



SAMBALPUR DEVELOPMENT AUTHORITY

SMC & SDA OFFICE BUILDING, DURGAPALI, SAMBALPUR- 768006 Email -secretarysdasbp@gmail.com

No: 1835 Date: 25/09/2024.

Notice Inviting Tender/RFP for Selection of Master Licensee for licensing of space for Office/Commercial purpose on "as-is-where-is-basis" at Kirba, Burla, Sambalpur.

The Vice-Chairman, Sambalpur Development Authority, Sambalpur invites sealed notice inviting tender/RFP for renting out the entire Commercial Space at Kirba, Burla, Sambalpur on "as-is-where-basis" exclusively for office/commercial purposes. The available space is approximately 39,000.00 Sq. ft of carpet area which shall be rented for a license period of 15 years consisting of B+G+3 storied with open parking area adjacent to the premises. Details of the available space is as mentioned below:-

Detail of location	Area in Sq. ft. (Approx.)	Upset price per sq. ft. (in Rs.)	Bid Security (in Rs.)
Kirba Core Housing Scheme Area, Burla near VSSUT, Sambalpur	39,000.00	30	36,00,000.00

Interested parties may apply in the following proforma through registered post/ speed post only to the Secretary, SDA, SMC & SDA office building, Durgapali, Sambalpur-768006, superscribing the envelope in bold letter "Application for renting out available space for office/commercial purpose at Kirba, Burla, Sambalpur, the commercial complex (Mall) on as is where is basis" along with demand draft / Bankers Cheque drawn in favour of "Secretary, Sambalpur Development Authority" in the name of SDA KIRBA COMMERCIAL COMPLEX BURLA, A/c No. 50100757562806, IFSC CODE- HDFC000534, BRANCH NAME- HDFC BANK LTD, KHETRAJPUR, SAMBALPUR towards non-refundable processing fee of Rs.11,800/- and bid security of Rs.36,00,000/- (Rupees thirty six lakhs) only on or before dt.30.10.2024 by 5.00 P.M. The bid will be opened on dt.01.11.2024 at 4.00 P.M. in the conference Hall of Sambalpur Development Authority in presence of the bidders or their authorized representatives.

Sambalpur Development Authority reserves right accept or reject any application and to annual the section process at any time, without incurring any liability and without assigning any reason thereof. For an assistance with respect to site inspection and other details, Junior Engineer, SDA may be contacted (9439884853) during office hours.

The tender paper and terms and conditions for selection of Master Licensee for Office/Commercial purpose space, will only be made available in SDA web site www.sdasambalpur.com from dt.03.10.2024. The last date of receipt of the sealed bid is on dt.30.10.2024.


Vice-Chairman,
Sambalpur Development Authority,
Sambalpur



Memo No. 1836 /SDA, dated. 25/09/2024

Copy to Computer Asst., SDA for information and he/She is directed to upload the Notice Inviting Tender/RFP for Selection of Master Licensee for Office/Commercial purpose space on "as-is-where-is-basis" at Core Housing Scheme Area, Kirba, Burla, Sambalpur to rent out on lease hold basis in the SDA website i.e. www.sdasambalpur.com & SMC website i.e. www.smcsambalpur.nic.in with immediate effect.



Vice-Chairman,
Sambalpur Development Authority,
✓ Sambalpur

Memo No. 1837 /SDA, dated 25/09/2024

Copy to D.I.O, N.I.C., Sambalpur for display in the Sambalpur District website i.e. www.sambalpur.nic.in from dt.03.10.2024.



Vice-Chairman,
Sambalpur Development Authority,
✓ Sambalpur

Memo No. 1838 /SDA, dated. 25/09/2024

Copy to the Deputy Secretary to Govt., I & PR Deptt., Govt of Odisha, Bhubaneswar for information and necessary action with a request to publish this Notice Inviting Tender/RFP in all Odisha and South combined edition on or before dt.03.10.2024 and submit the bill in duplicate with two copies of the News paper for payment.



Vice-Chairman,
Sambalpur Development Authority,
✓ Sambalpur.

Memo No. 1839 /SDA, dated. 25/09/2024

Copy to the Accountant, SDA, Sambalpur/ Notice Board for information and necessary action.



Vice-Chairman,
Sambalpur Development Authority,
✓ Sambalpur

RFP No.-01 Date: 03/10/2024



**NOTICE INVITING TENDER FOR
SELECTION OF MASTER LICENSEE
FOR
COMMERCIAL SPACE AT
KIRBA, BURLA
(On "as-is-where-is-basis")**



Sambalpur Development Authority

SDA & SMC Office Building, Durgapali

Sambalpur- 768006

Website: <https://www.sdasambalpur.com>

Val
Sambalpur Development Authority



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DISCLAIMER

- I. This Tender Document contains information about the Commercial Space, Qualification Requirements, and the Selection process for the successful Bidder. The purpose of the Tender document is to provide Bidders with information to assist the formulation of their bid application (the 'Bid').
- II. The information ('Information') contained in this Tender Document or subsequently provided to interested parties (the 'Bidder(s)'), in writing by or on behalf of Sambalpur Development Authority (SDA) is provided to Bidder(s) on the terms and conditions set out in the Tender Documents and any other terms and conditions subject to which such information is provided.
- III. This Tender Document does not purport to contain all the information that each Bidder may require. This Tender Document has been prepared with a view to providing relevant information about the Commercial Space at KIRBA, Burla, Sambalpur available with SDA. SDA advises each Bidder to conduct its own investigations and analysis and satisfy itself of the accuracy, reliability, and completeness of the information in this Tender Document and to obtain independent advice from appropriate sources. SDA, its employees, and advisors make no representation or warranty and shall not be liable in any manner whatsoever to the accuracy; reliability or completeness of the information provided in this Tender Document.
- IV. Intimation of discrepancies in the Tender Document, if any, may be given by the Bidders, to the office of the SDA immediately and not later than the date of Pre-Bid Meeting. If SDA receives no written communication, it shall be deemed that the Bidders are satisfied and have self-verified the information provided in the Tender document.
- V. Any character or requirement for the Commercial Space at KIRBA, Burla, Sambalpur, which may be deemed to be necessary by the Bidder should be independently established and verified by the Bidder by way of its own due diligence.
- VI. This Tender Document is not an agreement, offer or invitation by SDA to any party. The terms for licensing of the Commercial Space and the right of the successful Bidder, shall be as set out in License agreement to be executed between SDA and the successful Bidder broadly in the format set out herein.
- VII. SDA reserves the right to accept or reject any or all Bids without giving any reasons thereof. SDA shall not entertain or be liable for any claim for costs and expenses in relation to the preparation of the documents to be submitted in terms of this Tender Document.
- VIII. SDA reserves the right to cancel the entire bidding process without assigning any reasons and to recall again at its discretion with same terms or otherwise. The parties who may have offered proposals are not entitled to any sort of claims in this regard.
- IX. Bidders are asked to follow <https://www.sdasanbalpur.com> for tender/ tender updates.

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CHAPTER: 1

1. DEFINITIONS

- a) **"Agreement"** means the License Agreement to be executed between SDA and the selected Bidder (SPV in case of Consortium).
- b) **"Applicable Laws"** means all laws, brought into force and effect by Govt. of India, State Governments, local bodies and statutory agencies and rules / regulations / notifications issued by them from time to time. It will also include judgments, decrees, injunctions, writs and orders of any court or judicial authority as may be in force and effected from time to time.
- c) **"Bidder"** means any Indian legal entity like a partnership firm under the Partnership Act, 1932, a limited liability partnership firm in terms of the Limited Liability Partnership Act, 2008 or a company registered under the Companies act 1956/ 2013 or a combination of the above in the form of Consortium which is submitting its bid pursuant to Tender Documents.
- d) **"Bid Security"** means the security amount to be submitted by the Bidder alongwith Tender documents to SDA.
- e) **"SDA"** means Sambalpur Development Authority
- f) **"Compliance Date"** means the date of execution of License Agreement or handover of possession whichever is later.
- g) **"Commencement Date"** means the end of rent free 180 days from Compliance Date.
- h) **"Construction/s"** means the building, infrastructure including all utilities and facilities whatsoever as developed by the SDA on the Project Site.
- i) **"Interest Free Security Deposit"** means interest free amount to be deposited by the Licensee with SDA as per terms and conditions of License Agreement as a security against the performance of the License agreement.
- j) **"Letter of Award"** means the letter issued to the licensee notifying the award of license right based on the bidding / selection process.
- k) **"License"** means the License granted by SDA to the Licensee for the developed commercial spaces at the subject site as specified in **Annexure - I**.
- l) **"Licensee"** means the Selected Bidder, who has executed the License Agreement with SDA pursuant to the conclusion of the bidding process.
- m) **"Licensor"** shall mean SDA, its assigns, its successors in interest or any other body corporate which may be authorized in writing by SDA to act on its behalf.
- n) **"License Fee"** means the amount payable by the Licensee to SDA as per terms and conditions of the License Agreement.
- o) **"License Period"** means a period of Fifteen (15) years from Commencement Date.
- p) **"LoA"** means the letter issued by the SDA notifying award of license right to the selected Bidder.

- l) **“Non-responsive”** means failure to furnish complete information in the given format and manner required as per the tender documents or non-submission of tender offer in given Forms / Pro forma or not following the procedure mentioned in this tender or in case any of the required details or documents are missing or not clear or not submitted in the prescribed format or non-submission of Tender Fee or Bid Security.
- m) **“Project”** means the Commercial Complex located at Kirba, Burla, Sambalpur along with the access-ways, landscape, utilities, services, and necessary infrastructure as developed / to be developed.
- n) **“Project Site”** means the land for **Commercial Complex** under the ownership of SDA.
- o) **“Selected Bidder”** means the Bidder who has been selected by the SDA, pursuant to the bidding process for award of License.
- p) **“Sub-licensee”** means an entity to whom the successful licensee may at his option sub-license the license obtained from SDA.
- q) **“Tender Fee”** means the amount paid by the Bidder towards charges for purchase of the tender document.
- r) **“Termination”** means termination of License Agreement by efflux of time or sooner as determined in accordance with the provisions of the Agreement.

CHAPTER 2

2. NOTICE INVITING TENDER

- 2.1 Sambalpur Development Authority (SDA), with an intention to provide adequate commercial activities at an unified space for the city of Burla, Sambalpur, has developed the Commercial Complex to facilitate citizens, students etc.
- 2.2 The modern and well-equipped Commercial Complex is located at the heart of the Burla on prime land adjacent to Highway and Veer Surendra Sai University of Technology.
- 2.3 Sambalpur Development Authority (SDA) intends to select the Licensee to take up on 'License Basis' the offered commercial space at Kirba, Burla as detailed out in **Annexure 1**. The Licensee will be the Master Licensee/Anchor Tenant in possession of the real estate asset classes for the License Period and will provide a consolidated Quarterly License Fee, in advance at the beginning of each Quarter, to the Authority during the tenure of their License Period.
- 2.4 SDA invites bids on single stage two submissions system (technical and financial) from eligible Bidders for selection of a Licensee to grant licensing rights of the commercial space at Kirba, Burla, Sambalpur. SDA shall receive Bids pursuant to this Tender document, in accordance with the terms set forth herein as modified, altered, amended, and clarified from time to time by SDA. Bidders shall submit bids in accordance with such terms and conditions on or before the date specified in this document. Bidders are advised to visit the site and familiarize themselves with various arrangements and all activities necessary in this regard.
- 2.5 Tender document (**non-transferable**) can be downloaded from the website <https://www.sdasambalpur.com>. Cost of Tender document (non-transferable & non-refundable) is **Rs.11,800/- (Rupees Eleven Thousand Eight Hundred only)** including GST (18%) payable in Account No. **50100757562806** vide IFSC Code-**HDFC0005347**, HDFC Khetrajpur Branch at Sambalpur. The Bid shall be summarily rejected if it is not accompanied with the valid Tender document cost of appropriate amount and no technical evaluation will be undertaken. Further, the bid will not be eligible for financial opening.
- 2.6 The Bidder shall submit its Technical and Financial Bid along with bid document cost as mentioned in clause 2.5 and with the EMD (Bid Security) for an amount of **INR 36,00,000/- (Rupees Thirty Six Lakhs Only)**. Payment of Bid Security is to be made only in the form of a **Bank Guarantee** in favor of '**Secretary, Sambalpur Development Authority**' with submission of original bank guarantee. No other mode of payment will be accepted. The Tender Application shall be summarily rejected if it is not accompanied by the EMD. The EMD of all Bidders shall be refunded after the award of License, without payment of any interest thereof. If the Selected Bidder withdraws his Bid at any stage, his Interest free EMD amount shall be forfeited by SDA.

The original instruments will have to be submitted on or before the Bid due date, in a sealed envelope marked 'Master Licensee for Commercial Space at Kirba, Burla, Sambalpur' addressed to the 'Secretary, Sambalpur Development Authority'.

2.7 Schedule of Bidding process

Tender Documents available for downloading	03.10.2024
Last Date of Receipt of Pre-Bid Queries	17.10.2024 till 3.00 PM
Date of Pre-Bid Meeting	21.10.2024 at 4.00 PM in the Conference Hall of the Sambalpur Development Authority
Last Date & Time of Submission of Bids	30.10.2024 by 5.00 PM
Date & Time of Opening of Technical Bids	01.11.2024 at 4.00 PM
Date & Time of Opening of Financial Bids	18.11.2024 at 4.00 P.M.
Validity of Bids	180 Days

2.8 Schedule of Various Stages: The Selected Bidder shall follow the following timelines:

Stage of Activity	Time Period
Date of Commencement of License Fees	after completion of rent-free grace period of 180 days from execution of license agreement or handover of possession whichever is later.
Formation of SPV (<i>in case of Consortium</i>)	Within 30 days from the date of issuance of LOA.
Signing of License Agreement	Within 30 days from the date of issuance of LOA.
Handover Date	Within 30 days from the date of execution of License Agreement.
Payment of Advance Quarterly License Fee	Within 10 th day of start of each quarter (after completion of rent-free grace period of 180 days)
License Period	Fifteen(15)Years from the Commencement Date with provision for extension of further Fifteen(15) Years subject to SDA shall have the first right of refusal after completion of initial 15 years.

Handwritten signature

2.9 Addendum/Corrigendum, if any, will be placed on <https://www.sdasambalpur.com>. Tender documents can be download from the SDA website.

2.10 The Bidder may obtain further information/ clarification, if any, in respect of tender documents from the office of Secretary, Sambalpur Development Authority, SDA and SMC Building, Durgapali, Sambalpur -768006 (Odisha) E-mail: secretarysdasbp@gmail.com.

During the course of pre-Bid conference, the participants may seek clarifications and put suggestions for consideration. SDA shall endeavor to provide clarifications and such further information as it may consider appropriate and valuable suggestions shall be deliberated upon by SDA. SDA's point of view/response to queries will be uploaded on the SDA website. Individual communication shall not be issued to any Bidder. Pre-Bid queries and any clarification with respect to tender can be forwarded to secretarysdasbp@gmail.com and queries received after the scheduled date shall not be replied to.

2.11 SDA reserves the right to accept or reject any or all proposals without assigning any reasons. No Bidder shall have any cause of action or claim against the SDA for rejection of their bids.

2.12 The Bidders are advised to regularly visit the SDA website for updates.

2.13 Bidders are expected to carry out an extensive survey of premises including footfall and demand estimate and analysis at their own cost, before submitting their respective bids for award of the License rights as set out in the License Agreement. SDA shall provide necessary permission and assistance to the prospective Bidders in this regard.

2.14 In the interests of clarity and for the avoidance of doubts it is made clear that Bidders shall furnish all the details/particulars sought for, without exception. Similarly, all the payments mentioned in this tender document shall be made fully within the timeline specified. Any lapse, however slight, in adhering to the conditions specified will be construed by SDA as a valid ground to reject the bid in question.

2.15 In case of any grievances/complaints regarding this tender, please contact through mail to:

Secretary
Sambalpur Development Authority
SDA & SMC Building,
Durgapali, Sambalpur - 768006, Odisha
E-mail: secretarysdasbp@gmail.com

CHAPTER 3

PROJECT INFORMATION MEMORANDUM

The Commercial Complex has been developed i.e. B+G+3 stored over an area 18744.00 Sft. of prime land adjacent to Highway and Veer Surendra Sai University of Technology. The Commercial Complex includes the following components:

Sl No.	Floor No.	Built up Area (Approx.)
1	Ground Floor	9500.00
2	First Floor	9500.00
3	Second Floor (including Multiplex)	10200.00
4	Third Floor	10200.00

BIDDING STRUCTURE

The "Licensor" i.e. SDA has developed the building B+G+3 stored with the highest level of modernization and safety standards for the users of the facility.

SDA (the 'Licensor') intends to provide 'License to Operate' rights to a Master Licensee/ Anchor Tenant (the 'Licensee') to operate the Commercial Complex measuring around 39,000.00 Sq. Feet (approx.) of carpet area for the License Period of 15 years. The Licensor will have the exclusive right to collect revenue from Sub-Licensees and pay an 'Quarterly License Fee' to SDA.

Bidding Parameter:

- i. The Bidder/ Master Licensee quoting the highest 'License Fee per Square Feet of Commercial Area' will be identified as the Preferred Bidder.
- ii. The License Fee per Sq. ft quoted by the Preferred Bidder will be adopted to calculate the 'Annual/ Quarterly License Fee for Year 1' for 39,000.00 Sq. Feet (Approx.) of carpet area offered to the Licensor.
- iii. In case of deviation in the area offered to the Master Licensee, the 'Quarterly License Fee' will be calculated on prorate basis.

CHAPTER 4

3. ELIGIBILITY CRITERIA FOR BIDDERS

3.1 The Bidder shall be evaluated first for fulfilling eligibility criteria. The applicant may be any Single Legal Entity i.e. a Partnership firm or a Company having its registered office in India & registered under relevant acts or a combination of above in the form of Consortium or Joint Venture (JV).

3.2 Bid by a Consortium/JV of firms if any:

3.2.1 The lead member of the Consortium/JV shall maintain a minimum equity stake of 51% of the aggregate shareholding of SPV formed by the Consortium/JV members during full tenure of License Agreement.

3.2.2 Any change in percentage stake in SPV by Consortium/JV members without prior written approval of SDA shall be treated as material breach of Contract and Selected Bidder/ Licensee's event of default entitling SDA to encash the Interest Free Security Deposit and terminate the License Agreement after a 30 (thirty) days termination notice.

3.2.3 The minimum percentage stake of any member in Consortium/JV during License Period shall not be less than 15%.

3.2.4 A Maximum of Two (2) Members will be permitted to form a Consortium/ JV and shall be jointly and severally liable for the performance of License Agreement.

3.3 To be eligible for bidding process, the Bidder shall fulfill each of the following conditions simultaneously:

Bidders having a minimum annual average Turnover of **INR 18 Crores** for the last three financial years ending 31 March 2024. The Bidder shall submit the below Documents along with the qualification details.

- Turnover certificate as duly certified by the Chartered Accountant as per Annexure 4.
- The Bidder is required to submit the last 3 (three) audited financial statements certified by the statutory Chartered Accountant with stamp & signature. The last three Financial Year shall be 2021-22, 2022-23 & 2023-24. The Bidder shall submit audited financial statements including profit-loss account of last 3 financial years as indicated above.
- If audited financial statement for the last completed year is not available, the Bidder shall furnish a certificate from a statutory auditor in this regard.
- In case of a JV/Consortium, the Certificate of Turnover from the Chartered Accountant must calculate the Aggregate Turnover of the last 3 financial years, before certifying the same on Company Letterhead with Registration number.

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3.3.1 **Technical Qualifications:** In last three (3) years preceding due date of submission the Bidder (Aggregate in case of Consortium) should have an established track record of:

- Successfully Selling/ Leasing/ Licensing/ Sub-licensing at least 32,000 sq. ft of built-up area including residential/commercial/ retail facilities either as an Owner/ Developer/ Strategic Partner/ Investor/ Marketing organization

The Bidder shall submit the below documents along with the qualification details.

- Copy of license or lease agreement or sale deed
- Lease or License Agreement with Tenants – in such case the summary including date of initiation and lease/license period should be Certified by a Chartered Accountant

3.4 The bids shall be submitted by the Bidder in two parts comprising of technical bid and financial bid. The Technical Bid shall include the details for fulfilling eligibility criteria as laid down in this document. The Financial Bid shall include the financial offer of the Bidder in the manner prescribed in this document. Both the Technical Bid and Financial Bid shall be submitted by the Bidder on the same due date as mentioned in the tender document. The offer of a Bidder who does not fulfill the eligibility criteria shall be summarily rejected.

3.5 The Bidders shall not have a conflict of interest that affects the bidding process. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder shall be deemed to have a conflict of interest affecting bidding process if the constituent of one Bid is also a constituent of another Bid. The submission of this bid shall be deemed by SDA to be an express declaration by the Bidder that his bid does not suffer from any conflict of interest.

3.6 Undertaking for not being banned from Business: As on date of Tender submission:

3.6.1 SDA / any other Govt. organizations (100% owned by govt.)/Ministry of Housing & Urban Affairs/Order of Ministry of Commerce, applicable for all Ministries must not have banned/debarred business with the tenderer (including any member in case of JV/consortium) as on the date of tender submission. The tenderer should submit undertaking to this effect in Annexure 11 of Tender document.

3.6.2 Also no contract of the tender executed in either individually or as a member in a JV/Consortium, should have been rescinded/ terminated by SDA after award during last 03 years (from the last day of the previous month of a tender submission) due to non-performance of the tenderer or any of JV/Consortium members. The tenderer should submit undertaking to this effect in Annexure 13 of Tender document.

CHAPTER: 5

4. INSTRUCTION TO TENDERERS

4.1 General:

The Bidders are required to submit hard copies of their bids to SDA.

4.2 Eligibility to participate in tender:

4.2.1 Tenders are open to all eligible Bidders.

4.2.2 The registration must be in the name of Bidder however for attending office or executing agreement the Owner/Director can himself or authorize other person.

CHAPTER 6

5. TERMS AND CONDITIONS

- 5.1 The commercial space as mentioned in **Annexure-1**, shall be handed over on "as is where is basis" within 30 days from the date of execution of License Agreement.
- 5.2 Date of Commencement of License Fee will be after completion of **(Rent-Free/ Free from License Fee) grace period of 180 days from handover of Site**. The License Fee and other charges and taxes shall commence and be paid within 10 days from the Commencement Date after completing the rent-free period. No relaxation or further extension for payment of all the due by the Licensee shall not be considered. The Selected Bidder/ Licensee voluntarily and unequivocally agrees not to seek any claim, compensation on, damages or any other consideration whatsoever on account of not taking over physical possession of scheduled allotted space on date of deemed handing over, if applicable.
- 5.3 The tenderer to quote over & above the Reserve Price of **INR 30 (Rupees Thirty only)/ Sq. Ft per month** for the Commercial Space.
- 5.4 **Annual escalation** on the License Fee:
- There will be no escalation for the first 3 years.
 - There will be an Annual Escalation of 5% yearly on the License Fee from 4 year to 15 Years.
- 5.5 The Quarterly Licensee Fee will have to be paid within 10th day of start of each quarter in advance (after completion of rent-free grace period of 180 days) at the beginning of each quarter.
- 5.6 The License Agreement shall be executed within 30days of issue of Letter of Acceptance upon receipt of Security Deposit.
- 5.7 Within 7days of issuance of note to takeover / handover, the Licensee and SDA shall carry out a joint inspection of the property as detailed in Annexure I.
- 5.8 **Measurement of actual area of commercial space:** Actual area of commercial space shall be computed as per the as built drawing issued during hand over / taken over stage. In case of difference of opinion as to the quantum of actual area, stand of SDA will be final

- and binding. The Licensee voluntarily and unequivocally agrees not to seek any claim compensation or any other consideration on this account.
- 5.9 Accordingly, the License Fee per month/quarter/year will be computed from the quoted Licensee Fee per Sq. Ft.
- 5.10 The list of final beneficiaries needs to be submitted by the bidder to the Authority.
- 5.11 On completion/ termination of License Agreement, the Licensee shall handover the premises in as per last development plan with normal wear & tears. The Licensee shall not remove any facility, equipment, fixture, etc. which are an integral part of the development plan of the premises without the prior written permission of SDA. However, the Licensee can remove movable assets belonging to them without causing damage to the structure. During the license period the Licensee is allowed to make **internal restructuring with due approval of the Authority**.
- 5.12 **Security Deposit:** Licensee shall pay Interest Free Security Deposit which is equivalent to **first three months License Fee**. The interest free Security Deposit shall be accepted in the form of an irrecoverable and unconditional Bank Guarantee to be executed by any nationalized / Indian Scheduled Commercial Bank included in the 2nd schedule of RBI Act in 1934 in favor of "Sambalpur Development Authority" payable at "Sambalpur" for an initial term of 3 years and shall be kept valid for the license period plus 180 days by timely renewal.
- 5.13 **Tenure of License Agreement:**
- 5.13.1 Licensing Rights of commercial space shall be for a period of **15(Fifteen) years**, from the date of execution of License Agreement and/or handover of possession whichever is later.
- 5.14 **Renewal of License**
- 5.14.1 At the end of the License period, the License may be renewed by SDA at its sole discretion for a further period of 15 years with annual escalation of 10% yearly with first right of refusal with SDA.
- 5.14.2 SDA shall communicate in writing its decision to renew or extend the License at least 6 months prior to the expiry of the License Agreement.
- 5.14.3 In the event that SDA decides to renew the License, it shall in its communication to the Licensee conveying such renewal, set out the terms of the renewed License, the period of such renewal, renewed License fee, the renewed security deposit, etc.
- 5.15 **Payment of Statutory Dues & Utility Charges**
- 5.15.1 All statutory taxes, GST or any other prevailing tax, statutory dues, local levies, etc. as applicable shall be charged extra and will have to be remitted along with the License Fees. The Licensee shall indemnify SDA from any claims that may arise from the statutory authorities in connection with this License Agreement.
- 5.15.2 The property tax applicable, if any, on the property of SDA shall be borne by SDA.
- 5.15.3 Payment of stamp duty on agreement, if any, to be executed in pursuance of this Bid shall be borne solely by the Licensee.
- 5.15.4 Utility bills such as electricity, etc. for the licensed space, which will be received in

the name of SDA, has to be paid by the Licensee to SDA or be paid directly on behalf of SDA and shall provide necessary proof of such payments.

Estimation of Electricity Charges:

HVAC Charges

- i. The Commercial Complex has a dedicated Energy meter which will provide the units consumed on HVAC.
- ii. The Master Licensee will pay proportionate share of their Air-conditioned Area out of the total Air-conditioned Area of building.

Light, Plug Points etc.

To be paid on actuals to the Statutory Authority as per Meter reading from the Electric meters fitted in the sub-licensee area wise by the Master Licensee.

5.16 Insurance: During the license period, the Licensee shall bear the cost, for a comprehensive general liability insurance covering injury to or death of any person(s) while working in SDA premises, including death or injury caused by the sole negligence of the Licensee or the Licensee's failure to perform its obligations under the agreement. In addition, the licensee shall bear the cost of insuring all the assets of the Licensor including its the movable assets, furniture, and fixture. A copy of the insurance policy shall be submitted to SDA within 60 days before the expiry of the current insurance policy.

5.17 Facility Management Services

The FMS for common areas (passage, toilet blocks, entry lobby, landscaping etc.) will be borne by the Licensee and same may be charged on prorata basis to the sub licensees.

5.18 Masonry Changes as per requirement of Master Licensee

Masonry changes will be permitted on prior approval and under supervision of the Authority in a manner that does not cause any structural damage or affect any other portion of the Building. Post such activity, it will be the responsibility of the Master Licensee to ensure that all affected areas are brought back to original condition, as per satisfaction of the Authority.

Yes

CHAPTER 7

6. SUBMISSION OF BIDS BY BIDDERS

6.1 Submission of bids:

- 6.1.1 The bidder should send the bids either through speed post/registered post/courier on or before the bid submission time. Bidder shall be responsible for any delay due to other issues.
- 6.1.2 Bidder must pay the Bid Processing Fee in the form of Demand Draft and EMD by Bank Guarantee in favor of '**Secretary, Sambalpur Development Authority**'.
- 6.1.3 All the documents being submitted by the Bidders would be confidentially maintained by the Authority ("SDA").

6.2 General Instruction to Bidders:

- 6.2.1 The bid shall be furnished in the formats mentioned at **Annexure 2 to 14**, clearly providing the details for fulfilling eligibility criteria. The Tender documents shall be signed by the authorized signatory. The Bidder shall submit all requisite documents of Tender document, along with Tender documents (i.e NIT, Tender Document, Reply to pre-bid quires, Corrigendum/Addendum etc.)
 - 6.2.2 Bidders are required to deposit non-refundable Bid Processing Fee to SDA as described earlier.
- 6.3** The Bid shall be submitted by the Bidder in two parts comprising of pre-qualification details & Technical Bid and Financial Bid.

The pre-qualification bid shall include details of Demand Draft of Bid Processing Fee and Bid Security (EMD – Bank Guarantee). The original copy will be submitted in a Sealed Envelope addressed to: 'Secretary, Sambalpur Development Authority', before the Bid Submission date and time.

The Technical Bid shall include the details for fulfilling eligibility criteria as laid down in this tender document. The Financial Bid shall include the financial offer of the Bidder in the prescribed format. Both the Technical Bid and Financial Bid shall be submitted by the Bidder, by the same due date as mentioned in the Tender document. The offer of Bidder, who does not fulfill the eligibility criteria, shall be summarily rejected. The Bidder shall enclose with their Bid an undertaking stating/providing that all the necessary supporting documents, including audited accounts and financial statements, certificate(s) from their statutory auditors have been provided.

Prequalification & Technical Bid: The Bidder shall on or before the date and time given in the Notice of Invitation to Tender, submit copies of, subject to minimum of, following documents for Pre-qualification:

- Bid Security & Bid Processing Fee.
- Tender document

- Annexure 4- Certificate of Statutory Auditor with regard to eligibility of the Bidder

The Bidder shall on or before the date and time given in the Notice of Invitation to Tender, submit original copies of, subject to minimum of, following documents in Technical Bid-

- Bid Processing Fee and EMD: Original Demand Draft and Bank Guarantee
- Annexure-2 Letter Comprising the RFP Bid
- Annexure-3 General information of the Bidder
- Annexure-4 "A" Certificate of Statutory Auditor/ Chartered Accountant with regard to financial eligibility of the Bidder.
- Annexure-4 "B" Certificate of Statutory Auditor / Chartered Accountant with regard to Technical eligibility of the Bidder.
- Annexure-5 Power of attorney of Bidder (duly notarized)
- Annexure-7 Consortium agreement/Memorandum of Understanding if any
- Annexure-8 Affidavit
- Annexure-9 Undertaking for responsibility.
- Annexure-10 Undertaking for downloaded tender document.
- Annexure-11 Undertaking for not being banned for business by any govt. Organization / PSU / etc.
- Annexure-12 Building plans of commercial space of SDA.
- Annexure – 13 Disclosure of Past & Ongoing Litigation
- Attested copies of Memorandum and Articles of Association in case of companies or bodies corporate along with certified copy of board resolution and copy of Partnership deed in case of Partnership Firm or a Limited Liability Partnership Firm.
- Self-attested copies of the PAN Card and GST Registration Certificate (of lead member in case of JV/Consortium). In case any or all the provisions mentioned above are not applicable, the Bidder should give a declaration/undertaking to that effect. Non submission will not be considered as an exemption.
- Copy of the complete Tender document including RFP/NIT, Draft License Agreement and Addendum/Corrigendum (if any) duly signed and stamped on each page by authorized representative of the Bidder as acceptance of terms and conditions given thereof.

6.4 Financial Bid:

- 6.4.1 The Bidder submitting the highest License Fee per Sq. Ft /month for the Commercial Space for Year 1 shall be considered as selected bidder.
- 6.4.2 The Bidder who is technically eligible and quotes **the highest License Fee per Sq. Ft per for Year 1** for the entire commercial space offered by SDA to the Master Licensee (i.e. 39,000.00 Square Feet) shall be considered for the granting of license. The Bidder quoting below the reserve price will be summarily rejected.
- 6.4.3 The Bidder shall carefully quote in the Financial Bid. Incomplete quotes will lead to disqualification.
- 6.4.4 Withdrawal of bid: The Bidder may withdraw a submitted bid before the closure of bid submission date and time.
- 6.5 The documents including this Tender document and all attached documents, provided by SDA shall remain and become the properties of SDA and are transmitted to the Bidders solely for the purpose of preparation and the submission of a bid. The 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 shall also apply *mutatis mutandis* to Bids and all other documents submitted by the Bidders, and SDA shall not return to the Bidders any bid, document or any information provided along therewith.
- 6.6 **Cost of Bidding:** The Bidders shall be responsible for all the costs associated with the preparation of their Bids and their participation in the bidding process. SDA shall not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the bidding process.
- 6.7 **Site Visit:** Bidders are advised to carry out an inspection of the Commercial Space of the Kirba, Burla, Sambalpur before submission of bid.
- 6.8 It shall be deemed that by submitting a Bid, the Bidder has:
- 6.8.1 Made a complete and careful examination of the bidding documents;
- 6.8.2 Received all relevant information from SDA;
- 6.8.3 Accepted the risk of inadequacy, error or mistake in the information provided in the tender documents or furnished by or on behalf of SDA relating to any of the matters referred to in tender document;
- 6.8.4 Satisfied itself about all matters, things and information herein above necessary and required for submitting an informed Bid, execution of the License Agreement in accordance with the bidding documents and performance of all of its obligations there under;
- 6.8.5 Acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the tender documents or ignorance of any of the matters hereinabove shall not be a basis for any claim for compensation, damages, claim for performance of its obligations, loss/ profits, etc. from SDA, or a ground for termination of the License Agreement by the Licensee;

- 6.8.6 Acknowledged that it does not have a conflict of interest; and
- 6.8.7 Agreed to be bound by the undertakings provided by it under and in terms hereof.
- 6.9 SDA 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 the tendering process, including any error or mistake therein or in any information or data given by SDA.
- 6.10 Verification and Disqualification:** SDA reserves the right to verify all statements, information and documents submitted by the Bidder in response to the Tender documents and the Bidder shall when so required by SDA, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by SDA shall not relieve the Bidder of its obligations or liabilities hereunder nor shall it affect any rights of SDA there under. The Bidder may be asked to explain the rationality of the quoted rates.
- 6.11 Amendment of Tender Document:**
- 6.11.1 At any time prior to the Bid due date, SDA may, for any reason, modify the Tender document by the issuance of Addendum/ Corrigendum.
- 6.11.2 Any Addendum/Corrigendum issued hereunder shall be uploaded on SDA website.
- 6.11.3 In order to provide the Bidders with a reasonable time for taking an Addendum into account, or for any other reason, SDA may, in its sole discretion, extend the Bid Due Date.
- 6.11.4 The Bidders are requested to visit SDA website frequently for all updates on the Tender Document such as addenda, replies to queries, postponement of Bid schedules, etc. No claims or compensation shall be entertained on account of the Bidder having not read/noticed the updates, etc.
- 6.12 Preparation and Submission of Bids**
- 6.12.1 Format and Signing of Bid: The Bidder shall provide all the information sought under this Tender document as per the format.
- 6.12.2 The Bid and its copy shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. All the alterations, omissions, additions, or any other amendments made to the Bid shall be initiated by the person(s) signing the Bid.
- 6.12.3 The Bidder shall have to submit their Bids (Technical Bid & Financial Bid) in physical format to the office of SDA.
- 6.12.4 The Bidders must produce such original documents as may be sought for by SDA. The failure of the Bidder or Licensee to furnish the said original documents will empower SDA to summarily reject their bid.
- 6.12.5 Before submission of Bids, Bidders must ensure that a copy of all the necessary documents have been kept with the bidder.
- 6.12.6 The Bidders should carefully note and ensure the following instructions:

- That the complete tender Document has been downloaded.
- In case of any correction/addition/alteration/omission in the Tender document as made available by SDA, is observed at any stage, the bid shall be treated as non-responsive and shall be summarily rejected.

6.13 Late Tenders: Tenders must be submitted to SDA before the due date and time of tender submission. Bid Processing Fee & EMD received after due date and time of submission of Bid shall not be accepted. SDA shall not be responsible for any delay. The tenderers are advised to submit their submissions well before the due date and time of tender submission to avoid any problems and last-minute rush. SDA may, at its sole discretion, extend the deadline for submission of tenders by issuing an amendment, in which case all rights and obligations of SDA and the Tenderer previously subject to the original deadline will thereafter be subject to the deadline as extended.

6.14 Modification, Substitution and Withdrawal of Tenders: A tenderer may withdraw, substitute, or modify its tender before it has been submitted. No bid shall be modified or withdrawn by the Bidder after the date of submission. Withdrawal of tender during the interval between date of tender submission and expiration of the Tender validity period would result in forfeiture of the EMD. In the event of withdrawal before tender submission date, the EMD shall be refunded without interest.

In the event the selected bidder fails to execute the license deed or fails to make payment of Interest Free Security Deposit/ performance security shall lead to forfeiture of EMD. The successful Bidder/ Licensee voluntarily and unequivocally agrees not to seek any claim, compensation, damages, or any other consideration whatsoever, on account of such forfeitures.

6.15 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 SDA in relation to or matters arising out of or concerning the Bidding process. SDA shall treat all information, submitted as part of bid, in confidence and shall require all those who have access to such material to treat the same in confidence. SDA 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 SDA or as may be required by law or in connection with any legal process.

6.16 This Tender Application form does not purport to contain all the information that each Applicant may require. Applicants are requested to conduct their own investigations, site visit and analysis and to check the Accuracy, reliability and completeness of the information in this Tender Application Form before participating in the tender process. Sambalpur Development Authority makes no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the tender document. Information provided hereunder is only to the best of the knowledge of SDA. Applicants are required to read carefully the contents of this document & to provide the required information. Applicants may be single firms or may be member of a consortium.

6.17 It shall be noted that SDA will not discuss any aspect of the selection process. Applicants

will be deemed to have understood and agreed that no explanation or justification of any aspect of the selection process will be given by SDA and that SDA's decisions are without any right of appeal/litigation, whatsoever shall stand final. Applicants are advised that the selection process will be entirely at the discretion of SDA.

- 6.18** For any query from Applicants/prospective bidders, SDA reserves the right not to offer clarifications on any issue raised in a query or if it perceives that the clarifications can only be made at a later stage, it can do so at a later date. No extension of any deadline will be granted on that count or grounds that SDA have not responded to any query or not provided any clarification. Applicants may clearly note the date and time of submission of Tender. No late or delayed Tender will be accepted. However, SDA may ask for any supplementary information, if deemed so.

Bidders will not be considered if they make any false or misleading representations in statements / attachments. If any submission is found false or misleading even at a later stage (i.e. after the award of Tender) then also, SDA may annul the award. Further, the Bidders may be blacklisted for participation in any future Tender of SDA. In such a case SDA shall forfeit the EMD (if any) or Security Deposit (if any) as the case may be.

- 6.19** No Bidder shall submit more than one Bid for this tender document. Any firm, which submits or participates in more than one Bid for the said tender shall be disqualified and shall also cause the disqualification of all the Consortium/JVs in which it is a Member.
- 6.20** Notwithstanding anything to the contrary contained in this tender document, the detailed terms specified in the draft License 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 License Agreement.
- 6.21** Interest free EMD: Bidders have to deposit, along with the Bid, an interest free EMD as mentioned in Clause 2.6 of the tender document. Payment of Bid Security is to be made only by Bank Guarantee. No other mode of payment shall be accepted. The bid offer shall be valid for a period not less than 180 days from bid submission date. The interest free EMD of all Bidders shall be refunded after execution of License Agreement, without payment of any interest thereof. The Bid shall be summarily rejected if it is not accompanied by the Interest free EMD.

The Bid Security/EMD shall be forfeited:

- 6.21.1 If the Bidder withdraws his Bid at any stage after last date of submission of tender.
- 6.21.2 Does not accept the correction of errors.
- 6.21.3 If the Selected Bidder fails to make the payments (as per Clause 7.5) within the time specified in this Tender document, or any extension thereof granted by SDA;
- 6.21.4 If the successful Tenderer refuses or neglects to execute the Contract or fails to furnish the required Security Deposit within the time specified or extended by the SDA, or if the Bidder does not accept any arithmetic corrections to his Tender price and consequently does not deposit any additional deposit that may have to be made, as per the relevant clause in the Tender document.
- 6.22** The Bid and all communications in relation to or concerning the bidding documents and the Bid shall be made in English language.

CHAPTER: 8

7. Evaluation of Bids

7.1 Tender Opening:

- 7.1.1 The tenders shall be opened by the committee comprising of members as per the delegation of powers decided by SDA on due date and time of tender opening. No Bidder shall have the right to challenge the decision of the Committee.
- 7.1.2 All bids will be evaluated and compared based on the substantial responsiveness to the technical specification and financial conditions set out in the bidding documents and fully conforming to the terms and conditions.
- 7.1.3 On opening of the Bid, SDA will first check the r payment of Bid Processing Fee and Bid Security original copy submitted through Bank Guarantee in a Sealed envelope. Technical Bid of those tenderers who have not submitted valid tender security / valid document cost shall be considered as non-responsive and liable to be rejected and shall not be further evaluated. Tender which is accompanied by an unacceptable or fraudulent tender security /EMD shall be considered as non – compliant and shall be rejected. If nominated date for opening of Tender is subsequently declared as a Public Holiday by the SDA, the next official working day shall be deemed as the date of opening of Technical Bid.
- 7.1.4 SDA will examine and evaluate the Bid along with requisite documents in accordance with evaluation parameters comprising of Technical as well as financial yardsticks indicated in the Tender Documents.
- 7.1.5 The Technical-Bids shall be evaluated based on the information furnished by Bidders. To facilitate evaluation of Bids, SDA may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.
- 7.1.6 After evaluation of Technical Bids, only successful Bidders who have participated in the tender will be informed regarding the acceptance of their technical proposal. Thereafter successful Bidders will be communicated the date and time of opening of the Financial Bid.

7.2 Evaluation of Financial Proposals:

- 7.2.1 The price-bid of the successful Bidders qualified in technical bid will be opened before the committee members and representatives of bidders.
- 7.2.2 In case of differences arising in the terms and conditions of the tender documents, the decision of SDA shall prevail.
- 7.2.3 If the submitted documents do not meet the tender requirements, then the Financial Bid of the said Bidders shall not be considered for evaluation.
- 7.2.4 While the bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, SDA and/ or their employees / representatives on matters related to the bids under consideration. However, when SDA calls for any information / clarification, it

should be supplied by the Bidder within the time stipulated.

- 7.2.5 The Bidder who is technically eligible and quotes the highest amount of License Fee per Sq. Ft per Month (i.e H1) for Year 1, for the offered commercial space for which the bid has been submitted shall be considered for licensing of Commercial Space, after assessment by SDA. A Bidder quoting below the Reserve price shall be rejected.
- 7.3 **Bid Variable:** The Bidder shall quote the License Fee per Sq. Ft per Month (i.e H1) for Year 1 (One) for licensing of Commercial Space. If there is a discrepancy between words and figures, the amount in words shall prevail.
- 7.4 Consequent upon selection of Bidder who qualifies the Eligibility & Financial Criteria, Letter of Acceptance ("LOA") shall be issued, in duplicate, by SDA to the Selected Bidder and the Selected Bidder shall, within seven days of the receipt of the LOA, shall duly signed with stamp as a token of unconditional acceptance 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 within the stipulated date, SDA may, unless it consents to extension of time for submission thereof, appropriate the Interest free Bid Security of such Bidder as damages on account of failure of the Selected Bidder to unconditionally accept the terms of LOA.
- 7.5 The Selected Bidder is required to submit Interest Free Security Deposit within 30 (Thirty) days from the date of issuance of Letter of Acceptance. In case the Bidder fails to submit Interest Free Security Deposit as specified, an extended period of 15 days along with a penal charge in the form of Demand Draft from a scheduled Bank for late payment of Interest Free Security Deposit shall be paid with an interest rate of 24% per annum:
- No further request for extension in making payment of Security Deposit amount will be considered. The LOA will stand cancelled, and the Bid Security submitted will be forfeited by SDA. The Bidder voluntarily and unequivocally agrees not to seek any claim, compensation, damages or any other consideration whatsoever on this account.
- 7.6 After acknowledgement of the LOA and deposit of dues as mentioned above, the Selected Bidder shall execute the License Agreement within the period prescribed in Tender document. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the License Agreement.
- 7.7 In case of failure on the part of successful Bidder to sign the License Agreement within the stipulated time, the SDA shall retain the right to cancel the LOA and forfeit the Bidder's bid security (EMD) and any other amount deposited till that time without being liable in any manner whatsoever to the Selected Bidder.
- 7.8 Notwithstanding anything contained in this Bid document, SDA reserves the right to accept or reject any Bid offer and to annul the bidding process and reject all Bid offers, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reason, therefore. In the event that SDA rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh bids hereunder.

CHAPTER: 9

8. FRAUD AND CORRUPT PRACTICES

- 8.1 Bidders and their respective officers, employees, agents, and advisers shall observe the highest standard of ethics during bidding process and subsequent to issue of LOA and during subsistence of License Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the License Agreement, SDA may reject a Bid, withdraw the LOA, or terminate the License Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Licensee, as the case may be, if it determines that the Bidder or Licensee, as the case may be, has, 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, SDA shall be entitled to forfeit & appropriate Bid Security or Interest Free Security Deposit/ Performance Security, as the case may be, as damages, without prejudice to any other right or remedy available to SDA under Bidding Documents and/ or License Agreement, or otherwise.
- 8.2 Without prejudice to the rights of SDA and the rights and remedies which SDA may have under the LOA or the License Agreement, or otherwise if a Bidder or Licensee, as the case may be, is found by SDA 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 License Agreement, such Bidder or Licensee shall not be eligible to participate in any tender issued by SDA for a period of 3 (three) years from the date such Bidder is found by SDA to have engaged, directly or indirectly, in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
- 8.3 For the purposes of this Clause, the following terms shall have the meaning here in after respectively assigned to them:
- 8.3.1 Corrupt practice means offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence actions of any person connected with bidding process.
- 8.3.2 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.
- 8.3.3 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.
- 8.3.4 Undesirable practice means (i) establishing contact with any person connected with or employed or engaged by SDA 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
- 8.3.5 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.

8.4 SDA reserves the right to reject any Bid and appropriate the Bid Security if:

8.4.1 At any time, a material misrepresentation is made or uncovered, or

8.4.2 The Bidder does not provide, within the time specified by SDA, the supplemental information sought by SDA for evaluation of the Bid. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder.

8.5 In case it is found during the evaluation or at any time before signing of the License Agreement or after its execution and during the period of subsistence thereof, including the License thereby granted by SDA, that one or more of the eligibility criteria 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 Licensee either by issue of the LOA or entering into of the License Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the License Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Tender document, be liable to be terminated, by a communication in writing by SDA to the Selected Bidder or the Licensee, as the case may be, without SDA being liable in any manner whatsoever to the Selected Bidder or Licensee. In such an event, SDA shall be entitled to forfeit and appropriate the Bid Security or Interest Free Security Deposit/ Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to SDA under the Bidding Documents and/ or the License Agreement, or otherwise.

Handwritten signature

CHAPTER: 10

9. MISCELLANEOUS

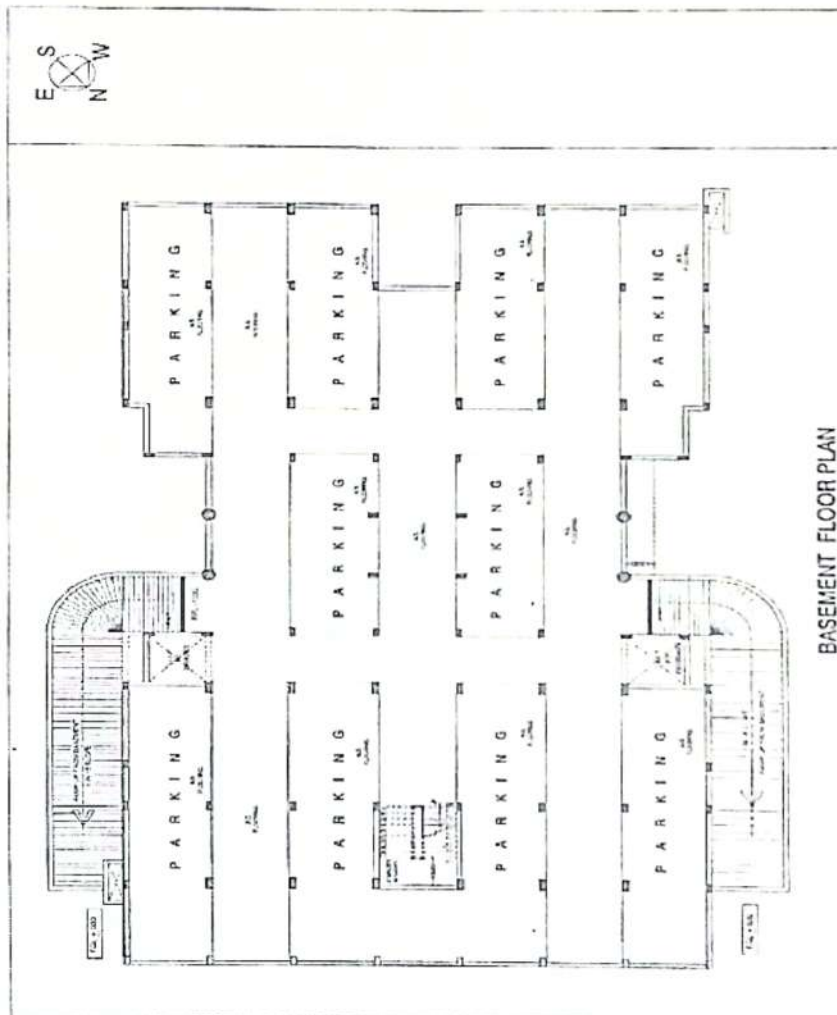
- 9.1 The bidding process shall be governed by, and construed in accordance with, the laws of India and the Courts at Sambalpur shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the bidding process. Dispute of any nature would not be entertained by SDA with regard to the bid process or selection of the licensee. Even in cases where SDA asks for additional information from any Bidder, the same cannot be adduced as a reason for citing any dispute. All disputes between the successful Bidder and SDA shall be settled as per the dispute resolution Procedure elaborated in the License Agreement. The courts at Sambalpur shall have the sole & exclusive jurisdiction to try all the cases arising out of this License agreement.
- 9.2 SDA, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- 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.
 - Consult with any Bidder in order to receive clarification or further information.
 - Retain any information and/ or evidence submitted to SDA by, on behalf of, and/ or in relation to any Bidder; and/ or
 - 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.
- 9.3 It shall be deemed that by submitting the bid, the Bidder agrees and releases SDA, 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.
- 9.4 The Tender document and License Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFP, in the event of any conflict between them, the priority shall be in the following order:
- a) License Agreement
 - b) Tender Document.
- i.e., the License Agreement shall prevail over Tender Document.

ANNEXURE-1

Area Statement

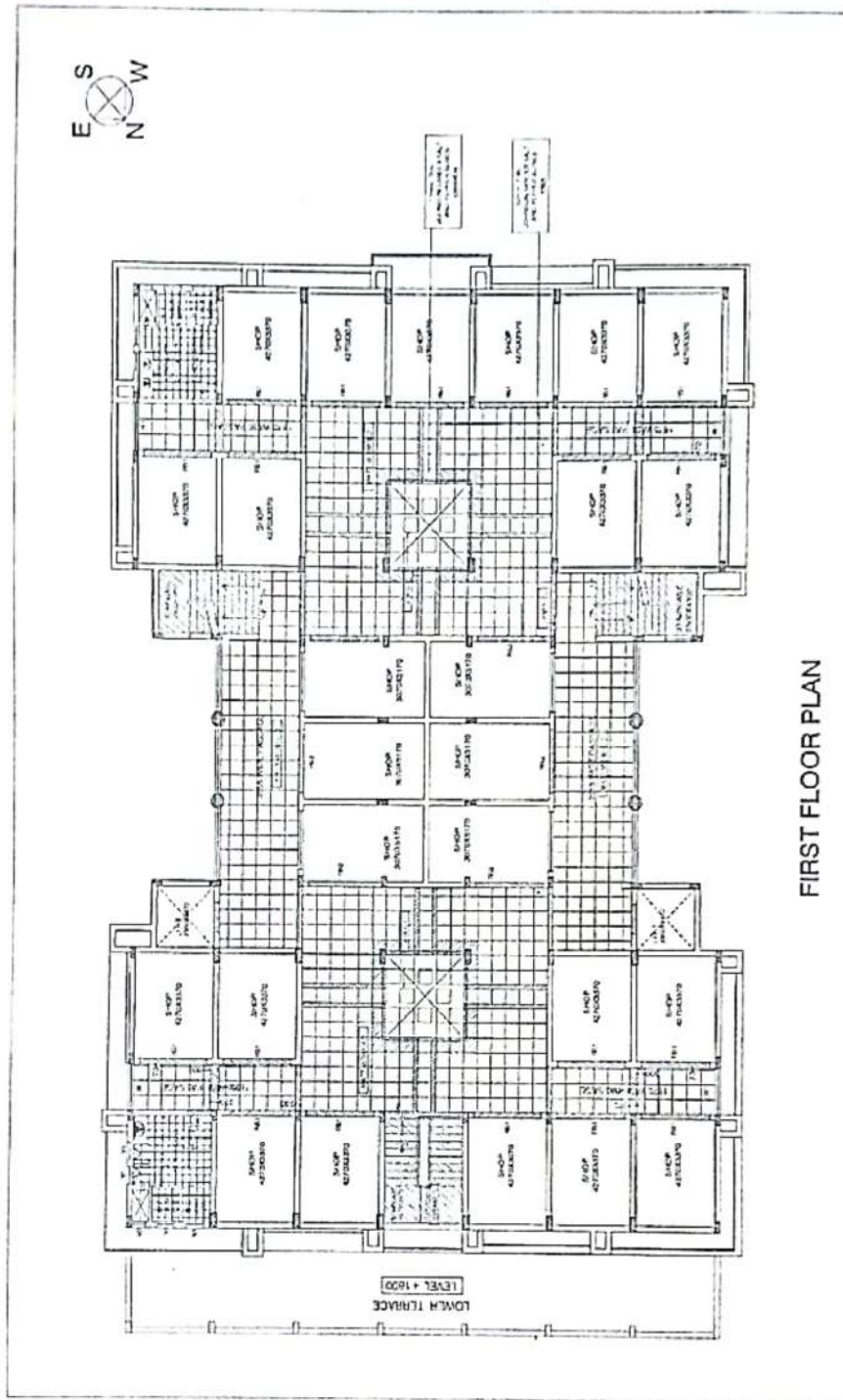
Sl No.	Floor No.	Built up Area
1	Ground Floor	9500.00
2	First Floor	9500.00
3	Second Floor (including Multiplex)	10200.00
4	Third Floor	10200.00

FLOOR WISE PLAN



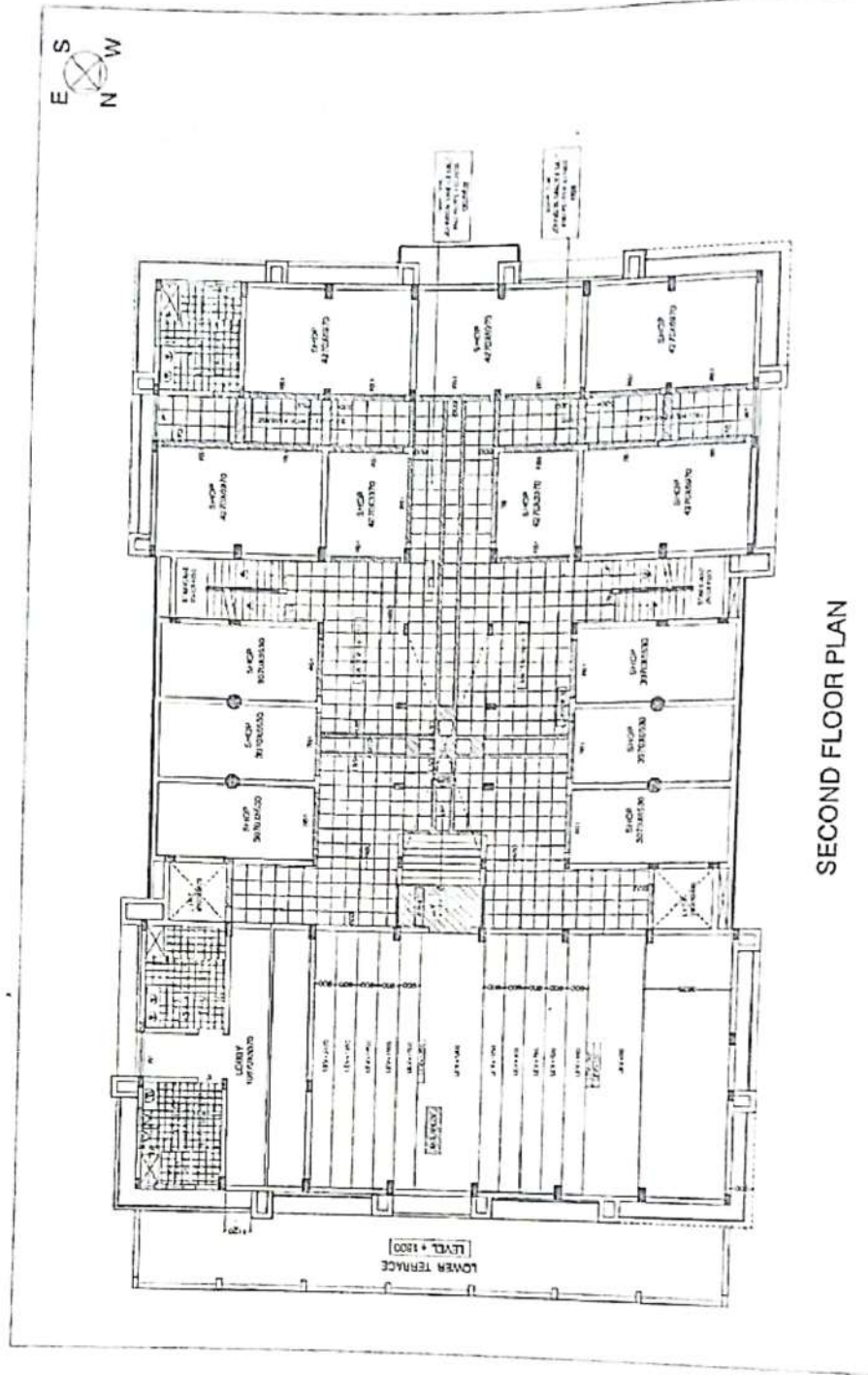
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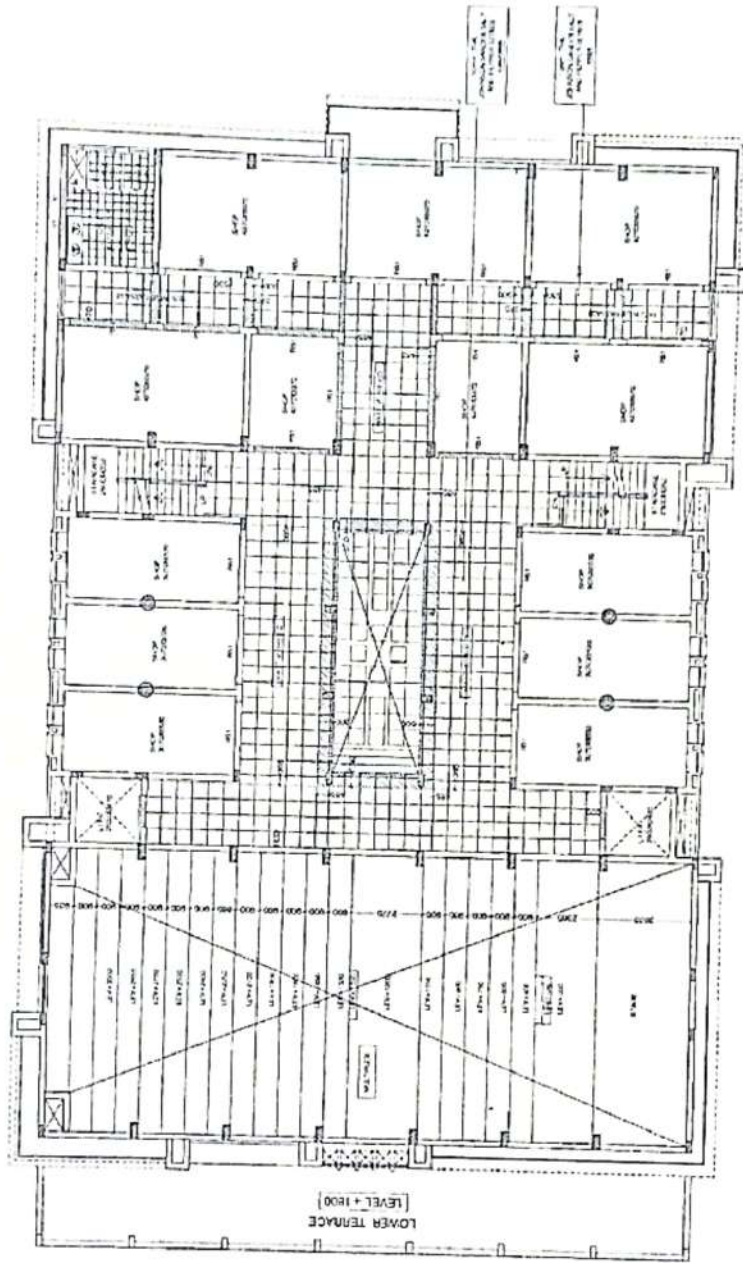


FIRST FLOOR PLAN

Kref



SECOND FLOOR PLAN



THIRD FLOOR PLAN

Vag

ANNEXURE-2

Letter Comprising the RFP Bid

(On Official letter head of the Bidder)

RFP/NIT No: SDA/_____/2024/____

Date:

Secretary
Sambalpur Development Authority
SDA & SMC Building,
Durgapali, Sambalpur - 768006, Odisha.

Sub: Tender for Licensing Rights of Commercial Space at Kirba, Burla, Sambalpur

Sir,

With reference to above subject, I/we, having examined the bid documents and understood their contents, hereby submit my/our Bid for the aforesaid licensing for commercial space as described in Annexure 1 on License Fees basis. The Bid is unconditional and unqualified.

- 1) I/ We acknowledge that SDA shall be relying on the information provided in the bid and the documents accompanying the bid for selection of the Licensee for the aforesaid subject, and we certify that all information provided therein 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) This statement is made for the express purpose of our selection as Licensee for the aforesaid subject. I/ We shall make available to SDA any additional information it may find necessary or require to supplement or authenticate the bid.
- 3) I/ We acknowledge the right of SDA to reject our bid without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
- 4) I/ We declare that:
 - a) I/ We have examined and have no reservations to the bidding documents, including Addendum/ Corrigendum, if any, issued by SDA; and
 - b) I/ We do not have any conflict of interest in accordance with provisions of the tender 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 stipulated in the tender document, in respect of any bid or request for proposal issued by or any agreement entered into with SDA; and
 - d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of the RFP, no person acting for us or on our behalf has engaged or shall engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and
- 5) The undertakings given by me/us along with the application in response to the tender for the above subject were true and correct as on the date of making the tender application

and are also true and correct as on the bid due date and I/we shall continue to abide by them.

- 6) 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 above subject, without incurring any liability to the Bidders, in accordance with provisions of the tender document.
- 7) 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 SDA in connection with the selection of the Bidder, or in connection with the Bidding process itself, in respect of the above-mentioned subject License Agreement and the terms and implementation thereof.
- 8) In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a License 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.
- 9) I/ We have studied all the bidding documents carefully and also physically surveyed the Commercial Space at Kirba, Burla, Sambalpur. We understand that except to the extent as expressly set-forth in the License Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by SDA or in respect of any matter arising out of or relating to the Bidding process including the award of License Agreement.
- 10) I/ We offer due EMD to SDA in accordance with the tender Document. The documents accompanying the Bid, as specified in RFP, have been submitted as part of the Technical as per the formats provided in the RFP (Bid Processing Fee as Demand Draft and Bid Security/ EMD in the form of Bank Guarantee).
- 11) I/ We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/we shall have any claim or right of whatsoever nature if the licensing rights as mentioned in above subject are not awarded to me/us or our Bid is not opened or rejected.
- 12) The financial offer has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft License Agreement, addendum /corrigendum, 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.
- 13) I/ We agree and undertake to abide by all the terms and conditions of the tender document.
- 14) I/We agree and undertake to be jointly and severally liable for all the obligations of the Licensee under the License Agreement for the License period in accordance with the Agreement. To comply with all applicable laws, regulations including labor laws and indemnify SDA fully against any issues arising out of noncompliance of applicable laws.
- 15) I/ We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.
- 16) The EMD in the form of Bank Guarantee from(Bank) is also enclosed.
- 17) I/ We hereby submit bid documents i.e. Tender Documents and Draft License Agreement

duly signed on each page as token of unconditional acceptance of all terms and conditions set out herewith.

I / We declare that the submitted Tender documents are same as available on https://_____). I / We have not made any modification / corrections / additions etc. in the Tender documents. I / We have checked that no page is missing, and all pages are legible and indelible. In case at any stage, it is found that there is any difference in the downloaded Tender documents from the original Tender Documents available at the SDA website, SDA shall have the absolute right to reject my/ our bid or terminate the license agreement after issue of Letter of Acceptance, without any prejudice to take any other action as specified for material breach of conditions of Bid/ License Agreement.

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

Yours

(Signature, name and designation of the Authorized signatory)

Name and seal of Bidder/Lead Member

Date:

Place:

Keep

ANNEXURE-3

General Information of the Bidder

(On official letter head of the company)

1.
 - a) Name
 - b) Address of the corporate headquarters:
 - c) Address of its branch office(s) in India:
 - d) PAN & GST details (Copy to be attached):
2. Details of individual(s) who shall serve as the point of contact/ communication for SDA within the Company:
 - a) Name
 - b) Designation
 - c) Company
 - d) Address
 - e) Telephone Number
 - f) E-Mail
 - g) Address
3. In case of Consortium/JV:
 - a) The information above (1 & 2) shall be provided for all the members of the consortium.
 - b) Information regarding role of each member:

Sl. No.	Name of Member	Proportion of Equity to be held in the Consortium	Role*
1			
2			

* Specify whether Lead Member / Ordinary Member

Signature

(Name of the Authorized Signatory)

For and on behalf of (Name of the Bidder) Designation

Place:

Date:

ANNEXURE-4 (A)

Financial Eligibility

Certificate of Statutory Auditor/ Chartered Accountant with regard to eligibility of the Bidder

(On the Letterhead of the Statutory Auditor/ Chartered Accountant)

We have verified the relevant statutory and other records of M/s _____ [Name of Bidder], and certify that the Gross Annual turnover of M/s _____ (Name of the Applicant) in the last 3 completed financial years is Rs. -----.

Year wise details of Gross Annual Turnover from the business of alone are as under:

Name of Bidder or member of JV/CONSORTIUM	Turnover		
	2021-22	2022-23	2023-24
Name of Bidder or member(1) of JV/CONSORTIUM			
Name of Bidder or member(2) of JV/CONSORTIUM			
TOTAL			

- (i) Turnover as brought out in the audited annual financial results is to be indicated in above table and certified by the statutory auditor/ chartered accountant of the applicants.
- (ii) Gross Annual Turnover from business of for each member of JV or CONSORTIUM shall be indicated separately without consideration of ratio of participation in the current tender.

Name & address of Applicant's Bankers:
Signature and Seal of the Statutory Auditor clearly indicating his/her membership number

Ver

ANNEXURE-4 (B)

Technical Eligibility

Certificate of Statutory Auditor / Chartered Accountant

(On the letter head of the Signatory)

I / We have verified and certify that M/s _____, has Owned / Leased & Subleased / Developed/ Leased & Occupied the below mentioned projects.

S.No	Building Name and Description	Location	Built / Leased / Owned Sqft	Construction / Lease Start Date	Construction Completion Date / Lease End Date
1					
2					
3					
	Total				

Signature and Seal by indicating his/her membership number.

Handwritten signature

ANNEXURE-5

Power of Attorney of Bidder (duly notarized)

Know all men by these presents, I / We (name and address of the registered office) do hereby constitute, appoint & authorize Mr./Ms. _____ (name and residential address) who is presently employed with us and holding the position of _____ as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our Bid, including signing and submission of all documents and providing information / responses to SDA, representing us in all matters before SDA, and generally dealing with SDA in all matters in connection with our Bid.

We hereby agree to have deemed ratified all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

(Signature)

(Name, Title and Address) of the Attorney

For

Accepted

Note:

- 1. 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.*
- 2. It should be on non-judicial stamp paper of Rs.100/- at least duly notarized with supported by copy of Board of Resolution passed for this purpose only in case of company.*



ANNEXURE-6

Financial Bid Format

(To be submitted by the Bidder in a separate sealed enveloped super scribing as "Financial Bid". This Annexure will not be submitted in the Technical Bid)

I/we, having examined the bidding documents and understood their contents, hereby submit my/our financial bid for Licensing of commercial space located at Kirba, Burla, Sambalpur.

The Bid is unconditional, and I/We undertake to make payments to SDA as per the Payment Schedule without any delay.

S.No	Property Location	License Fee / Sq. Ft / Month for Year 1 (Exclusive of GST)
1	Commercial Space located at Kirba, Burla, Sambalpur	

Note:

- **Taxes:** The quoted License Fee is exclusive of GST and any other applicable taxes as per the law of land.
- **Quarterly/ Annual License Fee:** The License Fee shall be calculated based on the Commercial Area offered by the Licensor to the Licensee.
- **Escalation:**
 - i. There will be no escalation for the first 3 years.
 - ii. There will be an Annual Escalation of 5% yearly on the License Fee from 4th year to 15th Year.
 - iii. The Quarterly Licensee Fee will have to be paid within 10th day of start of each quarter in advance (after completion of rent-free grace period of 180 days) at the beginning of each year.
- **License Tenure:** The License granted under the License Agreement shall be valid for a period of 15 (Fifteen) years from the date of execution of License Agreement or handover of possession whichever is later. License Tenure is exclusive of rent-free grace period of 180 days.
- **Renewal:** SDA shall renew the License Period at its sole discretionary power, at the request of the Licensee as per the terms and conditions as deemed fit.
- **Reserve Price:** Any bids received below the reserve price of INR 30/- (Indian Rupees Thirty) per Sq. Ft/Month for Year 1 will be rejected.

Signature, name and designation of the Authorized signatory

Name and seal of Bidder/Lead Member

Date:

Place:



ANNEXURE-7

Consortium Agreement/Memorandum of Understanding

This Consortium Agreement/Memorandum of Agreement is executed at ----- on this ___ day of _____, 2024.

BETWEEN

M/s. _____, a Company incorporated under the _____ Act, _____ [year] and having its Registered Office at _____ acting through its duly authorized by a resolution of the Board of Directors dated _____ (hereinafter referred to as the 'Lead Member' which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the ONE PART;

AND

M/s _____, a Company incorporated under the _____ Act, _____ [year] and having its Registered Office at _____ and _____, acting through its duly authorized Representative by a resolution of the Board of Directors dated _____, (hereinafter referred to as the ('Participant Member')) which expression unless excluded by or repugnant to the subject or context be deemed to mean and include its successors in interest, legal representatives, administrators, nominees and assigns) of the OTHER/SECOND PART

Whereas Sambalpur Development Authority (hereinafter referred to as 'SDA') has invited Bids for the "Licensing of Commercial Space at Kirba, Burla, Sambalpur" in terms of the Bid documents issued for the said purpose and the eligibility conditions required that the Bidders bidding for the same should meet the conditions stipulated by SDA for participating in the bid by the Consortium for which the Bid has been floated by SDA.

AND WHEREAS in terms of the bid documents all the parties jointly satisfy the eligibility criteria laid down for a Bidder for participating in the bid process by forming a Consortium between themselves.

AND WHEREAS all the parties hereto have discussed and agreed to form a Consortium for participating in the aforesaid bid and have decided to reduce the agreed terms to writing.

NOW THIS CONSORTIUM AGREEMENT/MEMORANDUM OF AGREEMENT HEREBY WITNESSES:

1. That in the premises contained herein the Lead Member and the Participant Member having decided to pool their technical know-how, working experiences and financial resources, have formed themselves into a Consortium to participate in the Bid process for "Licensing of Commercial Space at Kirba, Burla, Sambalpur" in terms of the Bid invited by Sambalpur Development Authority, (SDA).
2. That all the members of the Consortium have represented and assured each other that they shall abide by and be bound by the terms and conditions stipulated by SDA for awarding the Bid to the Consortium so that the Consortium may take up the aforesaid Commercial Space. In case the Consortium turns out to be the successful Bidder in the bid being invited by SDA for the said purpose.

3. That all the members of the Consortium have satisfied themselves that by pooling their technical know-how and technical and financial resources, the Consortium fulfills the pre-qualification/eligibility criteria stipulated for a Bidder, to participate in the bid for the said Bid process for "Licensing of Commercial Space at Kirba, Burla, Sambalpur".
4. That the Consortium have agreed to nominate M/s. _____ and as the representative who shall be authorized to represent the Consortium for all intents and purposes for dealing with the Sambalpur Development Authority and for submitting the bid as well as doing all other acts and things necessary for submission of bid documents such as Bid Application Form etc., Mandatory Information, Financial Bid. etc. and such other documents as may be necessary for this purpose.
5. That the shareholding of the members of the Consortium for this specified purpose shall be as follows:
 - (i) The Lead Member M/S _____ shall have _____% percent of shareholding with reference to the Consortium for this specified license agreement.
 - (ii) The Participant Member M/S _____ shall have _____
(%) of shareholding with reference to the Consortium for this specified License Agreement.
6. That in case to meet the requirements of bid documents or any other stipulations of SDA, it becomes necessary to execute and record any other documents amongst the members of the Consortium, they undertake to do the needful and to participate in the same for the purpose of the said project.
7. That it is clarified by and between the members of the Consortium that execution to this Consortium Agreement/Memorandum of Agreement by the members of the Consortium does not constitute any type of partnership for the purposes of provisions of the Indian Partnership Act, 1932 or the Limited Liability Partnership Act, 2008 and that the members of the Consortium shall otherwise be free to carry on their independent business or commercial activities for their own respective benefits under their own respective names and styles. This Consortium Agreement is limited in its operation to the specified project.
8. In case the consortium is being selected, we will form a Special Purpose Vehicle (SPV) for operating the Commercial Area provided to us at the Kirba, Burla, Sambalpur.
9. That the Members of the Consortium undertake to specify their respective roles and responsibilities for the purposes of implementation of this Consortium Agreement and the said project if awarded to the Consortium in the Memorandum to meet the requirements and stipulations of SDA.

IN FAITH AND TESTIMONY WHEREOF THE PARTIES HERETO HAVE SIGNED THESE PRESENTS ON THE DATE, MONTH AND YEAR FIRST ABOVE WRITTEN.

Enclosure: Board resolution of each of the Consortium Members authorizing:

- (i) Execution of the Consortium Agreement, and
- (ii) Appointing the authorized signatory for such purpose.

ANNEXURE-8

Affidavit

(To be given separately by each consortium member of the Bidder on requisite Stamp Paper)

I, _____ (insert designation) S/o. _____, resident of _____ the of the (insert name of the single Bidder/consortium member if a consortium), do solemnly affirm and state as follows :

- 1) I say that I am the authorized signatory of (insert name of company/ consortium member) (hereinafter referred to as "Bidder/Consortium Member") and I am duly authorized by the Board of Directors of the Bidder/Consortium Member to swear and depose to this Affidavit on behalf of the Bidder/ Consortium Member.
- 2) I say that I have submitted information with respect to our eligibility for Sambalpur Development Authority (hereinafter referred to as "SDA") Tender for licensing of Commercial Space (hereinafter referred to as "Commercial Space") I further state that all the said information submitted by us is accurate, true and correct and is based on our records available with us.
- 3) I say that, we hereby also authorize and request any bank, authority, person or firm to furnish any information, which may be requested by SDA to verify our credentials/ information provided by us under this Bid and as may be deemed necessary by SDA.
- 4) I say that if any point of time including the License period in case SDA requests any further/ additional information regarding our financial and/or technical capabilities, or any other relevant information, we shall promptly and immediately make available such information accurately and correctly to the satisfaction of SDA.
- 5) I say that we fully acknowledge and understand that furnishing of any false or misleading information by us in our tender shall entitle us to be disqualified from the tendering process for the said project. The costs and risks for such disqualification shall be entirely borne by us.
- 6) I state that all the terms and conditions of the Tender document have been duly complied with.

DEPONENT

VERIFICATION:-

I, the above named deponent, do verify that the contents of paragraphs 1 to 6 of this affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed. Verified at _____ (place), on this the _____ day of 2024.

DEPONENT

ANNEXURE-9

Undertaking of Responsibility

On Rs. 100/- stamp paper duly notarized.

As a Lead Member of the consortium of ___ companies – namely (Complete name with address) jointly & severally undertake the responsibility in regards to the License Agreement with SDA in respect of Licensing of Commercial Space:-

- 1) That, we solely undertake that (Name of the Company/consortium member) shall conduct all transactions/ correspondences and any other activity in connection with License Agreement pertaining to Commercial Space.
- 2) That, all consortium members are jointly or severally responsible for all commitments/ liabilities/ dues etc. to SDA.
- 3) That, we further confirm that, the stake holding of Lead Member- (Name of the company/ consortium member) shall always remain more than 51% and we, all consortium members, insure that there shall be no change in the stake holding of all parties in the 15 (fifteen) years license period.
- 4) We also confirm that our consortium was made on _____ (Date) for seeking, licensing rights of SDA Commercial Space and in support of which a copy of our Board Resolution is attached with this Undertaking.

(Authorized Representative of all ___ consortium members to sign on undertaking with witness signatures)

Witness I _____

Handwritten signature

ANNEXURE-10

UNDERTAKING FOR DOWNLOADED TENDER DOCUMENT

(On official letter head of the company)

We here by confirm that, we have downloaded / read the complete set of tender documents /addendum/clarifications along with the set of enclosures hosted on website of SDA. We confirm that we have gone through the Tender documents, addendum and clarifications for this work placed up to the date of opening of bids on the website of SDA. We confirm our unconditional acceptance for the same and have considered for these in the submission of our financial bid. We/I hereby give our acceptance to all the terms and conditions of the Tender document as well as the draft Licensee Agreement.

Company Name _____

Name _____

Signature _____ Date: _____

Postal Address _____

E-Mail ID _____

Phone _____ FAX _____

Company Seal:

ANNEXURE-11

Undertaking for not being banned for business by any Govt. Organisation / PSU / etc.

(On official letter head of the company)

I/We hereby declare, confirm and undertake that:

“As on date of Tender submission (i) SDA/H&UD Dept. of GoO./Govt. of Odisha has not banned business with me/us or (ii) Any Central/state Government department/PSU/Other Government entity or local body have not banned business with us which is applicable to all ministries of Govt. of India”.

STAMP & SIGNATURE OF AUTHORISED SIGNATORY

Note:

1. In case of JV/Consortium, the undertaking shall be submitted by each member of the JV/Consortium.
2. The undertaking shall be signed by authorized signatory of the Bidder or constituent member in case of JV/Consortium.

ANNEXURE-12

BUILDING PLANS OF COMMERCIAL SPACE

The location plans have not been uploaded on web site due to security concerns. However, the bidder may collect the location plans for Commercial Space from the office of the Secretary, Sambalpur Development Authority, SDA & SMC Office Building, Durgapali, Sambalpur - 768006, between 10:00 hrs. to 17:00 hrs, on all working days, free of cost on production of identity proof and authority letter of the Bidder.

Handwritten signature

ANNEXURE 13

DISCLOSURE OF PAST & ONGOING LITIGATION

Information regarding Litigation / Arbitration during last five years preceding bid due date in which the bidder is involved, the parties' concerned and disputed amount.

Pending Litigation

Pending Litigations				
i. No pending litigation in accordance with (Type of Litigation to be mentioned)				
ii. Pending litigation in accordance with (Type of Litigation to be mentioned)				
Year of dispute	Amount in dispute	Outcome as Percentage of Net Worth	Details of Litigation	Details of Related Parties
(insert year)	(insert amount)	(insert percentage)		

Litigation History

Preceding 5 years to be reckoned from the proposal due date.

Litigation History				
Year of dispute	Amount in dispute	Outcome as Percentage of Net Worth	Details of Litigation	Details of Related Parties

We remain,
Yours sincerely,

Signature, name and designation of the Authorized signatory

Name and seal of Bidder/Lead Member

Date:

Place:

ANNEXURE 14-

BANK GUARANTEE FOR BID SECURITY/EMD (FORMAT)

From-----

[Name and Address of Bank]

Secretary

Sambalpur Development Authority
SDA & SMC Office Building,
Durgapali, Sambalpur - 768006, Odisha

1. [Name of relevant Bidder] ("Prospective Bidder) has in response to a Request for Proposal ("RFP") issued by SDA, submitted a proposal dated ----- (the "Proposal") for it to procure an Agency (the "Licensee") as «Master Licensee for Commercial Space at Kirba, Burla, Sambalpur» (the 'Engagement').
2. [Name of Bank] with its registered office at -----, unconditionally guarantees to pay SDA upon first the written demand and without deduction the sum of INR 36,00,000/- (Indian Rupees Thirty Six Lakhs only) ("Guaranteed Sum") subject to the conditions set out below.
3. [Name of Bank] undertakes to immediately pay SDA the Guaranteed Sum upon receipt of the first written demand by SDA without SDA having to substantiate its demand, provided that the demand states that the amount demanded is due as a result of the occurrence of one or more of the conditions referred to in clause 4 below.
4. [Name of Bank] will be liable to immediately pay the Guaranteed Sum without deduction to SDA if it notifies SDA in writing that:
 - a. The Bidder withdraws his bid during the period of validity as provided in this Volume I of the RFP documents.
 - b. If the bidder submits a conditional bid which not acceptable to SDA.
 - c. If the bidder has been notified of the acceptance of his bid by SDA:
 - i. if the Bidder fails to sign the License Agreement; or
 - ii. in case the bidder fails to furnish the required Security Deposit/ Performance Security within the specified time in accordance with the RFP Documents.
5. This guarantee will remain in force upto 240 days from the bid due date or as it may be extended by the SDA, notice of which extension(s) to the bank is hereby waived. Any demand in respect of this Guarantee should reach the Bank not later than the above date.
6. SDA is entitled to make any demand under this guarantee not later than the day this guarantee ceases to remain in force in accordance with clause 5.
7. SDA is under no obligation to notify [Name of Bank] of any extension of the Validity Period of the Proposal or the selection of the Prospective Bidder as one of the successful Bidder.
8. [Name of Bank] agrees that it will not assign its obligations under this guarantee without the prior written consent of SDA. SDA will not unreasonably withhold its consent if the proposed assignee is of at least equal financial standing to [Name of Bank] and the assignee assumes in writing the obligations of [Name of Bank] under this guarantee at the same time or before the assignment.

9. The jurisdiction in relation to this Guarantee shall be the Courts at Sambalpur and Indian Law shall be applicable.

The claim in respect of this Bank Guarantee can also be lodged at our Office.

SEAL OF [BANK]

NAME OF BANK-----

SIGNATURE-----

NAME:

DESIGNATION:

DATE:

Ved

ANNEXURE 15

DRAFT LICENSE AGREEMENT

(this document is generic in nature and will be suitably modified before execution)

Agreement No _____ of Year _____

THIS AGREEMENT is executed on this ____ day of _____ [year] at Sambalpur

BY AND BETWEEN

The Sambalpur Development Authority incorporated under _____ having its administrative office at _____, India, represented by _____ (Designation) hereinafter referred to as the "Licensor" or "SDA" (which expression shall unless repugnant to the context mean and include it's successors and assigns) of the First Party

AND

M/s. _____, having its registered office at and represented by _____ (Authorized Signatory), hereinafter called "Licensee" (which expression shall unless repugnant to the context or meaning thereof include the successors and assigns) of the Second party.

WHEREAS

- a) SDA, with a view to augmenting its revenues through non-operating revenue, had invited an open bid from interested parties. Based on the receipt of tender document as submitted by the Bidder, a successful Bidder (herein after referred to as as Licensee) has been selected for assigning Licensing rights of Commercial Space located at Kirba, Burla, Sambalpur.
- b) SDA has agreed to provide to the Licensee the Licensing Rights on the Commercial Space (pre identified by SDA and herein after referred to as Commercial Space), on payment of License Fee, security deposit and other charges to SDA on the terms and conditions hereunder contained in this License Agreement.
- c) Licensee shall develop, manage, operate and maintain, market the commercial space allotted to them by SDA as specified in this Agreement at its own cost.

NOW THEREFORE, in lieu of the mutual promise and consideration set out herein SDA and the Licensee (hereinafter collectively called "Parties") witness and hereby agree as follows:

- A) The several documents forming this Agreement are to be read as mutually explanatory to one another and, unless otherwise expressly provided elsewhere in this Agreement, in the event of any conflict, discrepancy or ambiguity between them, the priority of documents shall be in the order:
- 1) This Agreement
 - 2) Letter of Acceptance No. _____ dated _____.
 - 3) The written clarifications and addenda issued to the Bidders
 - 4) Request for Proposal including the Draft License Agreement



5) Any other document of SDA and Licensee forming part of the Bidding process.

B) The Licensee hereby covenants as follows: -

- i) Licensee hereby assumes responsibility for the Commercial Space (referred to in Annexure I below). Licensee shall inter alia be responsible for the management operation, maintenance and marketing of the Commercial Space as specified in this Agreement at its own cost. The plans, proposals, ideas and suggestions proposed by the Licensee with reference to the Commercial Space, are subject to approval by SDA with regard to operational feasibility, aesthetics, and safety and security concerns. The Licensee shall not and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration for same.
- ii) Licensee irrevocably agrees to make all payments including License Fee as per this Agreement as and when due, without delay or demur, without waiting for any formal advice from SDA in this regard.
- iii) The Licensee confirms having examined the location of the Commercial Space and other connected issues pertaining to the RFP in detail and fully understands and comprehends the technical requirements of the Commercial Space. The Licensee also confirms full satisfaction as to the business viability of licensing the Commercial Space and hereby voluntarily and unequivocally agrees not to seek any claim, damages, compensation or any other consideration, whatsoever on this account. Licensee also confirms having made independent assessment of present and future market potential and no future claim what so ever regarding change in market circumstances shall be used by it as an alibi or excuse for non-payment of License Fee and/or other amounts due to SDA under this License Agreement.

C) That SDA and LICENSEE represent and warrant that they are empowered, authorized and able to make this agreement.

Vae

ARTICLE 2
DEFINITIONS

- a) **“Agreement”** means this License Agreement to be executed between SDA and the Selected Bidder in the format approved by SDA and includes any amendments, annexure hereto made in accordance with the provisions hereof.
- b) **“Applicable Laws”** means all laws, brought into force and effect by Govt. of India, State Governments, local bodies and statutory agencies and rules/ regulations/ notifications issued by them from time to time. It also includes judgments, decrees, injunctions, writs and orders of any court or judicial authority as may be in force and effected from time to time.
- c) **“Applicable Permits”** means all clearances, permits, authorizations, consents and approvals required to be obtained or maintained under Applicable Law, in connection with the “Commercial Space” and the contract during the subsistence of this Agreement.
- d) **“Bidder”** means any entity which is a partnership firm under the Partnership Act, 1932, a limited liability partnership firm in terms of the Limited Liability Partnership Act, 2008 or a company having its registered office in India either under the Companies act 1956 or the Companies Act, 2013 or a combination of the above in the form of Joint Venture (JV) or a Consortium etc. which is submitting its bid pursuant to Tender Documents.
- e) **“Bid”** means the documents in their entirety comprised in the bid, including all clarifications, addenda and revisions issued by SDA to the Bidders, the Proposal submitted by the successful Bidder (Licensee) in response to the bid notice in accordance with the provisions thereof.
- f) **“Change in Law”** means the occurrence or coming into force of any of the following after the date of signing this Agreement:
- a) The enactment of any new Indian law
 - b) The repeal, modification or re-enactment of any existing Indian law
 - c) Any change in the rate of any Tax.
- Provided that Change in Law shall not include:
- i. Coming into effect after the date of signing this Agreement of any provision of a statute which is already in place as of the date of signing this Agreement (or)
 - ii. Any new law or any change in existing law under the active consideration of or in the contemplation of any Government as of the date of signing this Agreement, which is a matter of public knowledge.
- g) **“SDA”** means Sambalpur Development Authority, a Autonomous Body incorporated under the Housing & Urban Development Department as per the Orrisa Development Authorities ACT, 1982.
- h) **“Compliance Date”** means the date of execution of License Agreement or handover of possession whichever is later.
- i) **“Commencement Date”** end of rent-free period of 180 days from Compliance date
- j) **“Commercial Space”** means the Commercial Space at Kirba, Burla, Sambalpur given on a license basis by SDA to the licensee under and in accordance with this License Agreement.
- k) **“Construction/s”** means the building, infrastructure including all utilities and constructions of any nature whatsoever developed by the Licensor on the Project Site and handed over to the Licensee.
- l) **“Damages”** shall mean any claim of SDA against the licensee for breach of this Agreement, including but not limited to, losses, dues, arrears etc. against which SDA shall be entitled to claim and adjust the Security Deposit.

- m) **“Handover Date”** means the date of Handover of the said Commercial Space by the licensor to the licensee as detailed in **Annexure 1**.
- n) **“Interest Free Security Deposit”** means interest free security deposit to be furnished by licensee to SDA as per terms and conditions of License Agreement, to be released after successful completion of license period.
- o) **“License”** means the permission granted by SDA to the Selected Bidder for commercial activity in Commercial Space, for a License Fee based on the terms and conditions of the License Agreement.
- p) **“Licensee”** means the Selected Bidder, who has executed the License Agreement with SDA pursuant to the conclusion of the bidding process.
- q) **“Licensor”** shall mean SDA, its assigns, its successors in interest or any other body corporate which may be authorized in writing by SDA to act on its behalf.
- r) **“License Fee”** means the amount payable by the licensee to SDA as per terms and conditions of the License Agreement along with any kind of Central or State Taxes, local levies, statutory dues, etc that may be payable by the licensee as per prevalent law.
- s) **“License Period”** means a period of 15 (Fifteen) years subsequent to handover of site.
- t) **“Project”** means the development and construction of the facilities along with the accompanying access-ways, landscape areas, utilities, services and necessary infrastructure, in accordance with the Layout Plan approved by SDA/LICENSOR.
- u) **“Selected Bidder”** means the Bidder who has been selected by SDA, pursuant to the bidding process for award of License.
- v) **“Sub-licensee”** means an entity to whom the selected licensee may at his option sub-license the license obtained from SDA
- w) **“Termination”** means termination of this Agreement by efflux of time or sooner determination in accordance with the provisions of this License Agreement.
- x) **“Termination Date”** means the end of the License period or date of sooner determination of the License period in accordance with the terms of this Agreement whichever is earlier.



ARTICLE 3
INTERPRETATION

In this Agreement, unless the context otherwise requires,

- 3.1. 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;
- 3.2. references to laws of 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;
- 3.3. 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;
- 3.4. 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;
- 3.5. 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;
- 3.6. references to "**development**" include, unless the context otherwise requires, renovation, refurbishing, augmentation, up gradation and other activities incidental thereto, and "**develop**" shall be construed accordingly;
- 3.7. any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- 3.8. any reference to day shall mean a reference to a calendar day;
- 3.9. references to a "**business day**" shall be construed as a reference to a day (other than a Sunday) on which banks in Sambalpur are generally open for business;
- 3.10. any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- 3.11. references to any date or period shall mean and include such date or period as may be extended pursuant to this Agreement;
- 3.12. 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;
- 3.13. the words importing singular shall include plural and vice versa.
- 3.14. references to any gender shall include the other and neutral gender;

- 3.15. 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 or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of SDA/Licensor hereunder or pursuant hereto in any manner whatsoever;
- 3.16. any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party in this behalf and not otherwise;
- 3.17. 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;
- 3.18. 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; and
- 3.19. time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.
- 3.20. 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.

LAW

The contract shall be governed under the provisions of Indian Contract Act 1872.

ARTICLE 4
GRANT OF LICENSE OF PROPERTY

4.1. LICENSED SITE

- 4.1.1 Subject to and in accordance with the terms and conditions set forth in this Agreement, and in particular subject to the due fulfillment of all the obligations assumed towards SDA by the Licensee, SDA hereby grants and authorizes the Licensee to the following (the "Specified Purpose"):
- a) To have access to licensed space(s) during the License Period, develop, finance, commission, operate, manage and maintain the licensed space(s) during the License Period at the cost and risk of the Licensee. Any development made by the Licensee on the Licensed Space(s) shall be deemed to be the property of SDA and all the rights of the Licensee in the Licensed Space(s) shall be relinquished in the favor of SDA.
- 4.1.2 Actual area of license space (Total Built-up Area) shall be decided based on as built drawing issued during handover / takeover stage, and the decision of the Licensor shall stand final. The Licensee voluntarily and unequivocally agrees not to seek any claim compensation or any other consideration on this account. In case there is any variation between total built-up area as mentioned in the bid document and actual area of handover, the License Fee shall be adjusted on pro-rata basis accordingly.
- 4.1.3 The Licensee, subject to complying with the terms and conditions of this Agreement, shall have the use of the Site during the License Period in accordance with the terms of this Agreement and limited for the purposes mentioned in Annexure I (A). The Licensee shall not use the site or the project facility for any other purpose. However, if the licensee intends to utilise the licensed space for any other purpose other than what is mentioned in Annexure I (A) is subject to the approval of SDA. Also, the licensee hereby accepts unconditionally and unequivocally that this shall not limit any liability or the responsibility or be a cause to seek any penalty, damages or charges in any form or to seek extension of due dates for payments by the licensee.
- 4.1.4 The Licensee shall confine its operations to the Project Site. The Licensee shall take all necessary precautions to keep persons and equipment within such areas, and to keep and prohibit them from encroaching, damaging or degrading or affecting adversely the neighboring/SDA/Licensor are as or otherwise cause any interference to the employees, representatives and agents of SDA/Licensor & Neighboring party.
- 4.1.5 If there is a non-compliance of the above observed by SDA/Licensor, SDA/Licensor shall issue a notice to rectify the non-compliance within a stipulated time. If the non-compliance is not rectified within the stipulated time, an appropriate fine for each infringement, shall be imposed by SDA/Licensor, along with additional time for rectification of such infringement.
- 4.1.6 The Licensee is required to introduce and observe at all times, appropriate measures for safety, security and orderliness on the premises granted to the Concessionaire/Licensee. The Licensee shall also submit necessary safety policy which will be submitted to

SDA/Licensor for verification.

4.2. LICENSE PERIOD

- 4.2.1 The access to the site shall be granted to the Selected Bidder immediately from the date of execution of the License Agreement (commencement date) or handover of possession whichever is later which shall be executed within a period of 15 days from the payment of Security Deposit by the Selected Bidder to the SDA (hereinafter referred to as "Commencement Date").
- 4.2.2 The License granted under the License Agreement shall be valid for a period of 15 years from the date of handover / takeover, whichever is earlier. The License Agreement may be terminated by either party to the Agreement after giving 5 months' notice. On termination of License, the licensed area and all structures developed on such area will transfer to the possession of SDA.
- 4.2.3 At the end of the License Period or sooner determination of this Agreement for any reason whatsoever all rights given under this License Agreement shall cease to have effect and the Licensed Area with all the furniture and fixtures and other assets permanently attached to the licensed area shall revert to SDA without any obligation on part of SDA to pay or adjust any consideration or other payment to the Licensee. No claim, compensation or damages shall be entertained by SDA on this account.
- 4.2.4 SDA shall renew the License Period at its sole discretionary power, at the request of the Licensee as per the terms and conditions as deemed fit.
- 4.2.5 If the Licensee exits the License Agreement during the tenure of the License, the Interest Free Security Deposit shall be forfeited by SDA besides recovering other dues including License fee.
- 4.2.6 No partial surrender or downsizing of a portion or whole floor or part of the licensed space is permissible during the tenure of the Agreement. For the avoidance of doubt, it is specifically clarified that the license fee is applicable on the total built up area irrespective of the usage or lack of occupancy thereof of the total built-up area by the licensee.
- 4.2.7 For the purpose of clarification, at the end of the License Period, on any ground whatsoever, the SDA shall have the absolute right to run the Project Site on their own, or re-License to any third party or to manage it in any other manner as they may deem fit in their sole discretion.
- 4.2.8 SDA has the right to prematurely end the License if the Licensee/ sub - Licensee / both do not follow the terms of this contract.

4.3. RIGHT TO SUB-LICENSE

- 4.3.1 The Licensee (considering Bidder as Master Licensee) shall be entitled to Sub-license the built-up structure to any person or entity (the "Sub-Licensee") with an intimation and approval by SDA, after adding the necessary structures and utility services. The Sub-Licensee's right shall be subject to the Licensee's right over the Licensed premises.

The Sub-Licensee shall not have any independent right over the licensed premises.

- 4.3.2 The Sub-License shall however be for the use of the Site, during the subsistence of the License Period only with a clear stipulation that all such Sub-License granted shall terminate simultaneously with the termination of the License Agreement, including on sooner determination of the License Period for any reason whatsoever. All contracts, agreements or arrangements with Sub-Licensee shall specifically stipulate this covenant of termination of the rights of the Sub-Licensee, and further such Sub-Licensee shall not have any claim or seek any compensation from SDA for such termination.
- 4.3.3 The Licensee shall prepare a draft standard format of the Sub-license agreement, which will be required to be signed by the Sub-Licensee for use of the subject Site. Prior written approval of SDA shall be obtained by the Licensee in respect of such standard draft. SDA may specify certain covenants to be incorporated in the sub-License agreement to protect their interests. Only after such covenants are incorporated in the sub-License agreement, the Licensee shall be entitled to enter into Sub-License agreement and shall be required to submit copies of each such Sub License to SDA for verification and record. In case of any deviation from the above-mentioned standard draft sub-license agreements, the Licensee shall obtain the prior written consent and approval of the SDA before entering into an agreement with a Sub-Licensee. SDA reserves the sole right not to give consent /approval to such a request and no compensation or claim will be entertained in this regard.
- 4.3.4 At any point of time, the Licensee shall not enter or cause any of its Sub- licensee to enter into any Sub-license Agreement with any person or entity for transfer of its rights which would adversely affect the interests of SDA or is not available to the Developer in the first place. Any such act of the Developer or Sub-Licensee shall render the Leave and License Agreement liable for termination at the sole cost and expense of the Licensee. The Licensee or Sub Licensee at any cost claim any inheritance or transferable or mortgageable rights over the property in whole or in part.
- 4.4. ASSIGNABILITY & ENCUMBRANCES**
- 4.4.1 Except for Sub- licensing with the consent of SDA the use of the licensed site(s) as per the terms of this agreement and tender document, the Licensee shall not assign any of its rights, or interest in this License Agreement in favor of any company/person(s) at any time and for any reasons whatsoever.
- 4.4.2 The concessionaire may, subject to the first and paramount charge of SDA over the receivables from the sub-licensees and other users of the built-up space and facilities, for the payment of the amounts becoming due to SDA, create second or further charge over the receivables as the security to recognized Financial Institution(s)/Banks for financial assistance and funding of the Project.
- 4.4.3 Under no circumstance the building or facilities constructed or installed by SDA / Licensor at the Licensed Site(s) shall be mortgaged, charged or otherwise any lien (including negative lien), charge or encumbrance be created or agreed to be created in favor of any person, including the Lenders / Financial Institution(s) / Banks etc.
- 4.4.4 Further, it is clarified that the Licensee will be completely responsible for any loss of

life or property in case of an emergency and/or due to the non-functioning of any system, including but not limited to the fire safety system that is exclusively under scope and control of Licensee. The SDA shall not be responsible for any loss of life and property in premises due to any reason including but not limited to malfunctioning of the fire system in case of any fire emergency within the Licensed site. The Licensee would have to prepare all documents as required by the civic/statutory agencies and submit the same to SDA.

ARTICLE 5

LICENSE FEE

- 5.1. Commencement of License fees shall be paid after completion of rent-free grace period of 180 days for the Commercial Space more fully detailed in **Annexure-I**. The Licensee voluntarily and unequivocally agrees not to seek any claim, compensation on, damages or any other consideration whatsoever on account of not taking over physical possession of the Commercial Space on date of deemed handing over, if applicable.
- 5.2. The vacant Commercial Space as mentioned in **Annexure-I**, shall be handed over by _____ (Date) [within 30 days of execution of license agreement].
- 5.3. Actual area of license space (Total Built-up Area) shall be decided based on as built drawing issued during handover / takeover stage, and the decision of the Licensor shall stand final. The Licensee voluntarily and unequivocally agrees not to seek any claim compensation or any other consideration on this account. In case there is any variation between total built-up area as mentioned in the bid document and actual area of handover, the License Fee shall be adjusted on pro-rata basis accordingly. The Licensee voluntarily agrees not to seek any claim compensation or any other consideration on this account. The Licensee shall be bound to take over the commercial space as per the actual area. Moreover, the successful Bidder/ Licensee shall not be entitled to demand reduction in area.
- 5.4. **LICENSE FEE**
 - 5.4.1 The License Fee per month for the License Space shall be as quoted by the Licensee in Bid Form.
 - 5.4.2 Along with License Fees, Licensee shall also pay other dues i.e. statutory dues / liabilities, electricity and water consumption charges, damages /penal charges if applicable, pending arrears if any, GST or any other prevailing tax etc. as applicable from time to time.
 - 5.4.3 The License Fee shall be paid to SDA on Quarterly basis in advance to SDA before 10 days of end of term (three months) without expecting any specific demand notice from SDA.
 - 5.4.4 The Licensee agrees voluntarily and unequivocally to make all payments to SDA as may be due before the due date, without waiting for any formal advice from SDA. In the events of non-receipt of any invoice, the Licensee agrees to collect the same from the office of the authorized representative of the Licensor.
 - 5.4.5 Licensee shall advise the details of payment deposited with SDA. In the case of non-submission of such details, initially Third Party dues i.e. statutory dues/ liabilities shall be settled (mandatory liabilities of SDA), then others dues/ liabilities like electricity, other utility charges, etc, if not paid by the Licensee and lastly License fee shall be accounted for.
 - 5.4.6 The License Fees shall be increased on compounding basis as mentioned in the RFP.
 - 5.4.7 Allotted space which has been handed over to the Licensee under this Agreement will



be kept in good condition and maintained properly by the licensee at their own cost.

- 5.4.8 If the Licensee fails to pay or partly pay the License Fee and other dues required to be paid as per terms and condition of License Agreement by the due date, a 30 days' cure notice period will be given to pay the outstanding License Fee and other dues along with an interest of 24% (Twenty Four percent) per annum. Such interest shall be charged on outstanding dues for the actual day(s) of delay in payment.
- a) If the Licensee fails to deposit the outstanding License Fee and other dues within 30 days cure notice, SDA shall be entitled to issue a Termination notice to make payment of outstanding License Fee and other dues within next 15 days.
- b) In the event of Licensee failing to deposit the outstanding License Fee and other dues within 15 days from the date of issue of termination notice, it shall constitute material breach of contract and Licensee's event of default under this Agreement and shall entitle SDA to terminate the License Agreement as per provisions stipulated in Article-11 of the License Agreement and shall restrict the access of the Licensee to the subject site. After such termination, SDA shall forfeit Interest Free Security Deposit deposited by the Licensee and recover SDA's dues without prejudice to take such other action available to SDA under this Agreement and as per Law.

5.5. EXTENSION OF DATE OF COMMENCEMENT / LICENSE PERIOD

- 5.5.1 If in event of, the progress of work being delayed by any act or neglect of SDA or its employees or by other contractor / Licensee employed by SDA or in executing the works on which Licensee's performance necessarily depends or by reason of proceeding taken or threatened by or dispute with adjoining or to neighboring owners or public authority arising otherwise through the Licensee's own default etc., then upon happening of any such event Licensee shall immediately bring it to the notice of SDA within 30 days of happening of such an event and accordingly either Commencement Date or License Period individually or in combination may be extended suitably, as in the opinion of SDA are reasonable having regard to the nature and period of delay and the type and quantum of works affected thereby.
- 5.5.2 Apart from above, the Licensee shall not be eligible for any other relief/ compensation for works so carried forward to the extended period of time. In addition, Licensee shall also make constantly its best endeavors to bring down or make good the delay and shall do all that may be reasonably required to the satisfaction of SDA to proceed with the works.
- 5.5.3 Any failure or delay by SDA to provide the Licensee possession of the licensed site(s), or to give the necessary permission or necessary drawings or instructions or any other delay caused by the SDA due to any other cause whatsoever, then such failure or delay shall in no way affect or vitiate the License Agreement or alter the character thereof or entitle the Licensee to any damages or compensation.
- 5.5.4 Nevertheless, in the event of the delay being due to reasons being attributable to Licensee, or its failure to complete its obligations within specified time as per the

License Agreement, for the reasons other than the reasons attributable to SDA, Licensee shall not be entitled for any extension of date of Commencement Date or License Period whatsoever.

5.5.5 In case of extension of period by SDA/Licensor, the escalation of rental will be applicable from the Commencement Date only.

5.6. SECURITY DEPOSIT

- 5.6.1 The Licensee shall submit an Interest Free Security Deposit to the SDA for a sum equivalent to INR Rs. 36,00,000.00 (Rupees Thirty six lakhs only) for the said Licensed Space(s) with a validity of three years. This Security Deposit shall be submitted within 30 days of issue of the LOA. The Security Deposit shall be in the form of unconditional and irrecoverable Bank Guarantee in favor of "Sambalpur Development Authority", drawn on any Public-Sector Bank and payable / encashable at Sambalpur. The Bank Guarantee for Security Deposit shall be submitted or be renewed for a sum equivalent to one year's License fee of the following year with a validity of three years.
- 5.6.2 The Security Deposit would however be forfeited in case of any "Event of Default" as described in the License Agreement and/or in accordance with terms specified elsewhere in the bid document.
- 5.6.3 Upon the SDA/Licensor being of the view that the Licensee has committed any breach or default of this Agreement, SDA/Licensor shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to en-cash and appropriate the relevant amounts from the Security Deposit as loss/damages for such breach or default. Upon such encashment and appropriation from the Security Deposit, the Licensee shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Security Deposit, and in case of appropriation of the entire Security Deposit provide a new Security Deposit, as the case may be, and the Licensee shall, within the time so granted, replenish or furnish fresh Security Deposit as aforesaid failing which SDA/Licensor shall be entitled to terminate this Agreement and forfeit the remaining amounts of the Security Deposit, if any.
- 5.6.4 The Licensee agrees and undertakes to keep the Security Deposit valid on roll over basis throughout the License Period till the end of the License Period plus 180 days thereafter. The Security Deposit shall not carry interest.
- 5.6.5 The said Security Deposit shall be returned by SDA/Licensor after the expiry of the License Period without any interest subject to fulfillment of all handing over obligations/r requirements by the Licensee, to the satisfaction of SDA/Licensor and further subject to deductions/adjustment for all damages/losses suffered by SDA /Licensor.
- 5.6.6 If the Licensee defaults in any Quarterly License Fee for more than 45 (Forty Five) days from the due date as per the provisions of this Agreement, SDA/Licensor shall be entitled to en-cash the Security Deposit without being liable in any manner whatsoever to the Licensee and to appropriate the Security Deposit as "damages", without prejudice to other rights and claims of the SDA/Licensor in which case the Licensee shall replenish the Security Deposit to the original value or submit a new Bank Guarantee for

the original value i.e. equivalent to 100% of one year License.

5.6.7 However, for the period between 10 days to the date of deposit of Quarterly License Fee, the Licensee will have to pay a penalty calculated at 5% per month, on the outstanding amount, paid within 45 days.

5.6.8 In case after submission of the revised Security Deposit, the Licensee defaults second time in recurring payment, SDA/Licensors at its sole discretion, shall be entitled to terminate this Agreement in accordance with the provisions of Article 11, without being liable in any manner whatsoever to the Licensee and to appropriate the Security Deposit as predetermined "damages".

5.7. TAXES AND OTHER STATUTORY DUES

5.7.1 The property tax applicable, if any, on the property of SDA shall be borne by SDA.

5.7.2 Goods & Service tax (GST), as applicable time to time, shall be borne by Licensee.

5.7.3 All other statutory taxes (including GST), statutory dues, local levies, as applicable shall be charged extra and shall have to be remitted along with the License Fees for onward remittance to the Government. The Licensee indemnifies SDA from any claims that may arise from the statutory authorities in connection with this License for the License period if the same is raised by the concerned authorities in future.

5.7.4 Payment of all stamp duties required to execute this License Agreement shall be borne by Licensee.

4.1. SITE SAFETY AND SECURITY MEASURES

4.1.1. The Licensee is required to make its own arrangement for firefighting which shall conform to the IS Code of Practice/fire services norms of the State and all other applicable statutory bodies.

4.1.2. The Licensee shall comply with all safety regulations as applicable, in its design, access arrangements and operations on Project Site.

4.1.3. The Licensee shall be responsible at its cost, for procurement, transport, receiving, unloading and safe keeping of all plant and machinery, equipment, materials and other things required for the construction and operation and maintenance of the facilities.

4.1.4. Unless otherwise stated in this Agreement:

a) The Licensee shall ensure not to allow any unauthorized person to enter into the Project Site except authorized person.

b) The authorized persons during the construction phase shall be limited to the employees of the Licensee, employees of subcontractors of the Licensee, and employees and persons authorized by SDA/Licensors.

4.1.5. Employees/staff of the Licensee shall not be deemed or construed to be the employees of SDA/ Licensors. The Licensee undertakes that its employees/staff shall make no claim against the SDA/Licensors for any reason whatsoever, throughout the License Period. Further, the Licensee also agrees that the SDA/Licensors shall not be liable for any accident/injury or claims of the workers/employees employed by it or by its contractor/sub- contractors during the execution of the development works, under this

Agreement, throughout the License Period.

- 4.1.6. If during the License Period, any loss of property and/or loss of life takes place, the Licensee is only responsible for the same and liable for payment of damages/compensation etc. and SDA/Licensors shall not be liable for any such claims. The Licensee would be responsible including the payments arising out of any third-party claims. The Licensee is advised to procure necessary insurance for meeting such liabilities at its own cost and a copy of the same shall be submitted to the Licensor for verification.
- 4.1.7. The Licensee shall be solely liable for the above-mentioned obligations/responsibilities. In case any liability, on account of Licensee's failure to comply with the above, falls on SDA/Licensors, the Licensee shall fully indemnify SDA/Licensors and holds Licensor indemnified against non-compliance of any such obligations/loss/damages etc.
- 4.1.8. The Licensee shall prepare necessary safety Policy as per the industrial practice and as per the safety rules and regulations as applicable GoO and submit a copy of the same to the Licensee before execution of construction / any interior work at site.
- 4.1.9. The Licensee shall carry out all routine checks and maintenance or repair works with adequate advance notice in such a planned manner at regular intervals that there shall be minimal disruption of the operations of the nearby area and the SDA/Licensors station/property.
- 4.1.10. SDA/Licensors may inspect the Project Site and project facilities at any time for its own assessment of the compliance by the Licensee with its maintenance obligations under this Agreement. The Licensee shall extend all reasonable assistance to the SDA/Licensors representatives during such inspection visits.

ARTICLE 6

FITTING-OUT, OPERATION AND MAINTENANCE OF COMMERCIALSPACE

61. Approval of Plan- Submission of drawings:

- 4.1.11. The Licensee shall commence fitting-outs only after submitting the electrical, plumbing, mechanical, fire, fit-out drawings, etc. as applicable to SDA.
- 4.1.12. The submission shall be fully dimensioned plans both hard copy and soft copy (in .dwg file format) showing the floor plan together with elevations and cross- sections of the new and existing works. Construction, height, dimensions and material of partition boundaries are to be indicated.
- 4.1.13. There shall be a title block at the bottom right-hand corner of the drawings giving full information on the location of Licensed Premises and licensee's name and address.
- 4.1.14. The Licensee is not allowed to start fitting-out works without obtaining the requisite approvals from SDA.
- 4.1.15. Any changes required after SDA's comments on the drawings must be amended to and should be resubmitted to SDA for further comments until final approval to commence works is obtained.
- 4.1.16. Upon completion of fitting-out works, the Licensee is required to submit to SDA paper prints of all architectural, civil & structural, mechanical & electrical, plumbing and fire protection "as-built" drawings for records.

62 Contents of Submission: The submission shall comprise the following.

- 4.1.17. Key Plan: Showing the location of licensed premises.
- 4.1.18. Preliminary Floor Plans: Indicating interior layout and all materials and finishes. All new works shall be colored (in dark color). All existing works proposed to be demolished or dismantled shall be shown in broken lines.
- 4.1.19. Reflected Ceiling Plans: indicating ceiling access panel locations, ceiling materials, various heights, location and type of all existing and proposed light fitting, mechanical and electrical installations. Furniture layout shall be included in the reflected ceiling plans.
- 4.1.20. Catalogues and Cut-outs: Light fixtures or sketches of custom light fittings are to be provided.
- 4.1.21. Mechanical and Electrical Drawings: Indicating connected electrical load (example: single line diagrams), total heat load, total cooling and air conditioning load requirements, weight and location of heavy equipment or construction material.
- 4.1.22. Typical interior sections with all materials and finishes indicated.
- 4.1.23. All plans shall be signed, stamped and dated by the Licensee.
- 4.1.24. The Licensee shall bear all costs and expenses incurred by its submissions.



4.125. SDA will review drawings and advise Licensee as to whether the drawings are "Accepted as Noted" or "Not Accepted with Comments". The Licensee must incorporate the SDA's comments and proposed solutions, if any, into the final drawings.

6.3 Design and Construction Guidelines:

The Licensee shall ensure that design construction strictly complies with building regulations and shall not deviate from the approved building plan as shared by SDA.

6.4 Building and Structural Works:

4.126. If the Licensee does not, for any reason, take possession of the Licensed Premises on the date of possession, the Licensee shall nevertheless be deemed to have taken possession of the Commercial Space as detailed in **Annexure- I**

4.127. During the handover, the licensee and SDA shall jointly inspect the Licensed Premises and complete the form, "Handover of Licensed Premises" (Refer to **Annexure- II**).

4.128. Any delay in carrying out or completing the Licensee's works in the licensed Premises whether caused by any failure to obtain authorities' approvals, shall not be grounds for postponing the commencement of the Term or payment of the License Fee as stated in the Agreement.

6.5 Commencement of Site works:

The Licensee shall commence the relevant site works after obtaining the following:

4.129. Written approval on the final drawing submissions.

4.130. Permit to Work (PTW).

6.6 Authorized Representative of the Licensee

4.131. The Licensee shall appoint and station a full-time site supervisor, throughout the duration of fitting-out works for the purpose of managing workmen engaged in the licensed Premises and receiving instructions during any emergency.

4.132. Prior to commencing site works, Licensee and/or their authorized representatives are requested to submit a list of their contractors/sub-contractors and their employees to SDA.

4.133. The Licensee and its contractors/sub-contractors shall prevent their workers from causing or creating a nuisance. In the event of the contractors' workers causing or creating a nuisance or persistently ignoring SDA's instructions, SDA and its employees reserve the right to request these workers to leave the site.

6.7. No storage of flammable material on site.

6.8 Spot Checks / Repair Works: SDA reserves the right of entry into the licensed Premises to make spot checks or conduct repair works as and when required. Any instruction given by SDA or its representatives shall be observed by the Licensee.

6.9. Unless otherwise stated in this License Agreement:

4.134. Upon handover, the Licensee shall be responsible for keeping unauthorized persons off



the licensed space(s).

- 4.135. Authorized persons shall be limited to the employees of the Licensee, employees of sub-contractors of the Licensee, and employees and persons authorized by SDA.

6.10 Completion of Fitting-out works:

The Licensee shall notify SDA for a joint-inspection to verify that the Fitting-Out work is completed satisfactorily.

6.11 Responsibility of licensee during construction / operational period

- 4.136. Licensee shall ensure that no structural damage is caused to the existing building and other permanent structure as a result of his activities. Outside facade cannot be changed in any circumstances.
- 4.137. Licensee shall be responsible for safety, soundness and durability of the work undertaken by the Licensee including other structures forming part thereof.
- 4.138. No material is stored or kept outside the site or in common area meant for movement of persons. Storage or operation of any illegal substance/items/commodities etc. is prohibited.
- 4.139. The Licensee shall be responsible for all damage to the common areas like flooring, lift cars etc., during the process of alteration. Any special cleaning or drain clearance necessary as a result of the alteration works shall be taken care by the Licensees.
- 4.140. The Licensee shall strictly comply with the safety procedure, measurement, and guidelines.

6.12 Maintenance & Repairs:

- 4.141. Licensee shall bear the cost of minor day-to-day repairs, annual refurbishing and routine special repairs to space comprising of Commercial Space.
- 4.142. Any major repairs (structural defects) in the existing building due to its constructional defects shall be the responsibility of SDA upto 3 years from handover of possession.

4.2. Operation of Commercial Space:

- 4.21. Licensee shall ensure that fire detection and suppression measures installed inside his premises are kept in good working condition at all times.
- 4.22. The Licensee voluntarily and unequivocally agrees to provide un-fettered access to the fire officer & other officials of SDA for inspection at any time and agrees voluntarily and unequivocally to abide by and comply with all instructions as may be indicated by the fire officer & other officials. Noncompliance may be treated as breach of contract and License shall be terminated.
- 4.23. Licensee shall ensure that all electrical wiring, power outlets and gadgets are used and maintained properly, for guarding against short circuits / fires. The instructions in this regard by the SDA electrical inspector/authorized representative must be complied with. Any cost/s associated with implementation of such instruction shall be borne solely by the Licensee.

424. The Licensee voluntarily and unequivocally agrees not to seek any claims, damages, compensation or any other consideration whatsoever on account of implementing the instruction issued by SDA fire officer, electrical inspector, security officer or their authorized representatives from time to time.
425. Licensee shall keep and maintain the licensed space in neat, clean condition and in safe and sound manner during the License Period. Any defective, weak or corroded structure should be replaced immediately with new proper structure after due certification from reputed agency. In case of any incident / injury caused due to error/ omission attributable on the part of Licensee, the Licensee shall be responsible for all compensation.
426. Licensee and its employees or other persons involved in the execution of the work shall not in any way impinge on the safety and security of metro operations, passenger safety, commuter's convenience, safety of metro properties and its assets. In case of serious accident caused due to negligence of the Licensee, resulting in injury, death to commuters or SDA employees or loss to SDA property, it shall constitute a material breach of contract and be considered Licensee's event of default that shall entitle SDA to terminate the License Agreement with 30 days written notice.
427. The Licensee shall ensure safety and security of the allotted Commercial Space during the tenure of the License period and SDA shall not take any responsibility in this regard.
428. Deliberate or willful non-compliance of SDA's written instructions for a period of 90 days shall constitute Material breach and Licensee event of default that shall entitle SDA to encash the Security Deposit and or terminate the License Agreement after giving 30 days' notice to the Licensee. Such termination of the License Agreement and forfeiture of the Interest Free Security Deposit by SDA shall be without prejudice to any other damages, rights or remedies applicable under law in its favor.
429. The overall control and supervision of the premises shall remain vested with SDA who shall have the right to inspect the whole or part of the licensed premises as and when considered necessary, with respect to its bonafide use and in connection with fulfillment of the other terms and conditions of the License Agreement.

ARTICLE: 7

RIGHTS AND OBLIGATIONS

613 Licensee's Obligations:

The Licensee's Responsibilities and Duties shall include the following, in addition to and without prejudice to other obligations under this Agreement:

- 3.20.1. To obtain due permits, necessary approvals, clearances and sanctions from the competent authorities for all commercial activities or infrastructure facilities including but not limited to interior decoration, power, water supply, drainage & sewerage, firefighting, telecommunication, etc.;
- 3.20.2. The Licensee shall be responsible to complete the interiors, furnishings and fit outs, facilities, services, infrastructure and any other requirements of the licensee.
- 3.20.3. To operate and maintain the licensed area at all times in conformity with this Agreement;
- 3.20.4. To furnish "As Built Drawings" of the premises within 30 days of completion of construction work.
- 3.20.5. To ensure that no structural damage is caused to the building / structures handed over by SDA as a result of his activities or any of its agents, contractors, etc.;
- 3.20.6. To take all reasonable steps to protect the environment (both on and off the licensed Commercial Space) and to limit damage and nuisance to people and property resulting from construction and operations, within guidelines specified as per Applicable Laws and Applicable Permits.
- 3.20.7. Licensee shall be solely responsible for the facility management of the Licensed Area including maintenance of the Licensed areas, Security, Solid/liquid waste management and energy conservation. The costs towards facility management of the Licensed area shall be borne by the Licensee/Sub Licensee/Contracts. SDA shall not be responsible for management/operation/maintenance of the Licensed area.
- 3.20.8. The Licensee to have the audit of their entire Electrical systems & HVAC System done on a half yearly basis by a Authorized Electrical Engineer and provide a certificate certifying that all the electrical installations including insulation resistance are in good and safe working condition and does not have any possibility of short circuit and becoming a fire source.
- 3.20.9. The Licensee have to the audit the structural stability of developed structures by a certified structural engineer and shall submit annual structural maintenance audit report to SDA.
- 3.20.10. To duly supervise, monitor and control the activities of contractors, agents, etc., if any, under their respective License Agreements as may be necessary.
- 3.20.11. To take all responsible precautions for the prevention of accidents on or about the site and provide all reasonable assistance and emergency medical aid to accident victims; The Licensee is solely responsible for all the cases arising due to accident /

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death during execution of contract / completion of work.

- 3.20.12. Not to permit any person, claiming through or under the Licensee, to create or place any encumbrance or security interest over all or any part of Licensed Space or on any rights of the Licensee therein or under this Agreement, save and except as expressly permitted in this Agreement.
- 3.20.13. To keep the Licensed Commercial Space free from all unnecessary obstruction during execution of works and store the equipment or surplus materials, dispose of such equipment or surplus materials in a manner that causes least inconvenience to SDA's activities.
- 3.20.14. At all times, to afford access to the Licensed Commercial Space to the authorized representatives of SDA, other persons duly authorized by any Governmental Agency having jurisdiction over the business of Licensed Commercial Space, to inspect the Licensed Commercial Space and to investigate any matter within their authority and upon reasonable notice; and
- 3.20.15. To comply with the divestment requirements and hand over the Licensed Commercial Space to SDA upon Termination of the Agreement.
614. The Licensee shall be solely and primarily responsible to SDA for observance of all the provisions of this License Agreement on behalf of the Licensee, its employees and representatives and their employees and agents and any person acting under or for and on behalf of the Licensee; contractor(s) appointed for the Licensed Commercial Space as fully as if they were the acts or defaults of the Licensee, its agents or employees.
615. The Licensee shall comply with all prevailing rules and regulations & its amendments.
616. No tenancy/sub-tenancy is being created by SDA in favour of Licensee under or in pursuance of this Agreement and it is distinctly & clearly understood, agreed and declared by/ between the parties hereto that:
- a) The rights, which are set out in this Agreement are only in the nature of License in relation to the finished premises.
 - b) The relationship between SDA and Licensee under and/or in pursuance of this Agreement is as between Principal and Principal. Consequently, neither party shall be entitled to represent the other and/or make any commitment on behalf of and/or with traders or any other party. Furthermore, no relationship in the nature of Partnership or Association of persons is hereby being created or intended to be created between SDA on the one hand and Licensee on the other hand in connection with and/or relating business to be operated by Licensee at the said premises.
617. The Licensee shall not assign or alienate any of its rights or interest in this Agreement in favour of any company / person at any time and for any reasons whatsoever.
618. **RIGHTS OF THE LICENSEE:**

Notwithstanding the other rights granted to the Licensee under this License, the Licensee shall have the following specific rights in connection with the demised premises and areas appurtenant thereto:

- 7.6.1 **Alterations, Modifications and Additions:** The Licensee shall not make any structural alteration in and to the demised premises without the written permission of the Licensor. The Licensor agree and confirm that Licensee shall, at all times during the Term and only with the prior express approval of the Licensor, be entitled to renovate, after and add structural modifications to the demised premises, in accordance with the all laws and at the Licensee's own expense; without any right, title or claim thereto or for reimbursement of any such cost and expenses at any or all times provided however such, renovation, alteration does not adversely affect the demised premises in any manner whatsoever. The Licensee shall not put up any permanent structure internally or externally in the demised premises without the express written consent of the Licensor.
- 7.6.2 The Licensee with prior approval of licensor may fix in the demised premises all such fixtures which are required to be fixed as deemed necessary by the Licensee including sun blinders, electrical switches, ceiling fans and the like fixtures for the better use of the demised premises at the cost and expense of the Licensee. The Licensor may permit the Licensee to install or fix all such fixtures deemed necessary by the Licensee including installations like lights, fans, carpets, curtains, partitions, cabins, computers, word processors, fax, telephones, office equipment, telephone exchange and other fittings, fixtures and paraphernalia for the better use of the demised premises for its business as the Licensee may think fit from time to time entirely at the cost and expense of the Licensee and the Licensee shall remove at its own cost and expense all such installations on the determination on termination of the License.
- 7.6.3 **Signage:** The Licensor hereby authorizes the Licensee to affix/display its name boards, signage, banners etc. of an appropriate size as deemed fit by the Licensee free of cost. (At a mutually agreed locations by Licensor and Licensee only) subject to the Licensee obtaining from the statutory authorities such permits as may be required under applicable laws at Licensee's own cost.
- 7.6.4 **Power and Back up:** The Licensor shall provided the Licensee with necessary power back-up as per the requirements of the Licensee and in case of any additional load requirement as determined by the Licensee from time to time, the Licensor shall make all arrangements to provide such additional load, but at the cost of the Licensee. It is agreed that at the time of vacating of the demised premises, the Licensor shall reimburse the additional security deposit if any paid by the Licensee, after collecting the same from concerned department.
- 7.6.5 **Energy Meter:** The Licensor has provided separate and exclusive dual-source (raw power and DG power) energy meter for the demised premises and the Licensee shall only make payments for units consumed by the Licensee as per the meter reading of the separate and exclusive meter so provided.
- 7.6.6 **Access to shafts:** The Licensor will facilitate and make all arrangements that may be necessary and agree that the Licensee shall have the right to access the buildings shafts for running the electric cables, VSAT Cables, telephone lines etc.

- 7.6.7 Sewerage: The Licensor affirms and represents that all sewerage requirements for the building have been complied and that in the event of any problem faced by the Licensee, the Licensor shall undertake to rectify the same, failing which the Licensor shall indemnify the Licensee against all costs, expenses, damages incurred / sustained as a result of such default.
- 7.6.8 Water: The Licensee shall make necessary arrangement for procurement of water on day-to-day basis.
- 7.6.9 Common Areas: The Licensor shall make all arrangements that may be necessary and agrees that the Licensee shall be entitled to use of common areas i.e. staircase and common entrances etc.
- 7.6.10 Access to demised Premises: The Licensor shall have no objection to and shall ensure that the Licensee, its employees, officers or visitors have clear and uninterrupted access to the demised premises 24 hours a day 7 days a week.

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ARTICLE 8

RESTRICTION AND CHANGES IN LICENSEE AND SPECIAL PURPOSE COMPANY

61. In case the Licensee is an Special Purpose Vehicle (SPV) incorporated as per the requirements of the RFP, the members of Consortium shall be required to maintain 100% of the equity of the SPV throughout the subsistence of the License Agreement. There shall be no change in the shareholding structure of the SPC during the License Period without prior written approval of SDA/Licensor.
 62. The members of Consortium of the SPV shall be responsible and liable jointly and severally, for due performance of all the obligations and responsibilities assumed by the SPV under this Agreement.
- 8.2.1 The Lead Member shall hold not less than 51% (fifty-one per cent) of the equity of the SPV during the subsistence of the License Agreement and that each member of the Consortium whose technical and financial capacity was evaluated for the purposes of award of the Project shall hold at least 15% (twenty-one per cent) of such Equity during the subsistence of the License Agreement. Replacement of the Lead Member shall not be allowed at any time during the subsistence of the License Agreement. Any deviation from the above share holding structure shall expressly be with the prior written consent of SDA/Licensor. Further, any change proposed in the equity shareholding pattern of the Consortium in the Special Purpose Company during the License Period, within the prescribed limits shall be subject to prior written permission of SDA/Licensor.

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ARTICLE: 9
INDEMNITY AND INSURANCE

71. The Licensee hereby undertakes to indemnify and hold SDA harmless against all costs, damages, liabilities, expenses arising out of any third party claims relating to non-completion of the fit-out; quality of the fit-out and the construction/ construction activities, any other agreement entered into between the Licensee and end user.
72. The Licensee hereby undertakes to indemnify SDA against all losses and claims in respect of death or injury to any person or loss or damage to any property which may arise out of or in consequence of the execution and completion of works and remedying defects therein including operation of all facets of commercial activities and against all claims, proceedings, damages, costs charges and expenses whatsoever in respect thereof or in relation thereto.
73. The Licensee hereby undertakes that SDA shall not be liable for or in respect of any damages or compensation payable to any workman or other person in the employment of Licensee or any of his contractors/ sub-contractors. The Licensee shall indemnify and keep indemnified SDA against all such damages and compensation, all claims proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.
74. The licensee must strictly comply with all the provisions of The Employee's Provident Fund Act 1952, The Employee's State Insurance Act 1948, Minimum Wages Act 1948, and all other Labor Laws & Regulations in force including but not limited to the Contract Labor (Regulation & Abolition) Act-1976 including any subsequent amendment thereof and the rules made there under as per prevalent Government orders and ensure timely payment and compliance under these Acts. Failure to comply with these acts shall attract penalty as per provisions. Licensee shall indemnify SDA Administration for any loss and damages suffered due to violation of its provision.
75. The Licensee hereby indemnifies SDA against any loss, damage or liabilities arising as a result of any act of omission or commission on part of Licensee or on part of its personnel or in respect of non-observance of any statutory requirements or legal dues of any nature.
76. The Licensee hereby undertakes to discharge all statutory obligations and liabilities in connection with employment of its personnel in the said premises. Licensee hereby indemnifies SDA against any liability arising in connection with the employment of its personnel in the said premises by Licensor.
77. The Licensee shall indemnify SDA from any claims that may arise from the statutory authorities against any statutory taxes, statutory dues, local levies, etc. in connection with this License.

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The Licensee shall indemnify SDA from any damages to be incurred if at the end of the license period, the licensed Commercial Space is not handed over to SDA in good condition as required under this agreement.

79.

The Licensee shall indemnify SDA from any serious accident caused due to negligence of the Licensee, resulting in loss to SDA property.

7.10

The Licensee shall be liable for and shall indemnify, protect, defend and hold harmless SDA, SDA's officers, employees and agents from and against any and all demands, claims, suits and causes of action and any and all liability, costs, expenses, settlements and judgments arising out of the failure of the Licensee to discharge its obligations under this clause and to comply with the provisions of Applicable Laws and Applicable Permits.

7.11.

The Licensee shall indemnify and keep indemnified SDA for any losses/ penalties on this account levied by any judicial/statutory authorities/courts, in case, the Licensee misused all liabilities for mis-user charges and mis-user proceedings.

7.12

Insurance and Waiver of Liability: The Licensee shall bear the cost, throughout the term of the License, for a comprehensive general liability insurance covering injury to or death of any person(s) while working in SDA premises, including death or injury caused by the sole negligence of the Licensee or the Licensee's failure to perform its obligations under the agreement. In addition, the licensee shall bear the cost of insuring all the assets including the building, SDA's movable assets, furniture and fixture.

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ARTICLE: 10

FORCEMAJEURE

10.1. Force Majeure Event

Any of the following events resulting in material adverse effect on the execution of the Project despite all efforts and prudence by the Licensee, shall constitute a Force Majeure Event

- 1.1.1. Earthquake, flood, inundation, landslides, pandemic.
- 1.1.2. Storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances.
- 1.1.3. Fire caused by reasons not attributable to the Licensee.
- 1.1.4. Acts of terrorism.
- 1.1.5. War, hostilities (whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war.
- 1.1.6. Strikes or boycotts, other than those involving either of the Licensee, its subcontractors or their employees, agents, etc.; and
- 1.1.7. Any other similar events beyond the control of the Party.

10.2. Notice of Force Majeure Event

As soon as practicable and in any case within 3 days of the date of occurrence of a Force Majeure Event or from the date of knowledge thereof, whichever is earlier, the Party which is rendered wholly or partially unable to perform any of its obligations under this Agreement because of a Force Majeure Event (the "Affected Party") shall notify the other party of the same, setting out, inter alia, the following in reasonable details:

- 1.1.1. The nature and extent of the Force Majeure Event.
- 1.1.2. The estimated Force Majeure Period.
- 1.1.3. The nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event.
- 1.1.4. The measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
- 1.1.5. Any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.

10.3. Performance of Obligations

The Affected Party shall be excused from performance of such obligations to the extent it is unable to perform the same on account of such Force Majeure Event provided that:

- 1.1.1. Due notice of the Force Majeure Event has been given to the other party as required by the preceding Clause 10.2.
- 1.1.2. The excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event.

- 1.1.3. There shall be no termination of this Agreement on account of Force Majeure except as provided in Clause 10.5.
- 1.1.4. Where the Licensee is the affected party, the various deadlines set forth in this Agreement and the License Period shall be extended by the period for which such Force Majeure Event subsists.
- 1.1.5. When the affected party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance.
- 1.1.6. The Affected Party shall continue to perform such obligations which are not affected by the Force Majeure Event, and which are capable of being performed in accordance with this Agreement; and
- 1.1.7. Any insurance proceeds received by the Licensee shall be entirely applied/ appropriated to repair, replace or restore the assets damaged on account of the Force Majeure Event, in accordance with Good Industry Practice, unless otherwise agreed to by SDA/LICENSOR.

10.4. Cost for remedying Force Majeure Event

Upon occurrence of a Force Majeure Event, the Licensee shall as soon as possible, take all necessary actions to cure the Force Majeure Event at its own cost and expense.

10.5. Termination due to Force Majeure Event.

If a Force Majeure Event subsists for a period of more than 180 days or more within a continuous period of 365 (three hundred sixty-five) days, either Party may in its sole discretion terminate this Agreement by giving 30 (thirty) days termination notice in writing to the other Party without being liable in any manner whatsoever.

ARTICLE 11

LICENSE TERM AND LICENSE TERMINATION

This Agreement shall continue to operate and be binding on the Parties for the License Period of 15 (Fifteen) years commencing from the Commencement Date, unless terminated earlier.

10.6. TERMINATION BY SDA/LICENSOR

SDA/Licensor, in its sole discretion, may terminate this Agreement due to any of the following events of default by the Licensee (hereinafter called the "Licensee Event of Default"):

- 1.1.1. The Licensee has failed to perform or discharge any of its obligations in accordance with the provisions of this Agreement, unless such event has occurred because of a Force Majeure Event, or due to reasons solely attributable to SDA/Licensor without any contributory factor of the Licensee;
- 1.1.2. If at any time during the License Period, any payment, assessment, charge, lien, penalty or damage herein specified to be paid by the Licensee to SDA/Licensor, or any part thereof, shall be in arrears and unpaid for a continuous period of more than 45 days after actual due date;
- 1.1.3. The Licensee has failed to submit Security Deposit for renewed amount 1 months before the date of the expiry of existing Security Deposit.
- 1.1.4. Any representation made or warranties given by the Licensee under this Agreement is found to be false or misleading.
- 1.1.5. The Licensee has engaged or knowingly has allowed any of its employees, Sub Licensee, agents, contractor or representative to engage in any activity prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.
- 1.1.6. The Licensee has been adjudged as bankrupt or become insolvent.
- 1.1.7. The Licensee has created any encumbrance, charges or lien in favor of any person or agency, over the Licensed Area, save and except as otherwise expressly permitted under this Agreement.
- 1.1.8. A resolution for voluntary winding up has been passed by the shareholders of the Licensee.
- 1.1.9. Any petition for winding up of the Licensee has been admitted and liquidator or provisional liquidator has been appointed or the Licensee has been ordered to be wound up by NCLT of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior written consent of SDA/Licensor, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Licensee under this Agreement;
- 1.1.10. The Licensee has abandoned the Project.
- 1.1.11. The shareholding pattern of the SPV (being the Licensee) has been changed without obtaining prior written consent of SDA/Licensor.

1.1.12. In case the Licensee or its Sub-Licensee had entered into any further Sub-License

1.1.13. Agreement without the prior written consent of SDA/Licensor; Provided that SDA/Licensor shall give to the Licensee 30 days' time to cure the default prior to considering the events specified therein as Licensee's events of default and in the event the Licensee remedies the default to the satisfaction of the SDA/Licensor within 30 days, the event will not be considered as a Licensee Event of Default.

In the event of default, above, the Licensor shall be entitled to terminate this Agreement at any point of time in its sole discretion by giving 15 days' notice period to the Licensee". This Agreement shall thereafter automatically stand terminated notwithstanding any further action by either Party. The Licensee shall incorporate these termination clauses in the agreement of sub-License as well. All such sub-License agreements will automatically stand terminated once this Agreement is terminated.

10.7. CONSEQUENCES OF TERMINATION

Without prejudice to any other consequences or requirements under this Agreement or under any law, the following consequences shall follow upon Termination:

- 1.1.1. The Licensee or Sub-Licensee shall cease to have any access to the licensed space(s). However, SDA/Licensor at its own discretion may allow the Sub Licensees/ end users to continue to have access on mutually negotiable terms & conditions.
- 1.1.2. Surrender all its rights on the Licensed Space(s). Transfer all its rights, titles and interest in or over the assets comprised in the Licensed Space(s) which are required to be transferred to SDA/Licensor in accordance with this Agreement and execute such deeds and documents as may be necessary for the purpose and complete all legal or other formalities required in this regard.
- 1.1.3. The Licensed Space(s) shall have been renewed and cured of all defects and Deficiencies as necessary so that the Licensed Space(s) is in accordance with the specifications & standards as per the terms of this Agreement.
- 1.1.4. Hand over to SDA / Licensor all documents including as-built drawings, approvals, no objection letters / certificates, manuals and records relating to development, operation and maintenance of the Licensed Space(s) in original and a certificate from his statutory auditors certifying zero financial encumbrance on the Licensed Space(s);
- 1.1.5. At its cost remove from the Licensed Space(s) all such moveable assets, which are not taken over by or transferred to the SDA/Licensor.
- 1.1.6. At its own cost, immediately terminate the Sub-Leasing Agreements entered into with Sub-Licensees, without any liability on SDA/Licensor. However, SDA/Licensor may in its discretion, instruct the Licensee to assign the Sub-Leasing Agreement in favor of the SDA/Licensor, if the SDA/Licensor considers it appropriate to continue to provide access to the Sub-Licensee on the Licensed Space(s).
- 1.1.7. The Licensee shall, at its cost, transfer to SDA/Licensor all such Applicable Permits, which the SDA/Licensor may require, and which can be legally transferred.
- 1.1.8. It is hereby agreed between the Parties that the Licensee or the Sub-Licensee or any other person acting through or under them shall not remove any of the facilities at Licensed

Space(s) including all equipment and other fixtures attached to the Licensed Space(s) as provided by SDA and shall remove only movables which can be removed without causing any damage to the structure of the Licensed Area.

- 1.1.9. Both Parties shall at least give 06 months prior to the expiry of the normal License Period of 15 (Fifteen) years or sooner as the case may be, promptly agree upon the modalities and take all necessary steps to complete the aforesaid consequences of Termination.
- 1.1.10. Each Party shall pay the other Party the various payments due as on the date of Termination in accordance with this Agreement.
- 1.1.11. The Parties shall perform/discharge their respective obligations to be performed or discharged under the provisions of this Agreement on the Termination in entirety, and unless otherwise provided in this Agreement, the cost involved in transfer contemplated shall be shared by the respective Parties.

10.8. RIGHTS OF SDA/LICENSOR ON TERMINATION

Notwithstanding anything contained in this Agreement, SDA/Licensor shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to termination/compensation for loss of employment, continuance or regularization of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Licensee and/or Sub-Licensee in connection with the Licensed Space(s).

Movable or immovable assets created by the Licensee shall vest with SDA/ Licensor in case of termination.

10.9. RIGHT TO RE-MARKET THE SAID LICENSED SPACE(S) ON TERMINATION

Notwithstanding anything contained in this Agreement, SDA/Licensor shall have the right to re-market the Licensed Space(s) on Termination of this Agreement for any reasons whatsoever.

10.10. SURRENDER OF LICENSED PROPERTY AFTER LICENSE PERIOD

After completion of license period licensee shall discharge their rights towards immovable properties, fit-outs and fixtures created during the license period and hand them over to Licensor/ SDA.

ARTICLE: 12

DISPUTE RESOLUTION

- 11.1. **Negotiation and Amicable Settlement:** In the event of any dispute in connection with or arising out of this Agreement between the parties ("Disputes"), the parties shall firstly attempt to amicably resolve such disputes through negotiations and discussions.
- 11.2. **Adjudication:** If any dispute between the parties is not resolved through negotiations and amicable settlement within 45 days of commencement of such negotiations, either party shall give notice in writing to the other party of its intention to refer such dispute to Adjudication.
- 1.1.1. The sole-member Adjudicator shall be nominated by the Vice Chairman of the Licensor (SDA) at his discretion. He may also be an officer of SDA, not below the rank of **Class-I**, but one who has not dealt with the subject contract or disputed matter. The remuneration of the Adjudicator shall be fixed by the Vice Chairman of SDA and shall be shared by both the parties. The Adjudicator shall reach a decision within 30 days or such period as agreed between the parties from the date of reference of the dispute.
- 1.1.2. If either party is dissatisfied with the Adjudicator's decision, then the party, on or before 30 days on receipt of such decision, shall notify the other party of its dissatisfaction, and its intention to refer the dispute to Arbitration, failing which the decision of the Adjudicator shall be final.
- 11.3. **Arbitration:** The Dispute so referred shall be settled by Arbitration and the parties agree on the following procedure for appointing the Arbitrator / Arbitrators:
- 11.4. **In case the value of the disputed claim and counter claim is Rs.5 crore or less:**
- 1.1.1. The dispute shall be referred to a sole-member Arbitral Tribunal. Such sole-member shall be nominated by the party seeking arbitration from the List of Arbitrators, maintained by the Licensor, consisting of independent persons to be nominated as Arbitrators, who shall meet with the requirement relating to the independence or impartiality of arbitrators referred to in the Fifth and Seventh schedules, read with Section 12, sub-sections (1) (a), (b) and (5) of the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act 2015.
- 1.1.2. If the party seeking Arbitration is the Licensee, such proposal shall be addressed to the Licensor and the Licensor shall, within fifteen days from the date of receipt of such proposal, send the list of Arbitrators maintained by the Licensor, to the Licensee. The Licensee shall nominate an arbitrator from the list within fifteen days from the date of receipt of the list from the Licensor. If the party seeking Arbitration is the Licensor, it shall forward such proposal to the Licensee along with the nomination of an Arbitrator.
- 1.1.3. If either party fails to nominate the arbitrator within the prescribed time limit, as mentioned above, then such other party, after the expiry of the prescribed time limit, has the right to nominate the Arbitrator from the said list on behalf of the party failing to nominate.
- 1.1.4. The parties shall endeavor to complete the arbitration proceedings within 4 months from the commencement of the same.
- 11.5. **In case the value of the disputed claim and counter claim is more than Rs.5 crore:**

- 1.1.1. The dispute shall be referred to an Arbitral Tribunal comprising of three members. Either party may propose to the other party for referring the dispute to Arbitration. If the proposal is initiated by the Licensee, such proposal shall be addressed to the Licensor and the Licensor shall, within fifteen days from the date of receipt of such proposal, send the list of Arbitrators maintained by the Licensor, to the Licensee. The Licensee shall nominate an arbitrator from the list within fifteen days from the date of receipt of the list from the Licensor. The Licensor (SDA) shall nominate its Arbitrator from the said list within 15 days thereafter.
- 1.1.2. If the proposal for referring the dispute to Arbitration is made by the Licensor to the Licensee, it shall forward such proposal to the Licensee along with the nomination of its Arbitrator from the said list. The Licensee shall, within fifteen days of receipt of the list from the Licensor, nominate its arbitrator from the list.
- 1.1.3. If either party fails to nominate its Arbitrator within the prescribed time limit as mentioned above, after the nomination by the other party, then such other party, after the expiry of the prescribed time limit, has the right to nominate the arbitrator from the said list, on behalf of the party failing to nominate.
- 1.1.4. The two arbitrators nominated by the licensee and the licensor as above, shall appoint the Presiding Arbitrator, by mutual consultation among themselves, within 15 days of the appointment of the second Arbitrator.
- 1.1.5. If no consensus is reached within 15 days regarding the appointment of the Presiding Arbitrator, either party may apply to the Designated Court referred to in the Arbitration and Conciliation Act, 1996 as amended by the Arbitration and Conciliation (Amendment) Act 2015 for the appointment of the Presiding Arbitrator.
- 1.1.6. The parties agree that the selection and nomination of Arbitrators from the list should be based on the nature and subject matter of dispute to be adjudicated upon, that is, the nominated Arbitrators shall have sufficient knowledge and experience to decide upon the disputed matter. In the case of three-member Arbitral Tribunal, it shall also be ensured by the nominating parties / Arbitrators, as the case may be, that at least one member of the Tribunal shall be a legal professional with a minimum of 20 years of experience.
- 1.1.7. In the event of an arbitrator dying, neglecting or refusing to act or resigning or being unable to act for any reason, it shall be lawful to appoint another arbitrator in place of the outgoing arbitrator in the manner aforesaid.
- 1.1.8. Subject to aforesaid, the Arbitration and Conciliation Act 1996, as amended from time to time and the rules there under and any statutory modifications thereof for the time being in force shall be deemed to apply to the arbitration proceedings under this clause.
- 1.1.9. During the pendency of arbitration / conciliation proceedings, the Licensee shall continue to perform and make payments due to SDA as per the License agreement.
- 1.1.10. The venue of the arbitration shall be at Sambalpur. All proceedings of such arbitration shall be in the English language. The cost of Arbitration including the fees of the Arbitrator shall be borne equally by both the parties.
- 1.1.11. The parties shall endeavor to complete the arbitration proceedings within 8 months from

the commencement of the same.

11.6. **Jurisdiction of Courts:** The Courts at Sambalpur shall have exclusive jurisdiction to adjudicate any claim, dispute or matters arising out of this Agreement.

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ARTICLE: 13
REPRESENTATIONS AND WARRANTIES

- 12.1. The Licensee represents and warrants to SDA that:**
- 1.1.1. It is duly organized, validly existing and in good standing under the laws of India.
 - 1.1.2. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
 - 1.1.3. It has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement.
 - 1.1.4. It has the financial standing and capacity to undertake the commercial utilization of Licensed Commercial Space.
 - 1.1.5. This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
 - 1.1.6. The execution, delivery and performance of this Agreement shall not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Licensee Memorandum and Articles of Association or any Applicable Law or any covenant, agreement, understanding, decree or order to which the Licensee is a party or by which Licensee or any of its properties or assets are bound or affected;
 - 1.1.7. There are no actions, suits, proceedings or investigations pending or to the Licensee's knowledge threatened against the Licensee at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute the Licensee Event of Default or which individually or in the aggregate may result in material adverse effect.
 - 1.1.8. 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 which may result in material adverse effect.
 - 1.1.9. It has complied with all applicable law 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 material adverse effect.
 - 1.1.10. No representation or warranty by the Licensee contained herein or in any other document furnished by the Licensee to SDA or to any Government authority in relation to Applicable Permits contains or shall contain any untrue statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading.
 - 1.1.11. The Licensee also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that SDA shall not be liable for the same in any manner whatsoever to the Licensee.
 - 1.1.12. The Licensee shall make its own arrangements in engagement of its staff and labor and shall at no point represent to or claim that the staff, labor is being recruited for and on behalf of SDA. The Licensee shall at all times comply and represent to the staff and labour

Handwritten signature/initials

employed/ engaged by them the requirement for complying with Applicable Laws and applicable Permits, particularly in relation to safety and environmental regulations.

12.2. **Obligation to notify change:** In the event that any of the representations or warranties made/ given by the Licensee ceases to be true or stands changed, it shall promptly notify SDA of the same.

12.3. **Licensor's Covenant**

The Licensor hereby covenants with the Licensee and undertakes to observe and perform the following covenants:

- 1.1.1. **Quite Enjoyment:** So long as the Licensee does not commit any breach of the terms of this License, the Licensor covenants with the Licensee to permit the Licensee to peacefully and quietly hold and enjoy the premises without any interruption or disturbance from or by the licensor or any person claiming under or in trust for the Licensor during the License Term and for such extended duration till the termination, as per the terms of this License. The Licensor hereby indemnify and agree to keep indemnified the Licensee saved, defended and harmless from and against all and any costs, expenses, charges, outgoings and damages at all times arising out of any suit, eviction action, claim or demand whatsoever arising by reason of the Licensee relying upon the aforesaid covenant of the Licensor or otherwise.
- 1.1.2. **Full Power & Authority:** That the Licensor do have good and valid power, right and authority to grant the license hereby created in favour of the Licensee and that the demised premises are free and clear of any mortgages, encumbrances, liens or charges. The Licensor do hereby indemnify and agree to keep indemnified the Licensee saved, defended and harmless from and against all and any costs, expenses, charges, outgoings and damages at all times arising out of any suit, eviction action, claim or demand whatsoever arising by reason of the Licensee relying upon the aforesaid covenant of the Licensor or otherwise.
- 1.1.3. **Commercial Use:** That under the municipal zoning/user rules, the demised premises are capable of being used for commercial purpose and the Licensor has obtained all consents, permissions and approvals necessary in a law or otherwise for such purpose and the Licensor do hereby indemnify and agree to keep indemnified the Licensee saved, defended and harmless from and against all times arising out of any suit, eviction action, claim or demand whatsoever arising by reason of the Licensee relying upon the aforesaid covenant of the Licensor or otherwise.
- 1.1.4. **Sanctioned Plans:** The Licensor had constructed the building known as Shopping Complex (Mall) At Core Housing Scheme Area, Kirba, Burla, Sambalpur in accordance with the Planning Permission bearing File No. 451/2017 & letter No. 83/SDA dt.04.01.2018, approved plan obtained from the Sambalpur Development Authority ("SDA") and such other required permissions obtained from various statutory authorities. The Licensor further confirms that there is no violation and deviation in the said building known as "Shopping Complex (Mall) At Core Housing Scheme Area, Kirba, Burla, Sambalpur" (which includes the demised premises) and that the Licensee and / or other occupants can use the building for **Commercial** purposes.

- 1.1.5. **Restriction on Sale:** That the Licensor shall not sell, transfer or otherwise dispose of the demised premises or its interest therein, during the entire tenure of the license hereby created or any renewal thereof (if any) without informing the Licensee. The Licensor agrees and undertakes that this License shall continue notwithstanding any sale of the demised premises by the Licensor during the License Term or any renewal thereof of the License. Any sale of the demised premises shall be subject to the rights of the Licensee remaining intact and the sale of the demised premises shall be made subject to this License remaining in force. In such an event, if a new license is required to be executed and registered, the expenses towards stamp duty, registration charges, legal fee of advocates etc. shall be borne by the Licensor and the Licensee shall not be asked to vacate the demised premises under any circumstances.



ARTICLE: 14

MISCELLANEOUS

- 13.1. All penalty amounts stipulated in the License Agreement shall become double after completion of every 2 (Two) years from the date of commencement of License Agreement on compounding basis.
- 13.2. Licensee shall comply with the laws of land including The Orissa Public Premises (Eviction of Un-authorized Occupants) Act, 1972, Odisha State Pollution Control Board guidelines, building guidelines, fire norms etc. SDA shall not be held liable for any change/modification in these laws which adversely affect this agreement. Licensee shall have no right/ claim in this regard, whatsoever the reason may be.
- 13.3. Licensee shall bear all salaries, wages, bonuses, payroll taxes or accruals including gratuity, superannuating, pension and provident fund contributions, contributions to worker's compensations funds and employees state insurance and other taxes and charges and all fringe and employee benefits including statutory contributions due in respect of such personnel employed/deployed by the Licensee. These personnel shall at no point of time be construed to be employees of SDA and the Licensee shall be solely responsible for compliance with all labor laws which shall include all liabilities of the Provident Fund Act 1952, ESI Act 1948, Employee's compensation Act 2017, Minimum Wages Act 1948, Tamil Nadu's Shops & Establishment Act 1947 and other Labor Welfare Fund Act 1972 in respect of its personnel. The Licensee shall indemnify SDA from any claims that may arise in connection with above.
- 13.4. **Employees conduct:** The Licensee shall ensure that all persons employed by Licensee behave in an orderly and disciplined manner and that the said employees are prohibited from carrying on any unlawful, unfair activities or demonstrations.
- 13.5. **Misuse:** The Licensee shall use the licensed space under the agreement only for those services as permitted by SDA and under the purview of law. In case, the Licensee carries on any business or uses the said premises for any other purposes the license shall deemed to have been misused and SDA (Licensor) shall immediately terminate the said agreement. A list of prohibited activities in commercial space are listed in **Annexure-1(B)**. All liabilities for misuse charges and misuse proceedings, if so initiated shall be that of the Licensee only. The Licensee shall indemnify and keep indemnified SDA for any losses/ penalties on this account levied by any judicial/statutory authorities/courts.
- 13.6. **Severability:** In the event of any one or more of the provisions contained in this Agreement being waived, modified or altered, none of the other provisions hereof shall in any way be affected or impaired thereby. If any of the provisions of this Agreement become invalid, illegal or unenforceable in any respects under any Applicable Law, the validity, legality and enforceability of the remaining provisions shall not in any way, be affected or impaired. Where the provisions of such Applicable Law may be waived they are hereby waived by the Parties to the full extent permitted so that this Agreement shall be deemed to be valid and binding and enforceable in accordance with its terms. If any provisions of this Agreement become invalid, the Parties agree to substitute for such invalid provision a new provision that serves the purpose of the

invalid provision to the furthest possible extent.

- 13.7. **Amendments:** This Agreement and the Schedules together constitute a complete and exclusive understanding 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 agreed to by all the Parties hereto and evidenced in writing.
- 13.8. **Notices: SDA and Licensee voluntarily and unequivocally agrees -**
- 1.1.1. That any notice to be served upon SDA shall be sufficiently served and given if undelivered to-
- Secretary**
Sambalpur Development Authority,
SDA & SMC Office Building, Durgapali,
Sambalpur, Odisha- 768006.
- 1.1.2. That any notice which may be required to be served upon the Licensee shall be served and given if delivery by Registered Post/Speed Post/Courier at the Address given on the First page of the License Agreement or delivered in person to the authorized representative of Licensor.
- 1.1.3. That any notice or correspondence under the terms of this License shall be in writing by registered post/ Speed Post/ Courier or delivered personally. All Notice shall be addressed as follows:
- Secretary**
Sambalpur Development Authority,
SDA & SMC Office Building, Durgapali,
Sambalpur, Odisha- 768006.
- 1.1.4. No instruction/ notice of any party if not communicated in writing, shall be entertained by the other party.
- 13.9. **Waiver:** No waiver or acquiescence of any breach, or any continuing or subsequent breach of any provision of this License shall be construed as a waiver of any right under or arising out of this License or acquiescence to or recognition of any right and/or any position other than that expressly stipulated in the License.
- 13.10. **Clause Headings:** The section clause headings contained in this License are for the convenience of the parties and shall not affect the meaning or interpretation of this License.
- 13.11. **Copies:** This License Agreement is made in duplicate with the Licensor and Licensee retaining one set each. The Licensee shall retain one set of the stamped original License Agreement.
- 13.12. **Confidentiality:**
- a) Both the Parties, their consultants and their respective employees or agents shall hold in

strict confidence all information which is marked confidential to the other Party and not copy, reproduce, sell, assign license, market, transfer or otherwise dispose off, give or disclose such information to third parties and shall advise each of their employees who may be exposed to such confidential information of their obligations to keep such information.

- b) Both the Parties shall be entitled to injunctive relief to restrain any such breach, whether threatened or actual of any of the provision of this Clause, shall be legally binding and shall survive the termination or expiration of this License.
- c) The restriction includes, but is not limited to, using Party's name, likeness or logo ("Identity"). By way of example and not limitation, Licensee will not use Licensors identity, directly or indirectly, news/press releases or releases to any professional or trade publications without the aforementioned approval.

In Witness whereof the parties hereto have caused this agreement to be signed in their respective hands as of the day and year first before written.

.....-2024

.....- 2024

Authorized Signatory

Authorized Signatory

FOR AND ON BEHALF OF

FOR AND ON BEHALF OF LICENSEE

SAMBALPUR DEVELOPMENT AUTHORITY

Verd

ANNEXURE -16
Prohibited Activities in Commercial Space

- i. Tobacco products & betel (Pan), Alcoholic beverages.
- ii. Firearms, firecrackers, hazardous and explosive chemicals, gases & pesticides, Petrol.
- iii. Other inflammable products.
- iv. Kerosene/Gas/coal-based cooking shall be prohibited (shall only be allowed at specific places like canteen / food court / etc.)
- v. Gas-based cooking may be allowed at specific locations with the condition of having Gas bank at ground floor subject to approval and technical feasibility include Fire NOC from competent authority for provision of Gas-based cooking at the Leased Commercial Space permitted by SDA.
- vi. Raw non-vegetarian items.
- vii. Any product/ service the sale of which is unlawful/ illegal or demand or restricted for sale under any Indian act or legislation.
- viii. Any other illegal product/ services as notified by Government of India/ Government of Odisha/ Sambalpur Development Authority in the public interest or due to security/ safety reasons.



ANNEXURE-17

Handing Over of Licensed Premises

Date: XX.XX.XXXX

Agreement No:

Fully Built-up Commercial space and measuring ____ x ____ = ____ Sqft of commercial space, at Kirba, Burla, Sambalpuris handed over to the licensee, through Shri _____ of M/s _____ office at on (date) _____ at (time), In the presence of _____

Licensee hereby acknowledges the receipt and assumes all responsibility of the above-described site, as provided in the license Agreement, from the date and time stated above.

Licensor

Licensee

Need to add below annexure.

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ANNEXURE-18

FORMAT OF SECURITY DEPOSIT BANK GUARANTEE

(To be issued by a Scheduled Commercial Bank in India, on non-judicial stamp paper of appropriate value)

BANKGUARANTEE NO. _____ dated _____

This Deed of Guarantee made on this day of(month & year) by M/s. _____, a financial institution incorporated under the _____ Act and having its registered office at _____ and branch/Zonal office at _____ (hereinafter referred to as "the Bank" or "the Guarantor", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns)) of the one part

1. IN FAVOUR OF

Sambalpur Development Authority (hereinafter called "SDA", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns), having its registered office at SDA & SMC Office Building, Durgapali, Sambalpur, Odisha- 768006 of the other part;

Whereas SDA has accepted the Bid of M/s. (here in after referred to as the "Licensee", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns) having its registered office at for the work of (Name of work).

And Whereas the Licensee under the terms of License Agreement is required to furnish an unconditional irrevocable Bank Guarantee for an amount of **Rs. _____ /-(Rupees _____ Only)** as Security Deposit and has thus requested the Bank to issue the said Bank Guarantee in favor of the SDA.

And Whereas, accordingly the Bank has agreed to guarantee to SDA the obligations of the Licensee under the terms of the License Agreement, on the terms and conditions stated herein.

2. NOW THIS GUARANTEE HEREBY WITNESS:

- 1) The Bank, as primary obligor, on receipt of a written demand from SDA, shall pay on the same day to SDA the aforementioned amount of Security Deposit or part thereof, without demur, reservation, contest, recourse whatsoever and without need for ascribing any reason to the demand and without any reference to the Licensee. Any such demand made by SDA shall be conclusive, final and binding on the Bank and the Bank shall pay the amount so demanded without demur notwithstanding any dispute/disputes raised by the Licensee in any suit or proceedings pending before any court Tribunal or Arbitrator/s relating thereto and the liability of the Bank under this Guarantee shall be absolute and unequivocal.

- 2) This Bank Guarantee shall be valid upto dd/mm/yyyy till the entire License Period and shall not be revoked by the Bank at any time without SDA's prior consent in writing. Further the Bank shall be liable to pay the guaranteed amount or part thereof under this guarantee only and only if SDA serves upon the Bank a written claim or demand on or before dd/mm/yyyy.
- 3) This Guarantee is unconditional and irrevocable till such time SDA discharges this guarantee by issuing a letter to the Bank in this behalf.
- 4) The Bank undertakes to pay the amount mentioned herein as principal debtor and not as a surety and the SDA at its option, shall be entitled to enforce this guarantee during its tenure against the Bank, as a principal debtor in the first instance, without proceeding against the Licensee and notwithstanding any security or other guarantee that the SDA may have in relation to the Licensee's liabilities.
- 5) The Bank shall not be relieved from its obligations under this Bank Guarantee on account of any variations in the terms and conditions of the License Agreement or by extension of time granted to the Licensee or due to any postponement / non-exercise / delayed exercise of any of its rights by SDA against the Licensee or omission on the part of SDA or any indulgence by SDA to the Licensee to give such matter or thing whatsoever, which under the law relating to sureties would, but for this provision, have effect of so relieving the Bank.
- 6) The expression "Licensee", " Bank" and "SDA" hereinbefore used shall include their respective successors and assigns. Also, the Guarantee shall not be affected by any change in the constitution of the Licensee or of the Bank.
- 7) Notwithstanding anything contained herein:
 - a) The Bank liability under this bank guarantee shall not exceed Rs.(Rupees in words).
 - b) This Bank guarantee shall be valid upto dd/mm/yy
 - c) The Bank is liable to pay the guaranteed amount or part thereof only and only if the SDA serves upon the Bank a written claim or demand on or before dd/mm/yy. (1 year)

3. IN WITNESS WHEREOF

I/We of the Bank have signed and sealed this guarantee on the day of month and year being herewith duly authorized.

For and on behalf of the _____
Bank. Signature of Authorized Bank Official:

Name _____ Designation _____ Stamp/Seal of the Bank: _

Signed, sealed and delivered for and on behalf
of the Bank by the above named

In the presence of:
Signature _____ Name _____ Address _____ Signature _____

Notes:
1. The stamp papers of appropriate value shall be purchased in the name of the Bank, who issues

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the „BankGuarantee“.

2. The Bank Guarantee shall be from the Scheduled Commercial Bank based in

3. India.

Keep

