

The offsite infrastructure such as road, power, water etc. are being provided by different agencies like Local Body, APSPDCL etc. The Concessionaire is required to apply to the concern Authorities and obtain the necessary approvals for services/connections on his own. The Grantor will extend all necessary support to the Concessionaire based on written request of the Concessionaire in this regard.

Appendix-7

SCOPE OF WORK

Project Specific Scope of Work includes:

I. Operation & Management of the Phase-1 of the 'Coastal Aquaculture Facilities' in 25 Acres (Approx.) of Land.

- Operating & Management of the Coastal Aquaculture Facilities created by NFDB as per the "Minimum Performance Obligations" prescribed.
- Operational flexibility will be provided to the 'Private Sector Entity' for Operating & Managing the facility within the prescribed framework.
- Financial Terms shall be finalized through this Request for Proposal (RFP).

II. Design, Build, Finance, Operate & Transfer (DBFOT) of the Phase-2 of the 'Coastal Aquaculture Facilities' in 32 Acres (Approx.) of Land

- Planning of Activities as per the Master Plan provided by the NFDB.
- Preparation & Submission of Development Plan for the approval of the NFDB.
- Designing, Financing, & Implementation of the 'Coastal Aquaculture Facilities' with latest Technological Interventions and as per the Govt. Regulations/Orders from time to time.
- Operation, maintenance and management of the overall 'Coastal Aquaculture Facilities' on Commercial Lines.
- There will not be any further investments by the NFDB for the implementation of Phase-2.

Scope also includes:

a) Planning and development of the Project
b) Design, Finance, Construct, Market, Operate & Maintain the Project to meet the Performance Standards, Specifications, Good Industry Practices as stipulated in the RFP including Concession Agreement
c) Technical and Financial Closure of the Project
d) Obtaining required clearances/approvals for commencing and implementing the Project from Government of Andhra Pradesh and/or Government of India, their agencies and any other authorities.
e) Procure, install and commission all machinery and equipment and complete construction of the works within the stipulated time frame
f) Award of Project contracts in respect of development of the site, sub-lease, license and other conveyance of the built-up area/units, engineering, procurement, construction, operation and maintenance of the Project and installation, erection, provision of the Project Facilities
g) Transfer of Project Assets/Project Facilities at the end of Concession Period or early Termination to Grantor as stipulated in the Concession Agreement.
h) Take all necessary measures and actions for safe and secure implementation of the Project during construction and operation.
i) Any other work, activity as required for successful implementation of the Project.

Appendix-8

Specified Capacities & Outputs from the 'Coastal Aquaculture Facilities' at Mulapolam

PHASE-1:

A. Nursery Complex (2 Blocks) (Being Constructed by NFDB)										
S. No.	Species	No. of Indoor Tanks – 18 T Capacity	No. of Outdoor Tanks – 37 T Capacity	Output of Fingerlings in Lakhs per year	Fingerlings to be supplied to NFDB - for Pond culture			Fingerlings to be supplied to NFDB -for Sea ranching		
					Estimated size	Cost per Piece in Rs.	Guaranteed Buy-back (No. in lakhs)	Estimated size	Cost per Piece in Rs.	Guaranteed Buy-back (No. in lakhs)
1	Pompano	6	6	15	6-8 cm	20.90	3	10-12 cm	33.25	1
2	Seabass	8	8	17	6-8 cm	32.30	6	10-12 cm	43.70	1
3	Cobia	2	2	2.5	8-10 cm	28.50	1	14-15 cm	42.75	0.5
4	Mud Crab	16	16	8.45	2-5 gm	20.90	3			

Grow-out Complexes (Block A & B)					
S. No.	Species	No of ponds with 1600 cc	Production of marketable size Fish (KG)	Estimated Size at harvest in Kg	Farm Gate Price of Marketable Fish per Kg in Rs.
1	Pompano	3	16800	0.5	300
2	Seabass	4	17920	1.0	400
3	Cobia	1	6400	2.5	300
4	Mud crab	8	6912	0.6	600

PHASE-2

A. Hatchery Complexes							
S. No	Species	Hatcheries capacity	Area required acres incl. Nursery	Estimated production of Fish Fry in Mns (@ 60 % survival)	Estimated size of fry	Cost of Fry per piece in Rs.	Fry to be supplied to NFDB (Guaranteed Buy-back) (No. in lakhs)
1	Multispecies Marine Fin Fish Hatchery Complexes -2 Nos						
a.	Silver/Indian Pompano	Total 10 Million for two hatcheries @ 5 Million per Hatchery. annum	10 Acres (5 acres per hatchery)	1 X 2 = 2 (20 Lakhs)	2.5-3 cm	5.70	5
b	Asian Sea bass			1 X 2 = 2 (20 Lakhs)	2.5-3 cm	12.35	6
c	Cobia			0.50 X 2 = 1.00 (10 Lakhs)	4-5 cm	14.25	2

d	Milk Fish			0.25 X 2 = 0.50 (5 Lakhs)	2-3 cm	5.70	2
e	Pearl Spot			0.25 X 2 = 0.50 (5 Lakhs)	2-3 cm	7.60	2
2	**Mud crab Hatchery Complex-1 No**	5 million crab instars per annum	5 Acres	3 million (30 Lakhs)	0.5-0.8 cm	8.55	11
3	**GI Scampi Hatchery -1 No**	100 million PLs per annum	5 Acres	60 million PLs per annum (600 Lakhs)	0.008 - 0.01 gm	0.93	200

B Nursery Complexes

S. No.	Species	No. of Indoor Tanks – 18T capacity	No. of outdoor Tanks – 37 T capacity	Fingerlings produced in Lakhs per year	Fingerlings to be supplied to NFDB - for Pond culture			Fingerlings to be supplied to NFDB -for Sea ranching		
					Estimated size	Cost per Piece in Rs.	Guaranteed Buy-back (No. in lakhs)	Estimated size	Cost per Piece in Rs.	Guaranteed Buy-back (No. in lakhs)
1	Silver Pompano/ Indian Pompano	10	10	25	6-8 cm	20.90	2	10 -12 cm	33.25	1.0
2	Asian Sea bass	10	10	22	6-8 cm	32.30	3.5	10 -12 cm	43.70	1.0
3	Cobia	4	4	5	8-10 cm	28.50	1	14- 15 cm	42.75	0.5
4	Milk Fish	4	4	4	6-8 cm	12.35	1	8- 10 cm	14.25	0.5
5	Pearl Spot	4	4	8.50	5-6- cm	11.40	1	8- 10 cm	17.10	0.5
6	Mud crab	16	16	8.50	2-5 gm	20.90	3			
7	GI Scampi	16	16	50	5-6 gm	6.65	30			
8	SPF Polychaete (Rupees per kg)			1500- kgs per annum in 2 cycles		4275 per kg	200 kg			

A. Polychaetes (SPF)

Species	Area Required	Target Production per Year	Cost of Polychaetes (SPF) Per Kg in Rs.
Production and Supply of Specific Pathogen Free Polychaete Worms – *Marphysa gravelyi* and *Alitta Virens* (formerly *Nereis Virens*)	320 Sq.Mt.	1500 Kgs.	4500

Note on Quality Standards:

(i) The Quality of the Seed - the Fish Larvae (Fry/Fingerlings) should be healthy, actively swimming, without any deformities, external injuries, parasites and disease free.

(ii) The Scampi Post Larvae (PLs) shall be healthy, actively swimming and should pass the stress test and negative for all OIE listed diseases.

(iii) Polychaetes shall be pathogen free.

(iv) The quality of all the seed/ fry/PLs/fingerlings produced and sold from the project shall

- *comply with Quality standards with regard to health (Disease free and active and healthy) survival, feeding (weaned to artificial feed), growth, etc. and*
- *follow all the existing Good Management Practices (GMPs)/ Best Management Practices (BMPs) as per the State/National/ international standards and*
- *be certified duly following the traceability norms.*

(v) All establishments Hatcheries, Nurseries and Grow out ponds shall be maintained as per CAA standards and the State/National/ International standards stipulated from time to time

(vi) The sizes of seed (fry/PLs/Fingerlings etc.) have to be complied with strictly. If the size is lower than the prescribed sizes no amount shall be paid and if the sizes are more than prescribed sizes, no extra price shall be paid (As per the condition in Pangasius RFP)

Note on Output Specifications:

(i) 'Targeted Output' of each of the Planned Facility (Hatchery, Nursery Complexes etc.) are clearly specified in terms of 'Species' and 'Quantities'.

(ii) The NFDB will 'Market' the 'Produce' to various Agencies including Private Farmers and State Agencies at a Suitable Price with a mark-up..

(iii) Flexibility is allowed on year wise targets of species and quantities produced, reared and supplied to NFDB based on the demand. However, the specified quantities shall be achieved in total during the initial 6 years i.e., the year wise targets specified in the RFP document can be swapped based on the demand, provided overall target specified shall be met during the initial 6 years.

(iv) Any shortfall in the supply of Cumulative Benchmarked Output in the initial period of Six (6) Years including the Construction Period, would entail a Penalty @ 50% of the shortfall as per the 'Price Bid'. For avoidance of doubt, Penalty payable shall be 50% of the quantity of shortfall in each category x quoted price for that category.

(v) In case of excess requirement, NFDB shall have first right to 'Buy-back' and NFDB may permit the Concessionaire to sell directly to the open market.

'

Appendix – 9

ANNUAL LEASE AMOUNT

(To be provided at the time of signing the Concession Agreement)

(in Rs. Lakhs)

License Years	Annual Lease Amount	Quarterly Lease Amount Payable	Advance Lease Amount
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
Additional Period (as applicable)			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			

Appendix-10

LIST OF APPLICABLE PERMITS

The lists of applicable permits include (but not limited to):

1. Consent to establish and operation under Water Act, 1974 and Air Act, 1981
2. Environmental Clearances
3. Clearances from Factories and Labour Departments.
4. Registration under Sales Tax Act, 1976
5. Allotment of power by APSPDCL
6. All Trade Licenses as applicable.
7. Approval/permit from Fire Safety Authorities
8. Building Layout and other permissions required from Local Body / any other Statutory regulatory bodies
9. Occupancy Certificate/ any other certificate issued by concerned authority permitting commercial operations in the facility
10. Immigration clearance (in case of foreign personnel being engaged)
11. All other relevant statutory approvals/permits for construction, Operation and Management of Project Facilities.

Appendix-11

'TOR' FOR INDEPENDENT ENGINEER /CONSULTANT

1.0 The Grantor, at his discretion, shall hire the services of a consulting engineering firm/company of engineers having the requisite experience in similar projects through a competitive bidding process to be the independent consultant under this Agreement (the **"Independent Engineer/Consultant"**). Such appointment shall be made no later than three months from the date hereof and shall continue for a period until issuance of Completion Certificate.

2.0 In the event the Concessionaire has reason to believe that the Independent Engineer/ Consultant is not discharging its duties and functions in a fair, efficient or diligent manner, it may make a written representation to the Grantor, supported with necessary documents and specific instances of causes and grievances and seek termination of the appointment of such consultant. Within 7 (seven) working days of the date of such representation, the Grantor shall hold a tripartite meeting with the Concessionaire and such consultant for resolving the matter amicably and giving a fair hearing to such consultant. In the event the matter is not amicably resolved within 7 (seven) days of such meeting, the appointment of the Independent Engineer/Consultant shall be forthwith terminated; provided that prior to such termination the Grantor shall have appointed another Independent Engineer/ Consultant to replace the existing one.

3.0 The replacement of the Independent Engineer/Consultant shall be affected so as to maintain the continuity in supervision and monitoring of construction of the Project by it.

4.0 Scope of Work

The Scope of Work for the Independent Engineer/Consultant shall include: -

(i) Review of the Designs and Drawings submitted by the Concessionaire to ensure that they are in accordance with the development proposal submitted by the Concessionaire in this DPR.

(ii) Certification that the Designs and Drawings indicate that the works are suitable for their intended purpose. The Independent Engineer/Consultant shall advise on the Designs and Drawings to the Grantor and the Concessionaire within period stipulated in the Agreement.

(iii) Independently review, monitor and where required by the Agreement, to consent activities associated with the design, construction, operation and maintenance of the Project facilities to ensure compliance by the Concessionaire with the Concession Agreement and the DPR.

(iv) Consent for the DPR and report to the Grantor, objections or corrections required in order to implement the project as per the provisions of the Concession Agreement and Good Industry Practices.

(v) Ensuring that the provisions of the Designs and Drawings and the DPR do not adversely obstruct any development plans of the Grantor, as and if provided by the Grantor at the time of consent for the Designs and Drawings and the DPR.

(vi) Upon request of the Concessionaire on completion of construction of various phases as set out in the Concession Agreement, carry out inspections to ensure that a part of the Project Facility has been constructed as per the provisions of the Concession Agreement and the DPR and issue the Completion Certificate to the Concessionaire as approved by the Grantor.

(vii) In addition to above, the scope of services would also include such other functions as are required to be undertaken pursuant to specific provisions of the Concession Agreement.

(viii) In case the Concessionaire proposes any i) deviation to the Drawings or ii) submits any Drawings required but not included in the DPR, the Independent Engineer/Consultant shall review the same to ensure conformity with the Project / Design Requirements.

(ix) Review the following submitted by the Concessionaire on behalf of the Grantor:

1. Project Concept and Components, Capacity & Area Statement
2. Environmental Management Plan (if any)
3. Project Implementation Plan

5.0 During the Construction Phase, the Independent Engineer/Consultant would monitor, in accordance with Good Industry Practice, the progress in implementation and ensure compliance with the construction requirements. For this purpose, the Independent Engineer/Consultant shall undertake, inter-alia, the following activities and where appropriate make suitable suggestions:

(i) monitor the progress in implementation of the project based on the Implementation and Investment Plan submitted by the Concessionaire, review and consent designs and drawings with the consent of the Grantor for various works related to the project.

(ii) review and monitor the quality assurance and quality control procedures followed by the Concessionaire.

(iii) review the manpower and equipment deployed by the Concessionaire.

(iv) Monitor the Construction works for conformity with the DPR.

6.0 Meetings, Records and Reporting

a) The Independent Engineer/Consultant would be required to participate in the project review meetings held from time to time by the Parties, as also to participate in emergency or extraordinary meetings of the Parties held to deal with any emergency, Force Majeure event or other exigencies.

b) The Independent Engineer/Consultant shall, in the ordinary course, maintain record of the activities undertaken by it in discharge of its functions and responsibilities and submit periodic reports to the Grantor.

c) The Independent Engineer/Consultant shall share all the information, data and records collected by it and/or available with it in relation to the discharge of its functions and responsibilities, with an authorised person designated by the Grantor in this regard.

d) The Independent Engineer/Consultant shall convey to the Grantor and the Concessionaire the justifications in writing for its decisions in the course of discharging its functions and responsibilities.

7.0 Review and monitor the Equipment Procurement Plan, the Equipment Replacement Plan, Waste Management and Safety Plan.

8.0 Review of procurement procedure by EPC contractors and equipment suppliers. Review and monitor the transfer of assets and scope of transfer.

9.0 Any other activity as mentioned in the Concession Agreement and as required

Appendix-12

VESTING CERTIFICATE

The divestment of all rights and interest in the Project "**Development of Integrated Coastal Aquaculture Facilities at Mulapolam Village, Srikakulam District, Andhra Pradesh on PPP Mode**" shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Expert shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Section 14.6 (the "Vesting Certificate"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights and interest in the Project, and their vesting in the Grantor pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Grantor or its nominee on or in respect of the Project on the footing that all Divestment Requirements have been complied with by the Concessionaire.

Appendix-13

GUIDELINES FOR THE COMPUTATION OF DEPRECIATED HISTORICAL COST

1. The Depreciated Historical Cost ("**DHC**"), wherever applicable, shall be computed based on the following norms:

The depreciation shall be calculated on straight-line basis. The depreciation rates shall be in accordance with the provisions of the Companies Act 1956, as may be amended from time to time

2. The date of existence of asset for the computation of the depreciated value shall be the date on which it was scheduled to be completed in all respects or the date on which it becomes capable of being put to or used for commercial operation, whichever is earlier. In respect of replacement assets, the assets shall be deemed to have come into existence when the same is capable of being put to or used for commercial operation as the replacement asset or the date when it was actually put to use, whichever is earlier.

3. Wherever Book Value or Depreciated Historical Cost is applicable, the original cost of such assets and those which have come in as replacement assets shall be that cost, established by the Concessionaire, to the satisfaction of the Grantor, with Chartered Accountant's, Public Accountant's and valuer's certificates and duly supported by bills and other documents of manufacturers/suppliers/ civil works contractors, at the time of installation of the new assets or replacement of the assets as the case may be.

Appendix-14

Format for

BANK GUARANTEE TOWARDS PERFORMANCE SECURITY

(On requisite Stamp Paper)

In consideration of the National Fisheries Development Board (hereinafter called "the NFDB") having agreed to exempt _____ (hereinafter called "the Concessionaire") from the demand, under the terms and conditions of Letter of Award (LOA) issued in respect of the "Development of Integrated Coastal Aquaculture Facilities at Mulapolam Village, Srikakulam District, Andhra Pradesh on PPP Mode" project on 99.185 acres of land, and subsequent Concession Agreement being signed between Concessionaire and NFDB for performance of the Agreement to be made (hereinafter called "the said Agreement"), for the due fulfillment by the said Concessionaire of the terms and conditions contained in the said Agreement, on production of a Bank Guarantee for Rs. _____ (Rupees _____Only).

We, _____ (hereinafter referred (indicate the name of the bank) to as "the Bank" at the request of Concessionaire do hereby undertake to pay to the NFDB an amount not exceeding Rs. _____ against any non-fulfillment of the obligations of the Agreement or loss or damage caused to or suffered or would be caused to or suffered by the NFDB by reason of any breach of any terms and conditions contained in the said Agreement by the said Concessionaire of any of the terms or conditions contained in the said Agreement.

We _____ (indicate the name of the bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, hereby on a demand from the NFDB stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the NFDB by reason of breach of any terms and conditions contained in the said Agreement by the said Concessionaire or by reason of the Concessionaire failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the 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. _____ .

We undertake to pay to the NFDB any money so demanded not withstanding any dispute or disputes raised by the Concessionaire in any suit or proceeding pending before any court or Tribunal relating thereto our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment hereunder and the Concessionaire shall have no claim against us for making such payment.

We,_____(indicate the name of bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the NFDB under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the concerned officer of the NFDB certifies that the terms and conditions of the said Agreement have been fully and properly fulfilled/carried out by the

said Concessionaire and accordingly discharges this guarantee. Unless a demand or claim under this guarantee is made on us in writing on or before _____ (indicate the date- from the date of signing Agreement), we shall be discharged from all liability under this guarantee thereafter.

We, _____(indicate the name of bank) further agree with the NFDB that the NFDB shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Concessionaire from time to time or to postpone for any time or from time to time any of the powers exercisable by the NFDB against the said Concessionaire and to bear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Concessionaire or for any forbearance, act or omission on the part of the NFDB or any indulgence by the NFDB to the said Concessionaire or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

This Guarantee will not be discharged due to the change in the constitution of the Bank or the Concessionaire.

We, _____ (indicate the name of bank) undertake not to revoke this guarantee during its currency except with the previous consent of the NFDB in writing.

The Guarantor agrees absolutely, irrevocably and unconditionally guarantees and undertakes to pay to NFDB a sum of Rs. _____ without any protest or demur and upon receipt of first written demand from NFDB. This Guarantee is independent of the terms and conditions of the Concession Agreement and its validity.

Dated the _____day of _____ (Month & Year) for _____(indicate the name of the Bank).

IN WITNESS WHEREOF the Guarantor has executed this Guarantee on this ____ day of _____and year first herein above written.

Signed and delivered by the above named _____Bank by its Authorized Signatory as authorized by
Board Resolution passed on _____/Power of Attorney dated [……]

_____
Authorized Signatory
Name :
Designation:

In the presence of:
1.

Appendix-15

FORMAT FOR ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the …….. day of …….. 20……

AMONGST

1 …….. Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at …….. (hereinafter referred to as the "**Concessionaire**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);

2 …….. (name and particulars of Lenders' Representative) and having its registered office at …….. acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);

3 …….. (name and particulars of the Escrow Bank) and having its registered office at …….. (hereinafter referred to as the "**Escrow Bank**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and

4 **National Fisheries Development Board (NFDB),** having its Office at Pillar No: 235, PVNR Expressway, SVPNPA Post, Hyderabad – 500 052, Telangana State (hereinafter referred to as the "**Authority/Grantor**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) The Authority/Grantor has entered into a Concession Agreement dated …….. with the Concessionaire (the **"Concession Agreement"**) for Development of 'Integrated Coastal Aquaculture Facilities' at Mulapolam Village, Srikakulam District, Andhra Pradesh on PPP Basis and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) The Concession Agreement requires the Concessionaire to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

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

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

"**Agreement**" means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

"**Concession Agreement**" means the Concession Agreement referred to in Recital (A) above and annexed hereto as Annex-A, and shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Concessionaire, and shall commence from the date on which a notice is delivered by the Authority/Grantor or the Lenders' Representative, as the case may be, to the Concessionaire asking the latter to cure the breach or default specified in such notice;

"**Escrow Account**" means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

"**Escrow Default**" shall have the meaning ascribed thereto in Clause 6.1 of this Escrow Agreement;

"**Lenders' Representative**" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"**Parties**" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

"**Payment Date**" means, in relation to any payment specified in Clause 4.1 of this Escrow Agreement, the date(s) specified for such payment; and

"**Sub-Accounts**" means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 of this Escrow Agreement would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out therefrom on the Payment Date(s).

1.2 Interpretation

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.3 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Authority/Grantor, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority/Grantor, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Authority, the Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third-party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Senior Lenders or the Authority/Grantor with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow

Bank shall act in trust for the benefit of, and as agent for, the Authority/Grantor, the Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Concessionaire shall open and establish the Escrow Account with the **** (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's Fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1 of this Escrow Agreement.

2.5 Rights of the Parties

The rights of the Authority/Grantor, the Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Authority/Grantor, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company shall accordingly be deemed to have succeeded to

the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Nominated Company.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

3.1.1 The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

(a) all monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Authority/Grantor;

(b) all funds received by the Concessionaire from its share-holders, in any manner or form;

(c) all sale proceeds and incomes received by the Concessionaire;

(d) any other revenues, rentals, deposits or capital receipts, as the case may be, from or in respect of the Project; and

(e) all proceeds received pursuant to any insurance claims.

3.1.2 The Concessionaire may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2 Deposits by the Authority/Grantor

The Authority/Grantor agrees and undertakes that, as and when due and payable, it shall deposit into and/or credit the Escrow Account with:

(a) Grant and any other monies disbursed by the Authority/Grantor to the Concessionaire;

(b) Termination Payments:

Provided that, notwithstanding the provisions of Clause 4.1.1 of this Escrow Agreement, the Authority/Grantor shall be entitled to appropriate from the aforesaid amounts, any Concession Fee due and payable to it by the Concessionaire, and the balance remaining shall be deposited into the Escrow Account.

3.3 Deposits by Senior Lenders

The Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; provided that notwithstanding anything

to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

3.4 Interest on Deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; provided that the Escrow Bank shall be entitled to appropriate therefrom the fee and expenses due to it from the Concessionaire in relation to the Escrow Account and credit the balance remaining to the Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

(a) all taxes due and payable by the Concessionaire for and in respect of the Project;

(b) all payments with respect to the 'Annual Lease Amount' and the 'Royalty' in terms of the Concession Agreement;

(c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

(d) O&M Expenses incurred by the Authority/Grantor, provided it certifies to the Escrow Bank that it had incurred such expenses in accordance with the provisions of the Concession Agreement and that the amounts claimed are due to it from the Concessionaire;

(e) all payments and Damages certified by the Authority/Grantor as due and payable to it by the Concessionaire pursuant to the Concession Agreement, including repayment of Revenue Shortfall Loan;

(f) monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;

(j) any reserve requirements set forth in the Financing Agreements; and

(k) balance, if any, in accordance with the instructions of the Concessionaire.

4.1.2 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

Upon Termination of the Concession Agreement, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, be appropriated and dealt with in the following order:

(a) all taxes due and payable by the Concessionaire for and in respect of the Project;

(b) outstanding Royalty and Lease Amount;

(c) all payments and Damages certified by the Authority/Grantor as due and payable to it by the Concessionaire pursuant to the Concession Agreement and any claims in connection with or arising out of Termination;

(d) outstanding Debt Service including the balance of Debt Due;

(e) incurred or accrued O&M Expenses;

(j) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that the disbursements specified in Sub-clause (j) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Authority/Grantor.

4.3 Application of Insufficient Funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2 above, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of Insurance Proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilised for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project Highway, and the balance

remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

4.5 Withdrawals During Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Authority/Grantor may exercise all or any of the rights of the Concessionaire during the period of Suspension. Any instructions given by the Authority/Grantor to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Authority/Grantor hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

5 OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of Funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of Balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3 Communications and Notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

(a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;

(b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;

(c) shall, within 5 (five) business days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Concessionaire or any other person hereunder or in connection herewith; and

(d) shall, within 5 (five) business days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Lenders' Representative in connection herewith.

5.4 No Set Off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory Approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Authority/Grantor or the Lenders' Representative:

(a) the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;

(b) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or

(c) the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to the Authority/Grantor remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty-five) days prior notice to the Escrow Bank, the Authority/Grantor and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Agreements including the payments specified in Clause 4.2 of this Escrow Agreement, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary Escrow Agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this

Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

9.1.1 The Concessionaire will indemnify, defend and hold the Authority/Grantor, Escrow Bank and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

9.1.2 The Authority/Grantor will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority/Grantor to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Authority/Grantor, its officers, servants and agents.

9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and Contest of Claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 above or in respect of which it is entitled to reimbursement (the **"Indemnified Party"**), it shall notify the other Party responsible for indemnifying such claim hereunder (the **"Indemnifying Party"**) within 15 (fifteen) days of receipt of the claim 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, it may conduct the proceedings in the name of the Indemnified Party

and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10 DISPUTE RESOLUTION

10.1 Dispute Resolution

10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.

10.1.2 The Arbitrators shall issue a reason award and such award shall be final and binding on the Parties. The venue of arbitration shall be Hyderabad and the language of the arbitration shall be English.

11. MISCELLANEOUS PROVISIONS

11.1 Governing Law and Jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at Telangana shall have jurisdiction over all matters arising out of or relating to this Agreement.

11.2 Waiver of Sovereign Immunity

The Authority/Grantor 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 Authority/Grantor 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).

11.3 Priority of Agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

11.4 Alteration of Terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

11.5 Waiver

11.5.1 Waiver by any Party of a default by another 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 authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

11.5.2 Neither the failure by any 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 any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6 No Third-Party Beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

11.7 Survival

11.7.1 Termination of this Agreement:

(a) shall not relieve the Parties 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, shall 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.

11.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8 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 dispute resolution under Clause 10.1 of this Agreement or otherwise.

11.9 Successors and Assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

11.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof

personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

11.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

11.12 Authorised Representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

11.13 Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the …… day of …… 20…… hereunto affixed in the presence of ……., Director, who has signed these presents in token thereof and ……., Company Secretary / Authorised Officer who has countersigned the same in token thereof in the presence of[$]:

SIGNED, SEALED AND DELIVERED
For and on behalf of
SENIOR LENDERS by the
Lenders' Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of ESCROW BANK by:	For and on behalf of THE AUTHORITY/GRANTOR by:
(Signature)	
(Name) (Designation) (Address) (Fax No.) (e-mail address)	(Name) (Designation) (Address) (Fax No.) (e-mail address)

In the presence of:

1. 2.

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SPECIAL CONDITIONS OF CONTRACT (SCC)

1. INSURANCE

Section 1.1 Insurance Cover

The Concessionaire shall maintain or cause to be maintained, at its own expense, insurance policies as are customarily and ordinarily available in India on commercially reasonable terms and reasonably required to be maintained, consistent with similar facilities of the size and type of the Project and as may be required by the Lenders.

(a) Construction Period

The Concessionaire shall, at its cost and expense, purchase and maintain during the Construction Period such insurances as are necessary, including but not limited to the following: -

(i) Construction/builders'/contractors' all risk insurance;

(ii) Erection all risk policy

(iii) Comprehensive third-party liability insurance including injury or death to personnel of the Grantor / Authority and others who may enter the Project Site;

(iv) Workmen's compensation insurance;

(v) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (i) to (iv).

(b) Operations Period

The Concessionaire shall, at its cost and expense, purchase and maintain during the Operations Period insurance to cover against Project Facilities/ Project Assets for:

(i) loss, damage or destruction of the Project/ Project Assets at replacement value or full market value (including fire, burglary, standard and special peril);

(ii) the Concessionaire's general liability arising out of the Concession.

(iii) liability to third parties; and

(iv) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable and not otherwise covered in items (i) to (iii).

Section 1.2 Evidence of Insurance

The Concessionaire shall, from time to time, furnish to the Grantor / Authority copies of all insurance policies in respect of the Insurance Cover (or appropriate endorsements, certification

of other satisfactory evidence of insurance) as soon as reasonably practical after they are received by the Concessionaire and furnish evidence to the Grantor / Authority that all premiums have been paid and that the relevant policies remain in force, valid and existence. In the event the Concessionaire does not maintain any Insurance Cover pursuant hereto, the Grantor / Authority may, at its option, effect such insurance and the Concessionaire shall reimburse all the costs and expenses incurred in this behalf by the Grantor / Authority within 15 (Fifteen) Days of receipt of the Grantor / Authority's claim in respect thereof. In case the Concessionaire fails to reimburse such expense, this shall become the Concessionaire's Event of Default and shall be treated as per the provisions laid down under Article 11 of the Concession Agreement.

Section 1.3 Application of Insurance Proceeds

Subject to the provisions of the Financing Documents and unless otherwise provided herein, the proceeds from all insurance claims, except for life and injury, shall be promptly credited the amount to the Escrow Account, in accordance with the terms hereof and thereof, the Concessionaire shall apply such proceeds for the repair, renovation, restoration or re-instatement of the Project or any part thereof, which may have been damaged or destroyed and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Documents

Section 1.4 Distribution of Insurance Proceeds Upon Termination

Whenever this Agreement is terminated following a Force Majeure Event and insurance proceeds are available in connection with the insurance policies to which the Concessionaire is entitled or should be entitled pursuant to this Agreement with respect to the Project, such proceeds shall, if not used to effect a restoration or to make repairs to the Project, be distributed first, (a) payment of dues, if any, to the Grantor / Authority; and (b) for the payment towards indebtedness (actual or contingent) owing to the Lenders; (c) the residual amount, if any, to the Concessionaire.

Section 1.5 Validity of the Insurance Cover

The Concessionaire shall pay the premium payable on such insurance policy(ies) so as to keep the policy(ies) in force and valid throughout the Concession Period and furnish certified true copies of the same to the Grantor / Authority. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 days' clear notice of cancellation is provided to Grantor / Authority in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, the Grantor / Authority may at its option purchase and maintain such insurance and all sums incurred by the Grantor / Authority therefore shall be reimbursed by the Concessionaire forthwith on demand, failing which the same shall be recovered by the Grantor / Authority by exercising right of set off or otherwise.

2. REPRESENTATIONS AND WARRANTIES

2.1 Mutual Representations and Warranties

Each Party represents and warrants to the other Party that:

(a) it is duly organized, validly existing and in good standing under the laws of India;
(b) it has full power and authority to execute, deliver and perform its obligations under this Agreement;
(c) it has taken all necessary actions to authorise the execution, delivery and performance of this Agreement and to carry out the transactions contemplated hereby;
(d) this Agreement constitutes its legal, valid and binding obligation, fully enforceable against it in accordance with the terms hereof;
(e) it has the financial standing and capacity to undertake the Project;
(f) it shall have an obligation to disclose to the other Party as and when any of its representations and warranties ceases to be true and valid.

2.2 Further Representations and Warranties of Concessionaire

In addition, the Concessionaire represents and warrants to the Grantor / Authority that:

a. The execution, delivery and performance of this Agreement and all instruments or agreements required hereunder do not conflict with, contravene, violate, result in the breach of, constitute a default under or accelerate performance of any agreement or instrument to which the Concessionaire is a party, including without limitation, its articles and memorandum of association or by which it is or may be bound or any Applicable Laws or any covenant, agreement, understanding, decree or order, injunction, award to which it is a party or by which it or any of its properties or assets is bound or affected;

b. There are no actions, suits, proceedings, or investigations pending or, to the Concessionaire's 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 or constitute a default of the Concessionaire under this Agreement or which individually or in the aggregate may result in any Essential Material Adverse Effect;

c. 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 Authority or any other pending or potential matters which may result in any Material Adverse Effect or impairment of the Concessionaire's ability to perform its obligations and duties under this Agreement;

d. It has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities, which individually or in the aggregate have or may have Material Adverse Effect;

e. No representation or warranty by the Preferred Bidder /Concessionaire contained herein or in any other document furnished by it to the Grantor / Authority or to any Government Authority in relation to Applicable Permits or otherwise contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

f. Preferred Bidder was and is duly organised and existing under the laws of the jurisdiction of its incorporation and has full power and authority to consent to and has consented to the Concessionaire entering into this Agreement and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

g. Provided that whenever any pending or potential matter, including the matters listed in the sub-sections above, comes to the knowledge of the Preferred Bidder /Concessionaire , during the Concession Period, the outcome of which may result in the breach of or constitute a default of the Concessionaire under this Agreement or which individually or in the aggregate may result in any Material Adverse Effect or impairment of the Concessionaire's ability to perform its obligations and duties under this Agreement, the Concessionaire shall immediately intimate the same to the Grantor / Authority;

h. In submitting its Proposal, the Preferred Bidder/Concessionaire has complied with all the Applicable Laws and it is and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal proceedings or liabilities which individually or in the aggregate have or may have Material Adverse Effect on its financial condition or its ability to implement the Project.

i. All rights and interests of the Concessionaire in the Project, the Project Facilities and Project Assets shall pass to and vest in the Grantor / Authority or its nominated agency on the Transfer Date free and clear of all liens, claims, and Encumbrances, without any further act or deed on the part of the Preferred Bidder/Concessionaire or the Grantor / Authority and that none of Project Assets including materials, supplies or equipment forming part thereof shall be acquired by the Concessionaire subject to any agreement under which a Security Interest or other lien or encumbrance is retained by any person save and except as expressly provided in this Agreement; and

j. No sums, in cash or kind, have been paid or will be paid by or on behalf of the Preferred Bidder /Concessionaire to any person by way of commission or otherwise for securing the Concession execution of this Agreement or for influencing or attempting to influence any officer or employee of the Grantor / Authority.

2.3 Waiver of Sovereign Immunity

Each Party hereto unconditionally and irrevocably:

a. agrees that the execution, delivery and performance by it of this Agreement and all other agreements, contracts, documents and writings relating to this Agreement constitute private and commercial acts and not public or governmental acts and that it is subject to the civil and commercial laws of India with respect to this Agreement;

b. agrees that any proceedings be brought against it or its assets, other than the assets protected by the diplomatic and consular privileges under the Foreign Sovereign Immunities Act or / any analogous legislation ("Exempted Assets") in any jurisdiction, in relation to this Agreement or any transaction contemplated by this Agreement, no immunity, sovereign or otherwise from such proceedings, execution, attachment or other legal process shall be claimed by or on behalf of itself or with respect to any of its assets (other than the Exempted Assets);

c. consents generally in respect of the enforcement of any judgment against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings including without limitation the making, enforcement or execution against or in respect of any property irrespective of its use subject to (b) above.

2.4 Disclaimer

(a) Without prejudice to any express provision contained in this Agreement, the Preferred Bidder/Concessionaire acknowledges that prior to the execution of this Agreement, the Preferred Bidder/Concessionaire has after a complete and careful examination made an independent evaluation of the Project, the legal and contractual framework, the Applicable Laws and Applicable Permits and the technical and financial aspects of the Project, the Specifications and Standards, the Project Site and the suitability of its condition, soil and location for implementation of the Project, the availability of goods, materials and things needed for implementing Project, all the information and documents provided by the Grantor / Authority, its consultants or any Government Authority, the market and demand conditions, information relating to users and the cost, risks, consequences and liabilities involved in implementing the Project, and has determined to the Preferred Bidder's/Concessionaire's complete satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder. It has also carried out a title search, including without limitation the title, ownership, possession, land acquisition etc. in respect of the Project Site.

(b) The Preferred Bidder /Concessionaire further acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in sub-clause (a) above and hereby confirms that the Grantor / Authority, its consultants or any Government Authority shall not be liable for the same in any manner whatsoever to the Preferred Bidder/ Concessionaire or Persons claiming through or under the Preferred Bidder/Concessionaire.

(c) The Preferred Bidder /Concessionaire accepts that it is solely responsible for the verification of any design, data, design, documents or information provided to the Concessionaire by the Grantor / Authority, its consultants or any Government Authority and that it shall accept and act thereon at its own cost and risk.

(d) The Preferred Bidder /Concessionaire shall be solely responsible for the contents of its Proposal, adequacy and correctness of the Design and Drawing, data and detailed engineering prepared or procured by the Concessionaire for implementing the Project.

(e) The Preferred Bidder /Concessionaire is entering into this Agreement on the basis of its satisfaction based on the due diligence audit undertaken by it.