



**RFP No. -37209/ BDA**

**Date: 21/09/2023**

**TENDER DOCUMENT FOR  
SELECTION OF MASTER LICENSEE  
FOR  
COMMERCIAL SPACE AT  
INTER STATE BUS TERMINAL (ISBT),  
BHUBANESWAR**

**Bhubaneswar Development Authority**

Aakash Shova Building, Sachivalaya Marg,

Bhubaneswar- 751001

Phone: 0674-2396437; Website: [bda.gov.in](http://bda.gov.in)

## **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 Bhubaneswar Development Authority (**BDA**) 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 ISBT, Bhubaneswar available with BDA. BDA 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. BDA, 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 BDA immediately and not later than the date of Pre-Bid Meeting. If BDA 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 ISBT, Bhubaneswar, 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 BDA 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 BDA and the successful Bidder broadly in the format set out herein.
- VII. BDA reserves the right to accept or reject any or all Bids without giving any reasons thereof. BDA 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. BDA 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://tendersodisha.gov.in> & [www.bda.gov.in](http://www.bda.gov.in) for tenders/ tender updates.

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## **CHAPTER: 1**

### **1. DEFINITIONS**

- a) **“Agreement”** means the License Agreement to be executed between BDA 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 Joint Venture (JV) or Consortium which is submitting its bid pursuant to Tender Documents.
- d) **“Bid Security”** means the security amount to be submitted by the Bidder along with Tender documents to BDA.
- e) **“BDA”** means Bhubaneswar Development Authority
- f) **“Compliance Date”** means the date of execution of License Agreement
- g) **“Commencement Date”** means the end of rent free 90 days from Compliance Date.
- h) **“Construction/s”** means the building, infrastructure including all utilities and facilities whatsoever as developed by the BDA on the Project Site.
- i) **“Interest Free Security Deposit”** means interest free amount to be deposited by the Licensee with BDA 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 BDA 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 BDA pursuant to the conclusion of the bidding process.
- m) **“Licensor”** shall mean BDA, its assigns, its successors in interest or any other body corporate which may be authorized in writing by BDA to act on its behalf.
- n) **“License Fee”** means the amount payable by the Licensee to BDA as per terms and conditions of the License Agreement.
- o) **“License Period”** means a period of Fifteen (15) years after handover of site.
- p) **“LoA”** means the letter issued by the BDA notifying award of license right to the selected Bidder.
- l) **“Non-responsive”** means failure to furnish complete information in a 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 ISBT project located at Baramunda, Bhubaneswar along with the access-ways, landscape, utilities, services, and necessary infrastructure as developed / to be developed.
- n) **“Project Site”** means the land for **ISBT project** under the ownership of BDA.
- o) **“Selected Bidder”** means the Bidder who has been selected by the BDA, 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 BDA.
- 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** Bhubaneswar Development Authority (BDA), with an intention to provide adequate transit infrastructure for the city of Bhubaneswar, has developed the Inter State Bus Terminal (ISBT) at Baramunda to serve for both State and City level bus connectivity.
- 2.2** The modern and well-equipped Inter State Bus Terminal (ISBT) is located at the heart of the Bhubaneswar City over 11.48 Acres of prime land adjacent to National Highway-16.
- 2.3** Bhubaneswar Development Authority (BDA) intends to capture value from real estate assets developed within the ISBT in such a manner that gives sustainable revenue to ISBT operations. Through this Bid, BDA intends to select Licensee(s) to take up on 'License Basis' the offered commercial space at ISBT, Bhubaneswar 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 to the Authority during the tenure of their License Period.
- 2.4** BDA invites E-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 ISBT, Bhubaneswar. BDA 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 BDA. 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://tendersodisha.gov.in>. Cost of Tender document (non-transferable & non-refundable) is Rs.11,800/- (Rupees Eleven Thousand Eight Hundred only) including GST (18%). The payment shall be paid through **Demand Draft in favor of 'Chief Engineer cum Engineer Member'** as a document cost. 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 50,00,000/- (Rupees Fifty Lakh Only)**. Payment of Bid Security is to be made only in the form of a **Bank Guarantee** in favor of **'Chief Engineer cum Engineer Member'**. 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 BDA.

### **2.7 Schedule of Bidding process**

Tender Documents available for downloading	25/09/2023
Last Date of Receipt of Pre-Bid Queries	05/10/2023
Date of Pre-Bid Meeting	06/10/2023 at 4.00 PM

	at the Office of the Bhubaneswar Development Authority
Date & Time of Submission of Bids	31/10 /2023 by 3.00 PM
Date & Time of Opening of Technical Bids	01/11/2023 at 4.00 PM
Date & Time of Opening of Financial Bids	To be intimated.
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 90 days from execution of license agreement
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 <sup>th</sup> day of start of each quarter (after completion of rent-free grace period of 90 days)
License Period	Fifteen (15) Years from the date of Handover.

**2.9** Addendum/Corrigendum, if any, will be placed on <https://tendersodisha.gov.in> time to time. Tender documents can be downloaded from the e-procurement website and may be uploaded along with tender document cost and Bid Security at the time of submission of bids. Late/ delayed tender document received after the stipulated date and time of submission of tender document shall be rejected outright.

**2.10** The Bidder may obtain further information/ clarification, if any, in respect of tender documents from the office of Chief Engineer cum Engineer Member, Bhubaneswar Development Authority, Aakash Shova Building, Sachivalaya Marg, Bhubaneswar-751001 (Odisha) Facsimile: 0674-2396437 E-mail: bda1983@gmail.com.

During the course of pre-Bid conference, the participants may seek clarifications and put suggestions for consideration. BDA shall endeavor to provide clarifications and such further information as it may consider appropriate and valuable suggestions shall be deliberated upon by BDA. BDA's point of view/response to queries will be uploaded on its website <https://tendersodisha.gov.in> and [www.bda.gov.in](http://www.bda.gov.in). Individual communication shall not be issued to any Bidder. Pre-Bid queries and any clarification with respect to tender can be forwarded to [bdabbsr1983@gmail.com](mailto:bdabbsr1983@gmail.com) and queries received after the scheduled date shall not be replied to.

**2.11** BDA 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 BDA for rejection of their bids.

**2.12** The Bidders are advised to follow the e-Tendering portal <https://tendersodisha.gov.in> and [www.bda.gov.in](http://www.bda.gov.in) for updates.

**2.13** Bidders are expected to carry out an extensive survey of ISBT premises and analysis at their own cost, before submitting their respective bids for award of the License rights as set out

in the License Agreement. BDA shall provide necessary permission and assistance to the prospective Bidders in this regard.

- 2.14** The intending tenderers must be registered on e-tendering portal [\\_](https://tendersodisha.gov.in) . Those who are not registered on the e-Tendering portal shall be required to get registered beforehand. After registration the tenderer will get user id and password. On logging in, tenderer can participate in tendering process and can witness various activities of the process. Tender must be submitted online through e-tendering portal <https://tendersodisha.gov.in> only.
- 2.15** The authorized signatory of intending tenderer, as per Power of Attorney (POA), must have valid *class-II / III* digital signature. The tender document can only be downloaded or uploaded using Class-II / III digital signature of the authorized signatory.
- 2.16** 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 BDA as a valid ground to reject the bid in question.
- 2.17** In case of any grievances/complaints regarding this tender, please contact:

**Chief Engineer cum Engineer Member**

Bhubaneswar Development Authority

Akash Shova Building,

Sachivalay Marg Bhubaneswar - 751001, Odisha

E-mail: [chiefengineerbda@gmail.com](mailto:chiefengineerbda@gmail.com); [bdabbsr1983@gmail.com](mailto:bdabbsr1983@gmail.com)



## **CHAPTER 3**

### **PROJECT INFORMATION MEMORANDUM**

The Inter State Bus Terminal (ISBT) has been developed over 11.48 Acres of prime land adjacent to National Highway-16 at Baramunda. Apart from the 50 numbers of Bus Bays and allied infrastructure, the ISBT includes a Terminal Building including the following components:

Sl. No.	Project Component	Unit	Number/ Area	Remarks
	<b>BASEMENT</b>			
1	4-Wheeler Parking	Numbers	111	BDA Parking
2	2-Wheeler Parking	Numbers	87	BDA Parking
	<b>GROUND FLOOR &amp; MEZANNINE FLOOR</b>			
3	<b>4-WHEELER PARKING</b>	Numbers	30	@ Municipality Rate
4	<b>2-WHEELER PARKING</b>	Numbers	20	@ Municipality Rate
5	Utilities	Sq. Meters	556	Toilet Blocks, Electrical Panel Rooms, Lift Lobby, Drinking Water etc.
6	Circulation Area	Sq. Meters	5644	
7	Circulation Area (Mezzanine)	Sq. Meters	421	
8	Ticket Counters (2 numbers)	Sq. Meters	137.5	
9	<b>LICENSEE AREA</b>	Sq. Meters	1269	Beneficiary Shops & Kiosks Number: (1– 129)
10	<b>CLOAK ROOM</b>	Sq. Meters	160.4	@ Railway Rate
11	<b>LICENSEE AREA</b>	Sq. Meters	212.2	Food Court including Seating
	<b>FIRST FLOOR</b>			
12	Utilities	Sq. Meters	560	Toilet Blocks, Lift Lobby, Police Outpost, Railway Reservation, Electrical etc.
13	Circulation Area	Sq. Meters	3228	
14	<b>LICENSEE AREA</b>	Sq. Meters	43.2	Beneficiary Shops & Kiosks Number: (130-133)
15	<b>LICENSEE AREA</b>	Sq. Meters	3808	
16	Aahar Kendra	Sq. Meters	935.6	
	<b>SECOND FLOOR</b>			
17	Utilities	Sq. Meters	1601	Toilet Blocks, Lift & Lobby, Housekeeping, Internal Offices of ISBT, Conference Hall
18	Circulation Area	Sq. Meters	2174.7	
19	<b>LICENSEE AREA</b>	Sq. Meters	4834	With Kitchen & Store
<b>AREA OFFERED TO LICENSEE</b>		<b>Sq. Meters</b>	<b>10327.6</b>	i.e. 111156.29 Sq. Ft
<b>TOTAL AREA OF TERMINAL BUILDING</b>		<b>Sq. Meters</b>	<b>28124</b>	

**Note:**

- i. The Parking on the Ground/Mezannine Floor (Item 3-4) will be offered to the Master Licensee for the License Period.
- ii. The Items (9-11), (14-15), 19 comprising 10327.6 Sq. Mtrs (i.e. 111156.29 sq. Ft) of Commercial Space will also be offered to the Master Licensee for the License Period.
- iii. Additionally, the Licensee will have access to the entire common area of the Terminal Building (Built-up area 28124 Sq. Mtrs) including toilet blocks and other amenities maintained by a professional Facilities Management Company, and assured footfall of passengers visiting the ISBT.
- iv. The detailed Area Statement and Floor Plans are provided in Annexure-1. The Usage of areas mentioned in Annexure-1 are indicative in nature, and Master Licensee will have the flexibility on usage, barring the Prohibited Items mentioned in Annexure – I(B) of the draft License Agreement (Pg. 97).

## **BIDDING STRUCTURE**

The “Licensor” i.e. BDA has developed the terminal building with the highest level of modernization and safety standards for the users of the facility. The terminal building is air-conditioned with all amenities required for passengers using the ISBT.

BDA (the ‘Licensor’) intends to provide ‘License to Operate’ rights to a Master Licensee/ Anchor Tenant (the ‘Licensee’) to operate the Commercial Areas of the Terminal Building measuring around 10327.6 Sq. Meters plus 30 numbers of 4-Wheeler and 20 numbers of 2-Wheeler Parking spaces, 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 BDA.

### **Bidding Parameter:**

- i. The Bidder/ Master Licensee quoting the highest ‘**License Fee per Sq. ft 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 the 10,327.6 Sq. Meters (1,11,156.29 Sq. ft) offered to the Licensor.
- iii. In case of deviation in the area offered to the Master Licensee, the ‘Quarterly License Fee’ will be revised, accordingly.

### **Fixed Parameters:**

- i. The Licensee will be provided with the Parking Space for 30 numbers of 4-Wheeler and 20 numbers of 2-Wheeler on the Ground/Mezzanine floor at Fees of INR 50,000/- per Month to be paid to the Licensor.
- ii. The Licensee will be permitted to charge parking fees at the at the following rates for this space:
  - 4-Wheeler: INR 20/- for first 3 Hrs & INR 10/- for every subsequent hour and part thereof.
  - 3-Wheeler: INR 15/- for first 3 Hrs & INR 10/- for every subsequent hour and part thereof.
  - 2-Wheeler: INR 10/- for first 3 Hrs & INR 5/- for every subsequent hour and part thereof.
- iii. The Sub-license Fee for the Shops and Kiosks on the Ground and Mezzanine Floor bearing numbers (1-129) and Kiosks bearing numbers (130-133) on the First Floor will be 50% of the ‘License Fee per Sq. ft of Commercial Area’, as described above. The list of beneficiaries for such shops and kiosks, including the allotment process will have to be undertaken as per guidelines provided by the Authority.
- iv. In case, the Licensee is advised by the BDA to charge a Sub-license Fee which is lower than 50% of the ‘Quoted Rate’ for such shops and kiosks (Number 1-133); BDA will compensate the balance amount to the Licensee.
- v. The Cloak Room on the Ground Floor will be operated by the Licensee as per rates prescribed by the Indian Railways (i.e. Rs. 30/- per Item for first 24 hours or part thereof and Rs. 36/- per Item for subsequent 24 hours or part thereof.
- vi. Possession and Operation of ‘Aahar Kendra’ will be with the BDA.
- vii. Bidders are advised to conduct a detailed visit of the terminal building before submitting their bids.
- viii. There will be an Annual Escalation of 10% on the License Fee of Commercial Spaces for the License Period of 15 years.

- ix. Licensee must pay the Licensor (i.e., BDA), Quarterly Fees in advance within the first 10 days of each Quarter.

## **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 & incorporated under the Companies Act 1956/2013 or a combination of above in the form of Joint Venture (JV) or Consortium.

- 3.2 Bid by a JV/Consortium of firms:** In case of a bid by a JV/Consortium of firms, following shall be abide by the participant/s: For the purpose of evaluation of the consortium, each member's contribution towards the turnover shall be considered in the same ratio of their equity participation in the consortium.

*Illustration:* Say, If "A" and "B" are two members of JV/Consortium. "A" is having 70% equity holding in JV and "B" is having 30% equity holding in JV. In such a condition, 70% of A's turnover and 30% of B's turnover will be taken for the calculation of eligibility of the JV.

- 3.2.1 The lead member of the JV/Consortium shall maintain a minimum equity stake of 51% of the aggregate shareholding of SPV formed by the JV/Consortium members during full tenure of License Agreement.
- 3.2.2 Any change in percentage stake in SPV by JV/ Consortium members without prior written approval of BDA shall be treated as material breach of Contract and Selected Bidder/ Licensee's event of default entitling BDA to encash Interest Free Security Deposit and/or to terminate the License Agreement after a 30 (thirty) days termination notice.
- 3.2.3 Minimum percentage stake of any member in JV/ Consortium 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:
- 3.3.1 Bidders having a minimum Average Annual Turnover of **INR 50 Cr** for the last three financial years ending 31 March 2023. 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 2020-21, 2021-22& 2022-23. 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 subject to clause 3.1 above, the eligibility of all the members of JV/Consortium would be considered, in proportion of their share / participation in the JV/Consortium.

In such case, the Certificate of Turnover from the Chartered Accountant must refer to the JV/Consortium Agreement, take into account the share of Equity participation in the JV/Consortium, and calculate the Turnover of the last 3 financial years, including average of such figures before certifying the same on Company Letterhead with Registration number.

**3.3.2 Technical Qualifications:** In last three (3) years the Bidder should have an established track record of:

- Successfully Leasing/ Licensing/ Sub-licensing at least 1,25,000 sq. ft of built-up area including residential/commercial/ retail facilities either as an Owner/ Developer/ Strategic Partner/ Investor/ Marketing organization  
-OR-
- Taken Lease and operating at least 1,00,000 sq ft of built-up area for Commercial / Retail use.

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

- Copy of license or lease agreement
- 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 BDA 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** BDA / 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 BDA 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: 4**

### **4. INSTRUCTION TO TENDERERS**

#### **4.1 General:**

The Bidders are required to submit soft copies of their bids electronically on the tender Portal, using valid Digital Signature Certificates. The instructions given below are meant to assist the Bidders in registering on the tender Portal, prepare their bids in accordance with the requirements and submitting their bids online on the Portal. More information useful for submitting online bids on the tender Portal may be obtained at: <https://tendersodisha.gov.in> .

#### **4.2 Eligibility to participate in tender:**

- 4.2.1 Tenders are open to all eligible Bidders. In order to submit the bid, the Bidders have to get themselves registered on-line on the e-procurement portal (<https://tendersodisha.gov.in> ) with valid class II/III Digital Signature Certificate (DSC) with signing key usage issued from any agency authorized by Controller of Certifying Authority (CCA), Govt of India with their profile.
- 4.2.2 The on-line registration of the Bidders on the portal will be free of cost and one time activity only.
- 4.2.3 The registration must be in the name of Bidder, whereas DSC holder may be either Bidder himself or authorized person.
- 4.2.4 As part of the enrolment process, the Bidders will be required to choose a unique username and assign a password for their accounts.
- 4.2.5 Only one valid DSC should be registered by a Bidder. Please note that the Bidders are responsible to ensure that they do not lend their DSC's to others which may lead to misuse.

#### **4.3 Registration / Enrolment:**

To participate in e-tender all Bidders must enroll themselves with the CPP portal. The Bidder shall submit the bids online in the system available at the e- procurement portal (<https://tendersodisha.gov.in> ). The Bidder has to agree to the on-line user portal agreement. Then only, the system will permit the Bidder to proceed further in the system.

## **CHAPTER 5**

### **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 after completion of **(Rent-Free/ Free from License Fee) grace period of 90 days from execution of license agreement**. The License Fee and other charges and taxes shall commence and be paid within 10 days from the Commencement Date. 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 70 / Sq. Ft per month** for the Commercial Space. The Bid must be submitted only through the E-tendering portal. License Fee will be escalated at 10% for every year from the date of the handover of the commercial space, on compounding basis till the end of license period i.e. 15 years.
- 5.4** The License Fee will have to paid by the Licensee to the Licensor (i.e. BDA) in advance on a quarterly basis and before 10th day of each quarter.
- 5.5** The License Agreement shall be executed within 30 days of issue of Letter of Acceptance upon receipt of Security Deposit.
- 5.6** Within 7 days of issuance of note to takeover / handover, the Licensee and BDA shall carry out a joint inspection of the property as detailed in Annexure I.
- 5.7 Measurement of actual area of commercial space:** Actual area of commercial space shall be computed as per the as built drawing issued during handover / takeover stage. In case of difference of opinion as to the quantum of actual area, stand of BDA will be final and binding. The Licensee voluntarily and unequivocally agrees not to seek any claim compensation or any other consideration on this account.
- 5.8** Accordingly, the License Fee per month/quarter/year will be computed from the quoted Licensee Fee per Sq. Ft.
- 5.9** The Successful Bidder/ Licensee shall be responsible for taking prior approval from all the relevant legal and statutory authorities as per the Applicable Laws for operation of its business.
- 5.10** The Sub-License Agreement between the Master Licensee and the Beneficiaries of 131 shops on Ground and First Floor, will have to be approved by the Licensor (i.e. BDA) before execution.
- 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 BDA. However, the Licensee can

remove movable assets belonging to them without causing damage to the structure.

**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 2<sup>nd</sup> schedule of RBI Act in 1934 in favor of “Bhubaneswar Development Authority” payable at “Bhubaneswar” for an initial term of 3 years and shall be kept valid for the license period plus 180 days.

**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 handover / takeover of site by the Licensee after execution of License Agreement.

**5.14 Renewal of License**

5.14.1 At the end of the License period, the License may be renewed by BDA at its sole discretion.

5.14.2 BDA 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 BDA 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, 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 BDA 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 BDA shall be borne by BDA.

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

**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 BDA 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 BDA 60 days before the expiry of current insurance policy.



## **CHAPTER 6**

### **6. SUBMISSION OF BIDS BY BIDDERS**

#### **6.1 Submission of bids:**

- 6.1.1 Bidder should log into the site well in advance for bid submission so that they can upload the bid on time i.e. on or before the bid submission time. Bidder shall be responsible for any delay due to other issues.
- 6.1.2 The Bidder has to digitally sign and upload the required bid documents one by one as indicated in the tender document.
- 6.1.3 Bidder has to pay the Bid Processing Fee by Demand Draft and EMD by Bank Guarantee in favor of 'Chief Engineer cum Engineer Member'.
- 6.1.4 The server time (which is displayed on the Bidder's dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the Bidders, opening of bids etc. The Bidders should follow this time during bid submission.
- 6.1.5 All the documents being submitted by the Bidders would be encrypted. The confidentiality of the bids is maintained. Data storage encryption of sensitive fields is done. Any bid document that is uploaded to the server is subjected to symmetric encryption using a system generated symmetric key. Further this key is subjected to asymmetric encryption using buyers/bid opener's public keys.
- 6.1.6 The uploaded tender documents become readable only after the tender opening by the authorized bid openers.
- 6.1.7 It is the Bidder's responsibility to comply with the system requirement i.e. hardware, software and internet connectivity to access the e-tender website. Under any circumstances, BDA shall not be liable to the Bidders for any direct/indirect loss or damages incurred by them arising out of incorrect use of the e-tender system or internet connectivity failures.

#### **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 upload all requisite documents as per 6.4 of Tender document, along with Tender documents (i.e NIT, Tender Document, Reply to pre-bid queries, Corrigendum/Addendum etc.)
- 6.2.2 Bidders are required to deposit non-refundable Bid Processing Fee to BDA in the form of Demand Draft 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 Bid Processing Fee (Demand Draft) and Bid Security (EMD – Bank Guarantee) which will be in the form of a Sealed Envelope addressed to: 'Chief Engineer cum Engineer Member', Bhubaneswar Development Authority.

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 manner prescribed in e-tendering portal. Both the Technical Bid and Financial Bid shall be submitted by the Bidder, through E-tendering portal only, by the same due date as mentioned in the Tender document. The offer of Bidder, who does not fulfil 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, upload scanned copies of, subject to minimum of, following documents for Pre-qualification:

- Bid Security & Bid Processing Fee - scanned copy of the Bank Guarantee and Demand Draft to be uploaded.
- 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, upload scanned copies of, subject to minimum of, following documents in Technical Bid-

- Bid Processing Fee and EMD– scanned copy of Demand Draft and Bank Guarantee.
- Annexure-2 Letter Comprising the RFP Bid
- Annexure-3 General information of the Bidder
- Annexure-4A Certificate of Statutory Auditor/ Chartered Accountant with regard to Financial eligibility of the Bidder.
- Annexure-4B 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
- 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.
- 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 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 /month for Year 1** for the entire commercial space shall be considered for the granting of license. The Bidder quoting below the reserve price will be summarily rejected.
- 6.4.3 The Bidder may modify and resubmit the bid on-line, if he wishes so, before the bid submission date and time.
- 6.4.4 The system will accept only the last submitted bid. Bidder can find out the status of his tender online, any time after opening the bids.
- 6.4.5 The Bidder shall not rename the file or modify the format while uploading in the system. The file name should be the same as the file given in the tender.
- 6.4.6 The Bidder shall carefully quote in the Financial Bid. Incomplete quotes will lead to disqualification.
- 6.4.7 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 BDA shall remain and become the properties of BDA 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 BDA 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 of the costs associated with the preparation of their Bids and their participation in the bidding process. BDA 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 ISBT 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 BDA;
- 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 BDA 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 BDA, 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** BDA 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 BDA.
- 6.10 Verification and Disqualification:** BDA 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 BDA, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by BDA shall not relieve the Bidder of its obligations or liabilities hereunder nor shall it affect any rights of BDA 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, BDA 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 <https://tendersodisha.gov.in>.
- 6.11.3 In order to provide the Bidders a reasonable time for taking an Addendum into account, or for any other reason, BDA may, in its sole discretion, extend the Bid Due Date.
- 6.11.4 The Bidders are requested to get in touch with <https://tendersodisha.gov.in> 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 electronic format with digital signatures and after uploading the mandatory scanned copy of online transaction details submitted towards cost of Tender Document and towards Bid Security and other documents as required in the Tender Document.

6.12.4 The Bidders have to produce such original documents as may be sought for by BDA. The failure of the Bidder or Licensee to furnish the said original documents will empower BDA to summarily reject their bid.

6.12.5 Before submission of online Bids, Bidders must ensure that scanned copies of all the necessary documents have been uploaded with the bid.

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 BDA, is observed at any stage, the bid shall be treated as non-responsive and shall be summarily rejected.

**6.13 Late Tenders:** Tenders have to be uploaded on e-tendering portal <https://tendersodisha.gov.in> 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. BDA shall not be responsible for any delay, internet connection failure or any error in uploading the tender submission. The tenderers are advised to upload their submissions well before the due date and time of tender submission to avoid any problems and last-minute rush. BDA may, at its sole discretion, extend the deadline for submission of tenders by issuing an amendment, in which case all rights and obligations of BDA 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 BDA in relation to or matters arising out of or concerning the Bidding process. BDA 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. BDA 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 BDA 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. Bhubaneswar 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 BDA. Applicants are required to read carefully the contents of this document & to provide the required information. Applicants may be single firms or may be members of a consortium.
- 6.17** It shall be noted that BDA 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 BDA and that BDA'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 BDA.
- 6.18** For any query from Applicants/prospective bidders, BDA 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 BDA have not responded to any query or not provided any clarification. Applicants may clearly note the date and time of uploading of Tender. No late or delayed Tender will be accepted. However BDA 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 later stage (i.e. after the award of Tender) then also, BDA may annul the award. Further, the Bidders may be blacklisted for participation in any future Tender of BDA. In such a case BDA shall forfeit the EMD (if any) or Security Deposit (if any) as the case may be. The tenderers are required to download the Addendum, Corrigendum and pre-bid queries etc. from e-tendering portal <https://tendersodisha.gov.in>.

- 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 BDA;

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 BDA, 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: 7**

### **7. Evaluation of Bids**

#### **7.1 Tender Opening:**

- 7.1.1 The tenders shall be opened online by the opening committee comprising of members as per the delegation of powers decided by BDA 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, BDA will first check the Bid Processing Fee submitted through Demand Draft and Bid Security submitted through Bank Guarantee in a Sealed envelope by cross verifying with the soft copy submitted. Technical package 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 BDA, the next official working day shall be deemed as the date of opening of Technical Package.
- 7.1.4 BDA 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, BDA 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, a system generated e-mail confirmation will be sent to the successful Bidders communicating the date and time of opening of financial-bid.

#### **7.2 Evaluation of Financial Proposals:**

- 7.2.1 The price-bid of the successful Bidders (qualified in technical bid) will be decrypted and opened on-line, on or after the scheduled date and time by the bid openers with their Digital Signature Certificates (DSC).
- 7.2.2 In case of differences arising in the terms and conditions of the tender documents, the decision of BDA shall prevail.
- 7.2.3 The system will generate a comparative statement. The successful Bidders will get the information regarding the status of their financial bid and ranking of Bidders on website.
- 7.2.4 To facilitate evaluation of Bids, BDA may, at its sole discretion, seek clarifications



in writing from any Bidder regarding its Bid.

- 7.2.5 If the submitted documents do not meet the tender requirements then the Financial Bid of the said Bidder shall not be considered for evaluation.
- 7.2.6 While the bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, BDA and/ or their employees / representatives on matters related to the bids under consideration. However, when BDA calls for any information / clarification, it should be supplied by the Bidder within the time stipulated.
- 7.2.7 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 BDA. 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 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 BDA 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, BDA 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 BDA. 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 BDA 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, BDA 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 BDA rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh bids hereunder.

## **CHAPTER: 8**

### **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, BDA 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, BDA 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 BDA under Bidding Documents and/ or License Agreement, or otherwise.
- 8.2** Without prejudice to the rights of BDA and the rights and remedies which BDA may have under the LOA or the License Agreement, or otherwise if a Bidder or Licensee, as the case may be, is found by BDA 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 BDA for a period of 3 (three) years from the date such Bidder is found by BDA 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 BDA 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** BDA 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 BDA, the supplemental information sought by BDA 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 BDA, 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 BDA to the Selected Bidder or the Licensee, as the case may be, without BDA being liable in any manner whatsoever to the Selected Bidder or Licensee. In such an event, BDA 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 BDA under the Bidding Documents and/ or the License Agreement, or otherwise.

## **CHAPTER: 9**

### **9. MISCELLANEOUS**

- 9.1** The bidding process shall be governed by, and construed in accordance with, the laws of India and the Courts at Bhubaneswar 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 BDA with regard to the bid process or selection of the licensee. Even in cases where BDA 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 BDA shall be settled as per the dispute resolution Procedure elaborated in the License Agreement. The courts at Bhubaneswar shall have the sole & exclusive jurisdiction to try all the cases arising out of this License agreement.
- 9.2** BDA, 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 BDA 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 BDA, 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

Project Components		Number	Length (m)	Breath (m)	Area (Sq. Mtrs)	Area (Sq. Ft)
4 Wheeler Car Parking	Nos	30				
2 Wheeler Parking	Nos	20				
<b>GROUND FLOOR</b>						
Ticket Counter-1	Sq. Mt.	1	12.67	5.678	<b>71.9</b>	<b>774</b>
Ticket Counter-2	Sq. Mt.	1	11.554	5.678	<b>65.6</b>	<b>706</b>
Shop (Shop-1-10)	Sq. Mt.	10	3.00	3.00	<b>90.0</b>	<b>969</b>
Cloak Room	Sq. Mt.	1	18.14	8.84	<b>160.4</b>	<b>1726</b>
Shop (Shop-11-35)	Sq. Mt.	25	3.00	3.00	<b>225.0</b>	<b>2422</b>
Shop (Shop-36-38)	Sq. Mt.	3	2.64	2.70	<b>21.4</b>	<b>230</b>
Shop (Shop-39-41)	Sq. Mt.	3	3.00	3.29	<b>29.6</b>	<b>319</b>
Kiosk (No. 42)	Sq. Mt.	1	6.24	3.60	<b>22.5</b>	<b>242</b>
Kiosk (No. 43)	Sq. Mt.	1	7.59	3.60	<b>27.3</b>	<b>294</b>
Kiosk (No. 44)	Sq. Mt.	1	6.26	3.60	<b>22.5</b>	<b>242</b>
Kiosk (No. 45)	Sq. Mt.	1	6.26	3.60	<b>22.5</b>	<b>242</b>
Kiosk (No. 46)	Sq. Mt.	1	7.59	3.60	<b>27.3</b>	<b>294</b>
Kiosk (No. 47)	Sq. Mt.	1	6.13	3.60	<b>22.1</b>	<b>238</b>
Food Court Area (incl seating area)	Sq. Mt.	1	10.37	20.46	<b>212.2</b>	<b>2284</b>
Shop (Shop-48-60)	Sq. Mt.	13	3.00	3.00	<b>117.0</b>	<b>1259</b>
Shop-(61-63)	Sq. Mt.	3	2.63	3.42	<b>27.0</b>	<b>290</b>
Shop (Shop 64-66)	Sq. Mt.	3	2.70	3.33	<b>27.0</b>	<b>290</b>
Shop (67)	Sq. Mt.	1	3.50	3.00	<b>10.5</b>	<b>113</b>
Shop (68-69)	Sq. Mt.	2	3.00	3.00	<b>18.0</b>	<b>194</b>
Shop (Shop-70-72)	Sq. Mt.	3	3.00	3.00	<b>27.0</b>	<b>291</b>
Shop (Shop-73-74)	Sq. Mt.	2	3.00	3.45	<b>20.7</b>	<b>223</b>
Shop (Shop-75, 76)	Sq. Mt.	2	2.50	4.32	<b>21.6</b>	<b>232</b>
Shop (Shop-77-83)	Sq. Mt.	7	3.00	3.00	<b>63.0</b>	<b>678</b>

Shop (Shop-84-95)	Sq. Mt.	12	3.00	3.00	108.0	1162
Shop (96)	Sq. Mt.	1	3.15	6.93	21.8	235
Shop (97)	Sq. Mt.	1	2.55	4.32	11.0	119
<b>MEZZANINE FLOOR</b>						
Shop (Shop-98-105)	Sq. Mt.	8	3.00	3.00	72.0	775
Shop (106)	Sq. Mt.	1	2.58	3.00	7.7	83
Shop (Shop-107-129)	Sq. Mt.	23	3.00	3.00	207.0	2228
<b>Total</b>					<b>8401</b>	<b>90421</b>
<b>FIRST FLOOR</b>						
Toilet Block-1	Sq. Mt.	1	4.24	4.14	17.6	189
Toilet Block-2	Sq. Mt.	1	8.079	7.11	57.4	618
Toilet Block-3	Sq. Mt.	1	9.3	7.4	68.8	741
Toilet Block-4	Sq. Mt.	1	9.46	8.33	78.8	848
Lift	Sq. Mt.	4	2.5	2.5	25.0	269
Lift Lobby	Sq. Mt.	1	5.23	6.11	32.0	344
AHU Unit	Sq. Mt.	1	4.86	5.25	25.5	275
Police Outpost	Sq. Mt.	1	11.77	8.84	104.0	1120
Courier Service	Sq. Mt.	1	6.3	5.2	32.8	353
Lift Lobby	Sq. Mt.	1	4.86	3.84	18.7	201
Railway Reservation counter	Sq. Mt.	1	8	5.19	41.5	447
ELV & BMS	Sq. Mt.				20.9	225
AHU Unit	Sq. Mt.	1	6.14	4.2	25.8	278
Electrical Room	Sq. Mt.	1	3	3.6	10.8	116
Circulation Area	Sq. Mt.				3228.0	34743
Food Court+ Kitchen+Service Area	Sq. Mt.	1			1087.0	11699
ATM Kiosks	Sq. Mt.	1	12.88	9.08	117.0	1259
Shop	Sq. Mt.	2	6.56	4.69	61.6	663
Kiosks (130-133)	Sq. Mt.	4	3.00	3.60	43.2	465
Shop	Sq. Mt.	2	9.19	5.09	93.6	1007
Coffee Shop -01	Sq. Mt.	1	9.56	9.07	86.7	933

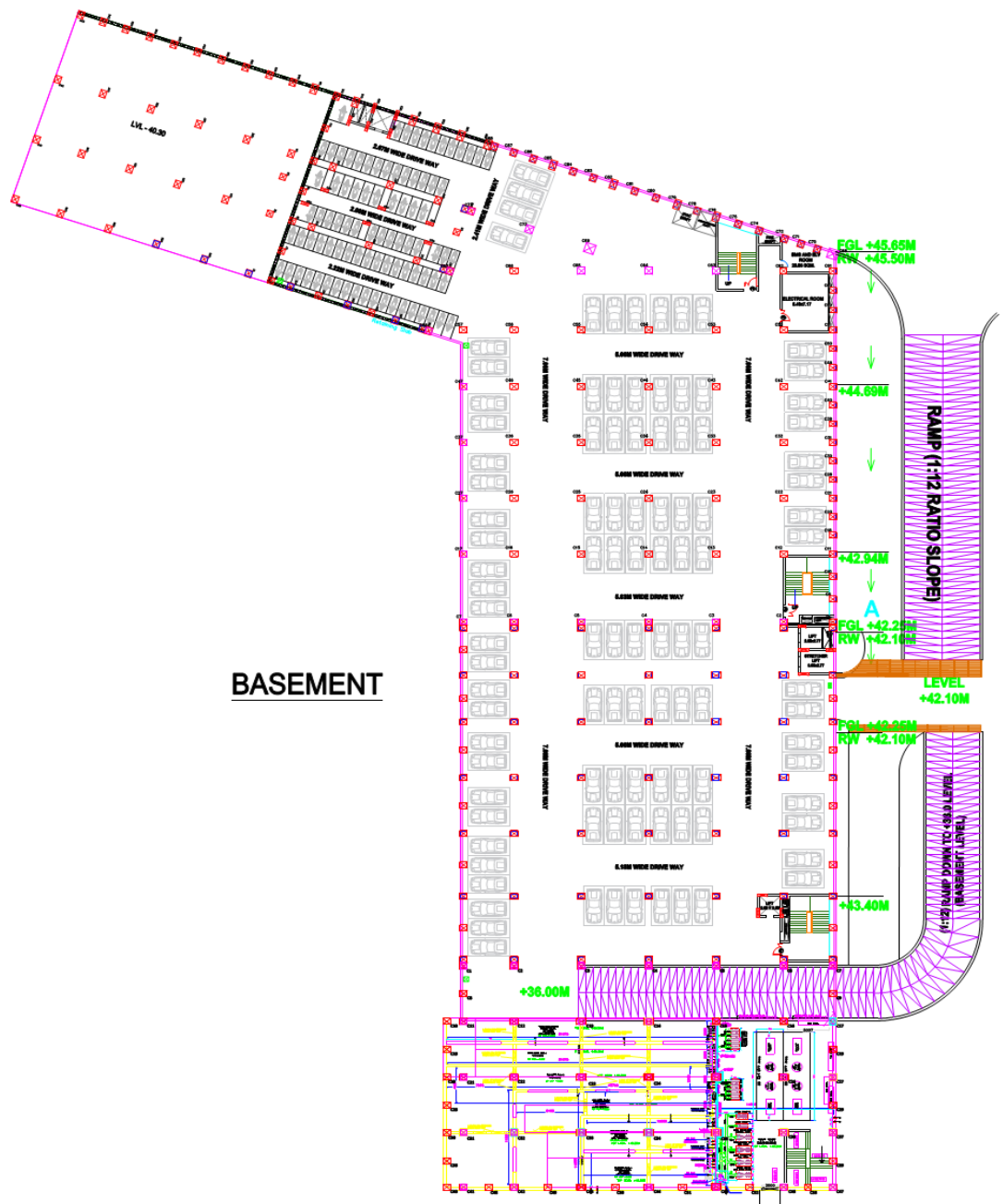
Food Court (Piza Shop)	Sq. Mt.	1			75.2	809
Restaurant-2 (Aahar Kendra)	Sq. Mt.	1	30.32	30.86	935.6	10069
Cofee Shop -02	Sq. Mt.	1	12.04	15.97	192.3	2069
Retail / office	Sq. Mt.	1	20.04	12.99	260.3	2802
Retail / office	Sq. Mt.	1	22.14	12.99	287.6	3095
Retail / office	Sq. Mt.	1	20.04	14.28	286.2	3080
Retail / office	Sq. Mt.	1	22.14	14.28	316.2	3403
Retail / office	Sq. Mt.	1	20.04	13.95	279.6	3009
Retail / office	Sq. Mt.	1	22.14	14.14	313.1	3369
Retail / office	Sq. Mt.	1	20.04	13.81	276.8	2979
Retail / office	Sq. Mt.	1	8.14	9.23	75.1	809
Total					8574	
<b>SECOND FLOOR</b>						
Toilet Block-1	Sq. Mt.	1	2.7	3.8	10.2	109
Toilet Block-2	Sq. Mt.	1	8.1	7.1	57.4	618
Toilet Block-3	Sq. Mt.	1	7.3	9.1	66.7	718
Toilet Block-4	Sq. Mt.	1	8.7	13.2	114.5	1232
Toilet Block-5	Sq. Mt.	1	8.9	7.3	64.6	696
Toilet Block-5	Sq. Mt.	1	7.1	9.5	67.3	724
Lift	Sq. Mt.	4	2.5	2.5	25.0	269
Lift	Sq. Mt.	1	4.0	2.8	11.0	118
House keeping	Sq. Mt.	1	2.65	4.89	13.0	139
Lift Lobby	Sq. Mt.	1	4.97	5.96	29.6	319
AHU	Sq. Mt.	1	4.86	5.25	25.5	275
Lift Lobby	Sq. Mt.	1	5.23	5.74	30.0	323
Association Office 1 and 2	Sq. Mt.	1	22.14	6.77	149.9	1613
Association Office 3	Sq. Mt.	1	11.39	7.21	82.1	883
Canteen kitchen utility service	Sq. Mt.	1	20.27	7.57	153.4	1652
OSRTC OFFICE	Sq. Mt.	1	20.02	7	140.1	1508
Conference hall	Sq. Mt.	1	16.405	6.725	110.3	1187
ISBT Manager room with rest room	Sq. Mt.	1	11.43	4.902	56.0	603



Command Control Centre	Sq. Mt.	1	12.50	4.9	61.2	659
Store Room	Sq. Mt.	1	8.24	6.69	55.1	593
CRUT Office	Sq. Mt.	1	8.26	7.18	59.3	638
Security Room	Sq. Mt.	1	13.62	14.088	191.9	2065
Asst. manager and manager room	Sq. Mt.	1	7.51	3.5	26.3	283
Circulation Area	Sq. Mt.				2174.7	23407
Retail/office	Sq. Mt.	2	11.95	8.84	211.3	2274
Dormitory	Sq. Mt.	2	11.95	13.64	326.0	3509
Canteen	Sq. Mt.	1	19.42	13.87	269.4	2899
Canteen- Kitchen+ store	Sq. Mt.	1	8.70	8.84	76.9	828
Retail/office	Sq. Mt.	1	13.64	12.36	168.6	1815
Retail / office	Sq. Mt.	1	24.64	13.64	336.1	3617
Retail / office	Sq. Mt.	1	18.29	8.84	161.7	1740
Retail / office	Sq. Mt.	1	29.28	8.84	258.9	2786
Retail / office	Sq. Mt.	1	13.60	17.65	240.0	2584
Retail / office	Sq. Mt.	1	13.60	11.40	155.0	1669
Retail / office	Sq. Mt.	1	11.55	8.84	102.1	1099
Retail / office	Sq. Mt.	1	13.60	16.65	226.4	2437
Retail / office (320 Sqmt - Not developed)	Sq. Mt.	1				0
Cofee Shop	Sq. Mt.	1			102.7	1105
Retail / office	Sq. Mt.	1	22.00	9.48	208.6	2245
Retail / office	Sq. Mt.	1	20.04	13.95	279.6	3009
Retail / office	Sq. Mt.	1	22.00	13.95	306.9	3303
Retail / office	Sq. Mt.	1	20.04	15.45	309.6	3332
Retail / office	Sq. Mt.	1			239.0	2572
Retail / office	Sq. Mt.	1	20.04	13	260.5	2804
Retail / office	Sq. Mt.	1	11.70	13.00	152.1	1637
Retail / office	Sq. Mt.	1	20.04	22.11	443.1	4769
Total	Sq. Mt.				8610	
Area Offerred to Master Licensee					10327.63	111156.29
Ground+1st Floor+ 2nd Floor	Sq. Mt.				25585	

Total Built-up Area including Staircases, front entrance etc.	Sq. Mt.	28124
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# BASEMENT









## **ANNEXURE-2**

### **Letter Comprising the RFP Bid**

(On Official letterhead of the Bidder)

NIT No: BDA/\_\_\_\_\_/2023/\_\_\_\_\_

Date:

#### **Chief Engineer cum Engineer Member**

Bhubaneswar Development Authority

Akash Shova Building,

Sachivalay Marg Bhubaneswar - 751001, Odisha

#### **Sub: Tender for Licensing Rights of Commercial Space at ISBT, Bhubaneswar**

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 BDA 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 BDA any additional information it may find necessary or require to supplement or authenticate the bid.
- 3) I/ We acknowledge the right of BDA 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 BDA; 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 BDA; 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 BDA 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 ISBT. 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 BDA 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 BDA in accordance with the tender Document. The documents accompanying the Bid, as specified in RFP, have been submitted in a separate envelope and marked as “Enclosures of the Bid” (Bid Processing Fee in the form of 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 BDA 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 Bid Processing Fee has been submitted as per the following details:

Sl. No	Item	Instrument details (Demand Draft)

- 17) The EMD in the form of Bank Guarantee from .....(Bank) is also enclosed.
- 18) 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.

*(Following declaration is to be submitted only by the Bidders who have downloaded the RFP document from BDA's website)*

I / We declare that the uploaded Tender documents are same as available on [https://\\_\\_\\_\\_\\_](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. I / We have properly bound the Tender documents. 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 BDA's website, BDA 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:**

### 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 BDA 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)

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		
	2020-21	2021-22	2022-23
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 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**

**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 / 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.**

## 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 BDA, representing us in all matters before BDA, and generally dealing with BDA 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

(Available at <https://tendersodisha.gov.in>)

**(To be submitted by the Bidder through E-tendering Portal only. 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 ISBT, Bhubaneswar.

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

S.No	Property Location	License Fee / Sq. Ft / Month
1	Commercial Space at Ground, First & Second Floor	

**Note:**

- **Taxes:** The quoted License Fee is exclusive of GST and any other applicable taxes as per the law of land.
- **Monthly/ Quarterly/ Annual License Fee:** The License Fee shall be calculated based on the Commercial Area offered by the Licensor to the Licensee.
- **Escalation:** License fee will be escalated at 10% annually from the date of the handover of the Commercial Space, on compounding basis.
- **License Tenure:** The License granted under the License Agreement shall be valid for a period of 15 (Fifteen) years from the date of handover or earlier if the license Agreement is terminated by the BDA at their sole discretion.
- **Renewal:** BDA 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 70 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 \_\_\_\_\_, 2023.

#### 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 Bhubaneswar Development Authority (hereinafter referred to as 'BDA') has invited Bids for the "Licensing of Commercial Space at ISBT, Bhubaneswar" 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 BDA for participating in the bid by the Consortium for which the Bid has been floated by BDA.

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 ISBT, Bhubaneswar" in terms of the Bid invited by Bhubaneswar Development Authority, (BDA).
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 BDA 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 BDA 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 ISBT".
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 Government 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 BDA, 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. Incase the consortium is being selected, we will form a Special Purpose Vehicle (SPV) for operating the Commercial Area provided to us at the ISBT, Baramunda and our equity lock-in within the SPV will be .....
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 BDA.

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 Bhubaneswar Development Authority (hereinafter referred to as “BDA”) 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 BDA to verify our credentials/ information provided by us under this Bid and as may be deemed necessary by BDA.
- 4) I say that if any point of time including the License period, in case BDA 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 BDA.
- 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 2023.

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 BDA 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 BDA.
- 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 BDA 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        1 \_\_\_\_\_

## 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(s) of [www.bda.gov](http://www.bda.gov) / <https://tendersodisha.gov.in>. 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 BDA website [www.bda.gov.in](http://www.bda.gov.in) / <https://tendersodisha.gov.in>. 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) BDA/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, location plan shall be part of the Bid document and if the Bidders desires to submit their Bid after downloading the Bid Document from the website of BDA, they may collect the location plans for Commercial Space from the office of the Chief Engineer cum Engineer Member, Bhubaneswar Development Authority, Aakash Shova Building, Sachivalaya Marg, Bhubaneswar – 751001, 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.

## ANNEXURE 13-

### DISCLOSURE OF PAST & ONGOING LITIGATION

Information regarding Litigation / Arbitration during last five years 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]

**Chief Engineer cum Engineer Member**

Bhubaneswar Development Authority

Akash Shova Building,

Sachivalay Marg Bhubaneswar - 751001, Odisha

1. [Name of relevant Bidder] ("Prospective Bidder) has in response to a Request for Proposal ("RFP") issued by BDA, submitted a proposal dated ----- (the "Proposal") for it to procure an Agency (the "Licensee") as «Master Licensee for Commercial Space at ISBT» (the 'Engagement').
2. [Name of Bank] with its registered office at ----- , unconditionally guarantees to pay BDA upon first the written demand and without deduction the sum of INR 25,00,000/- (Indian Rupees Twenty Five Lakhs only) ("Guaranteed Sum") subject to the conditions set out below.
3. [Name of Bank] undertakes to immediately pay BDA the Guaranteed Sum upon receipt of the first written demand by BDA without BDA 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 BDA if it notifies BDA 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 BDA.
  - c. If the bidder has been notified of the acceptance of his bid by BDA:
    - 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 BDA, 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. BDA 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. BDA 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 BDA. BDA 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 Bhubaneswar 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:

## 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 Bhubaneswar

### BY AND BETWEEN

The Bhubaneswar Development Authority incorporated under \_\_\_\_\_ having its administrative office at \_\_\_\_\_, India, represented by \_\_\_\_\_ (Designation) hereinafter referred to as the “Licensor” or “BDA” (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) BDA, 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 ISBT, Baramunda, Bhubaneswar.
- b) BDA has agreed to provide to the Licensee the Licensing Rights on the Commercial Space (pre identified by BDA and herein after referred to as Commercial Space), on payment of License Fee, security deposit and other charges to BDA 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 BDA as specified in this Agreement at its own cost.

NOW THEREFORE, in lieu of the mutual promise and consideration set out herein BDA 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 BDA 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 BDA 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 BDA 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 BDA under this License Agreement.

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

## ARTICLE 2

### DEFINITIONS

- a) **“Agreement”** means this License Agreement to be executed between BDA and the Selected Bidder in the format approved by BDA 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 BDA 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) **“BDA”** means Bhubaneswar Development Authority, a \_\_\_\_\_ India incorporated under the \_\_\_\_\_.
- h) **“Compliance Date”** means the date of execution of License Agreement.
- i) **“Commencement Date”** end of rent-free period of 90 days from Compliance date
- j) **“Commercial Space”** means the Commercial Space at ISBT, Bhubaneswar given on a license basis by BDA 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 BDA against the licensee for breach of this Agreement, including but not limited to, losses, dues, arrears etc. against which BDA 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 BDA as per terms and conditions of License Agreement, to be released after successful completion of license period.
- o) **“License”** means the permission granted by BDA 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 BDA pursuant to the conclusion of the bidding process.
- q) **“Licensor”** shall mean BDA, its assigns, its successors in interest or any other body corporate which may be authorized in writing by BDA to act on its behalf.
- r) **“License Fee”** means the amount payable by the licensee to BDA 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 BDA/LICENSOR.
- u) **“Selected Bidder”** means the Bidder who has been selected by BDA, 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 BDA
- 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 Bhubaneswar 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 BDA/Licensors 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 BDA by the Licensee, BDA 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 BDA and all the rights of the Licensee in the Licensed Space(s) shall be relinquished in the favor of BDA.
- 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 BDA. 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/BDA/Licensor areas or otherwise cause any interference to the employees, representatives and agents of BDA/Licensor & Neighboring party.
- 4.1.5 If there is a non-compliance of the above observed by BDA/Licensor, BDA/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 BDA/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 BDA/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) which shall be executed within a period of 15 days from the payment of Security Deposit by the Selected Bidder to the BDA (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 or if the License Agreement is terminated by the BDA at their sole discretion. On termination of License, the licensed area and all structures developed on the site will transfer to the possession of BDA.
- 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 BDA without any obligation on part of BDA to pay or adjust any consideration or other payment to the Licensee. No claim, compensation or damages shall be entertained by BDA on this account.
- 4.2.4 BDA 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 BDA 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 BDA 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 BDA 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 BDA, 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 BDA 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 BDA shall be obtained by the Licensee in respect of such standard draft. BDA 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 BDA 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 BDA before entering into an agreement with a Sub-Licensee. BDA 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 BDA 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.

#### **4.4. ASSIGNABILITY & ENCUMBRANCES**

4.4.1 Except for Sub- licensing with the consent of BDA 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 BDA 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 BDA, 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 BDA / Licenser 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 BDA 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 BDA

## **ARTICLE 5**

### **LICENSE FEE**

- 5.1. Commencement of License fees shall be paid after completion of rent-free grace period of 90 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, etc. as applicable from time to time.
- 5.4.3 The License Fee shall be paid to BDA on Quarterly basis in advance to BDA before 10 days of end of term (three months) without expecting any specific demand notice from BDA.
- 5.4.4 The Licensee agrees voluntarily and unequivocally to make all payments to BDA as may be due before the due date, without waiting for any formal advice from BDA. 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 BDA. In the case of non-submission of such details, initially Third Party dues i.e. statutory dues/ liabilities shall be settled (mandatory liabilities of BDA), 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 by 10% on compounding basis after completion of every year from the date of commencement of License Period.
- 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, BDA 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 BDA 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, BDA shall forfeit Interest Free Security Deposit deposited by the Licensee and recover BDA's dues without prejudice to take such other action available to BDA 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 BDA or its employees or by other contractor / Licensee employed by BDA 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 BDA 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 BDA 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 BDA to proceed with the works.
- 5.5.3 Any failure or delay by BDA 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 BDA 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 BDA, 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 BDA/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 BDA for a sum equivalent to INR \_\_ (Rupees \_\_ 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 “Bhubaneswar Development Authority”, drawn on any Public-Sector Bank and payable / encashable at Bhubaneswar. 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 BDA/Licensor being of the view that the Licensee has committed any breach or default of this Agreement, BDA/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 BDA/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 BDA/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 BDA/Licensor and further subject to deductions/adjustment for all damages/losses suffered by BDA /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, BDA/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 BDA/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, BDA/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 BDA shall be borne by BDA.
- 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 BDA 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.

## **5.8. SITE SAFETY AND SECURITY MEASURES**

- 5.8.1 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.
- 5.8.2 The Licensee shall comply with all safety regulations as applicable, in its design, access arrangements and operations on Project Site.
- 5.8.3 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.
- 5.8.4 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 BDA/Licensors.
- 5.8.5 Employees/staff of the Licensee shall not be deemed or construed to be the employees of BDA/ Licensors. The Licensee undertakes that its employees/staff shall make no claim against the BDA/Licensors for any reason whatsoever, throughout the License Period. Further, the Licensee also agrees that the BDA/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.

- 5.8.6. 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 BDA/Licensor 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.
- 5.8.7. 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 BDA/Licensor, the Licensee shall fully indemnify BDA/Licensor and holds Licensor indemnified against non-compliance of any such obligations/loss/damages etc.
- 5.8.8. 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.
- 5.8.9. 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 BDA/Licensors station/property.
- 5.8.10. BDA /Licensor 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 BDA/Licensor representatives during such inspection visits.



## **ARTICLE 6**

### **FITTING-OUT, OPERATION AND MAINTENANCE OF COMMERCIALSPACE**

#### **61. Approval of Plan- Submission of drawings:**

- 6.1.1. The Licensee shall commence fitting-outs only after submitting the electrical, plumbing, mechanical, fire, fit-out drawings, etc. as applicable to BDA.
- 6.1.2. 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.
- 6.1.3. 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.
- 6.1.4. The Licensee is not allowed to start fitting-out works without obtaining the requisite approvals from BDA.
- 6.1.5. Any changes required after BDA's comments on the drawings must be amended to and should be resubmitted to BDA for further comments until final approval to commence works is obtained.
- 6.1.6. Upon completion of fitting-out works, the Licensee is required to submit to BDA 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.**

- 6.2.1. Key Plan: Showing the location of licensed premises.
- 6.2.2. 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.
- 6.2.3. 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.
- 6.2.4. Catalogues and Cut-outs: Light fixtures or sketches of custom light fittings are to be provided.
- 6.2.5. 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.
- 6.2.6. Typical interior sections with all materials and finishes indicated.
- 6.2.7. All plans shall be signed, stamped and dated by the Licensee.
- 6.2.8. The Licensee shall bear all costs and expenses incurred by its submissions.
- 6.2.9. BDA 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 BDA's

comments and proposed solutions, if any, into the final drawings.

### **63 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 BDA.

### **64 Building and Structural Works:**

- 64.1. 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**
- 64.2. During the handover, the licensee and BDA shall jointly inspect the Licensed Premises and complete the form, “Handover of Licensed Premises” (Refer to **Annexure- II**).
- 64.3. 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.

### **65 Commencement of Site works:**

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

- 65.1. Written approval on the final drawing submissions.
- 65.2. Permit to Work (PTW).

### **66 Authorized Representative of the Licensee**

- 65.3. 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.
- 65.4. 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 BDA.
- 65.5. 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 BDA’s instructions, BDA and its employees reserve the right to request these workers to leave the site.

### **67.No storage of flammable material on site.**

**68 Spot Checks / Repair Works:** BDA 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 BDA or its representatives shall be observed by the Licensee.

### **69 Unless otherwise stated in this License Agreement:**

- 69.1. Upon handover, the Licensee shall be responsible for keeping unauthorized persons off the licensed space(s).
- 69.2. Authorized persons shall be limited to the employees of the Licensee, employees of sub-contractors of the Licensee, and employees and persons authorized by BDA.

#### **610. Completion of Fitting-out works:**

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

#### **611. Responsibility of licensee during construction / operational period**

- 6.10.1. Licensee shall ensure that no structural damage is caused to the existing building and other permanent structure as a result of his activities.
- 6.10.2. Licensee shall be responsible for safety, soundness and durability of the work undertaken by the Licensee including other structures forming part thereof.
- 6.10.3. No material is stored or kept outside the site or in common area meant for movement of persons.
- 6.10.4. 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.
- 6.10.5. The Licensee shall strictly comply with the safety procedure, measurement, and guidelines.

#### **612. Maintenance & Repairs:**

- 6.11.1. Licensee shall bear the cost of minor day-to-day repairs, annual refurbishing and routine special repairs to space comprising of Commercial Space.
- 6.11.2. Any major repairs (structural defects) in the existing building due to its constructional defects shall be the responsibility of BDA.

#### **6.12. Operation of Commercial Space:**

- 6.13.1. Licensee shall ensure that fire detection and suppression measures installed inside his premises are kept in good working condition at all times.
- 6.13.2. The Licensee voluntarily and unequivocally agrees to provide un-fettered access to the fire officer & other officials of BDA 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.
- 6.13.3. 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 BDA electrical inspector/authorized representative must be complied with. Any cost/s associated with implementation of such instruction shall be borne solely by the Licensee.
- 6.13.4. 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 BDA fire officer, electrical inspector, security officer or their authorized representatives from time to time.
- 6.13.5. 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.

- 6.13.6. 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 BDA employees or loss to BDA property, it shall constitute a material breach of contract and be considered Licensee's event of default that shall entitle BDA to terminate the License Agreement with 30 days written notice.
- 6.13.7. The Licensee shall ensure safety and security of the allotted Commercial Space during the tenure of the License period and BDA shall not take any responsibility in this regard.
- 6.13.8. Deliberate or willful non-compliance of BDA's written instructions for a period of 90 days shall constitute Material breach and Licensee event of default that shall entitle BDA 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 BDA shall be without prejudice to any other damages, rights or remedies applicable under law in its favor.
- 6.13.9. The overall control and supervision of the premises shall remain vested with BDA 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**

#### **7.1. 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:

- 7.1.1. 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.;
- 7.1.2. The Licensee shall be responsible to complete the interiors, furnishings and fit outs, facilities, services, infrastructure and any other requirements of the licensee.
- 7.1.3. To operate and maintain the licensed area at all times in conformity with this Agreement;
- 7.1.4. To furnish "As Built Drawings" of the premises within 30 days of completion of construction work.
- 7.1.5. To ensure that no structural damage is caused to the building / structures handed over by BDA as a result of his activities or any of its agents, contractors, etc.;
- 7.1.6. 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.
- 7.1.7. 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. BDA shall not be responsible for management/operation/maintenance of the Licensed area.
- 7.1.8. 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.
- 7.1.9. 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 BDA.
- 7.1.10. To duly supervise, monitor and control the activities of contractors, agents, etc., if any, under their respective License Agreements as may be necessary.
- 7.1.11. 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 / death during

execution of contract / completion of work.

7.1.12. 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.

7.1.13. 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 BDA's activities.

7.1.14. At all times, to afford access to the Licensed Commercial Space to the authorized representatives of BDA, 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

7.1.15. To comply with the divestment requirements and hand over the Licensed Commercial Space to BDA upon Termination of the Agreement.

**72** The Licensee shall be solely and primarily responsible to BDA 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.

**73** The Licensee shall comply with all prevailing rules and regulations & its amendments.

**74** No tenancy/sub-tenancy is being created by BDA 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 BDA 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 BDA 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.

**75** 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.

**76 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:

- 7.7.1 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.
- 7.7.2 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.
- 7.7.3 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.
- 7.7.4 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.
- 7.7.5 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.
- 7.7.6 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.
- 7.7.7 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.

- 7.7.8 Water: The Licensee shall make necessary arrangement for procurement of water on day-to-day basis.
- 7.7.9 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.
- 7.7.10 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.



## **ARTICLE 8**

### **RESTRICTION AND CHANGES IN LICENSEE AND SPECIAL PURPOSE COMPANY**

- 81.** 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 BDA/Licensor.
- 82.** The members of Consortium of the SPC shall be responsible and liable jointly and severally, for due performance of all the obligations and responsibilities assumed by the SPC 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 shareholding structure shall expressly be with the prior written consent of BDA/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 BDA/Licensor.

## **ARTICLE: 9**

### **INDEMNITY AND INSURANCE**

- 91.** The Licensee hereby undertakes to indemnify and hold BDA 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.
- 92.** The Licensee hereby undertakes to indemnify BDA 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.
- 93.** The Licensee hereby undertakes that BDA 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 BDA against all such damages and compensation, all claims proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.
- 94.** 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 BDA Administration for any loss and damages suffered due to violation of its provision.
- 95.** The Licensee hereby indemnifies BDA 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.
- 96.** 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 BDA against any liability arising in connection with the employment of its personnel in the said premises by Licensor.
- 97.** The Licensee shall indemnify BDA from any claims that may arise from the statutory authorities against any statutory taxes, statutory dues, local levies, etc. in connection with this License.
- 98.** The Licensee shall indemnify BDA from any damages to be incurred if at the end of the license period, the licensed Commercial Space is not handed over to BDA in good

condition as required under this agreement.

- 99.** The Licensee shall indemnify BDA from any serious accident caused due to negligence of the Licensee, resulting in loss to BDA property.
- 910.** The Licensee shall be liable for and shall indemnify, protect, defend and hold harmless BDA, BDA'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.
- 911.** The Licensee shall indemnify and keep indemnified BDA 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.
- 912.** 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 BDA 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, BDA's movable assets, furniture and fixture.

## **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

- 10.1.1. Earthquake, flood, inundation, landslides, pandemic.
- 10.1.2. Storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances.
- 10.1.3. Fire caused by reasons not attributable to the Licensee.
- 10.1.4. Acts of terrorism.
- 10.1.5. War, hostilities (whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war.
- 10.1.6. Strikes or boycotts, other than those involving either of the Licensee, its subcontractors or their employees, agents, etc.; and
- 10.1.7. 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:

- 10.2.1. The nature and extent of the Force Majeure Event.
- 10.2.2. The estimated Force Majeure Period.
- 10.2.3. The nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event.
- 10.2.4. 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
- 10.2.5. 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:

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

- 10.3.3. There shall be no termination of this Agreement on account of Force Majeure except as provided in Clause 10.5.
- 10.3.4. 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.
- 10.3.5. 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.
- 10.3.6. 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
- 10.3.7. 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 BDA/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.

#### **11.1. TERMINATION BY BDA/LICENSOR**

BDA/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”):

- 11.1.1. 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 BDA/Licensor without any contributory factor of the Licensee;
- 11.1.2. 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 BDA/Licensor, or any part thereof, shall be in arrears and unpaid for a continuous period of more than 45 days after actual due date;
- 11.1.3. The Licensee has failed to submit Security Deposit for renewed amount 1 months before the date of the expiry of existing Security Deposit.
- 11.1.4. Any representation made or warranties given by the Licensee under this Agreement is found to be false or misleading.
- 11.1.5. 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.
- 11.1.6. The Licensee has been adjudged as bankrupt or become insolvent.
- 11.1.7. 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.
- 11.1.8. A resolution for voluntary winding up has been passed by the shareholders of the Licensee.
- 11.1.9. 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 BDA/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;
- 11.1.10. The Licensee has abandoned the Project.
- 11.1.11. The shareholding pattern of the SPV (being the Licensee) has been changed without obtaining prior written consent of BDA/Licensor.

- 11.1.12. In case the Licensee or its Sub-Licensee had entered into any further Sub-License Agreement without the prior written consent of BDA/Licensor; Provided that BDA /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 BDA/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.

## **11.2. 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:

- 11.2.1. The Licensee or Sub-Licensee shall cease to have any access to the licensed space(s). However, BDA/Licensor at its own discretion may allow the Sub Licensees/ end users to continue to have access on mutually negotiable terms & conditions.
- 11.2.2. 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 BDA/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.
- 11.2.3. 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.
- 11.2.4. Hand over to BDA / 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);
- 11.2.5. At its cost remove from the Licensed Space(s) all such moveable assets, which are not taken over by or transferred to the BDA/Licensor.
- 11.2.6. At its own cost, immediately terminate the Sub-Leasing Agreements entered into with Sub-Licensees, without any liability on BDA/Licensor. However, BDA/Licensor may in its discretion, instruct the Licensee to assign the Sub-Leasing Agreement in favor of the BDA/Licensor, if the BDA/Licensor considers it appropriate to continue to provide access to the Sub-Licensee on the Licensed Space(s).
- 11.2.7. The Licensee shall, at its cost, transfer to BDA/Licensor all such Applicable Permits, which the BDA/Licensor may require, and which can be legally transferred.
- 11.2.8. 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 BDA and shall remove only movables which can be removed without causing any damage to the structure of the Licensed Area.

- 11.2.9. 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.
- 11.2.10. Each Party shall pay the other Party the various payments due as on the date of Termination in accordance with this Agreement.
- 11.2.11. 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.

### **11.3. RIGHTS OF BDA/LICENSOR ON TERMINATION**

Notwithstanding anything contained in this Agreement, BDA/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 BDA/ Licensor in case of termination.

### **11.4. RIGHT TO RE-MARKET THE SAID LICENSED SPACE(S) ON TERMINATION**

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

### **11.5. 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/ BDA.



## **ARTICLE: 12**

### **DISPUTE RESOLUTION**

- 12.1. 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.
- 12.2. 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.
- 12.2.1. The sole-member Adjudicator shall be nominated by the Vice Chairman of the Licensor (BDA) at his discretion. He may also be an officer of BDA, not below the rank of \_\_\_\_\_, 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 BDA 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.
- 12.2.2. 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.
- 12.3. Arbitration:** The Dispute so referred shall be settled by Arbitration and the parties agree on the following procedure for appointing the Arbitrator / Arbitrators:
- 12.4. In case the value of the disputed claim and counter claim is Rs.5 crore or less:**
- 12.4.1. 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.
- 12.4.2. 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.
- 12.4.3. 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.
- 12.4.4. The parties shall endeavor to complete the arbitration proceedings within 4 months from the commencement of the same.
- 12.5. In case the value of the disputed claim and counter claim is more than Rs.5 crore:**

- 12.5.1. 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 (BDA) shall nominate its Arbitrator from the said list within 15 days thereafter.
- 12.5.2. 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.
- 12.5.3. 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.
- 12.5.4. 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.
- 12.5.5. 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.
- 12.5.6. 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.
- 12.5.7. 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.
- 12.5.8. 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.
- 12.5.9. During the pendency of arbitration / conciliation proceedings, the Licensee shall continue to perform and make payments due to BDA as per the License agreement.
- 12.5.10. The venue of the arbitration shall be at Chennai. 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.
- 12.5.11. The parties shall endeavor to complete the arbitration proceedings within 8 months from the commencement of the same.

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

## **ARTICLE: 13**

### **REPRESENTATIONS AND WARRANTIES**

**13.1. The Licensee represents and warrants to BDA that:**

- 13.1.1. It is duly organized, validly existing and in good standing under the laws of India.
- 13.1.2. It has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.
- 13.1.3. 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.
- 13.1.4. It has the financial standing and capacity to undertake the commercial utilization of Licensed Commercial Space.
- 13.1.5. This Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
- 13.1.6. 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;
- 13.1.7. 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.
- 13.1.8. 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.
- 13.1.9. 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.
- 13.1.10. No representation or warranty by the Licensee contained herein or in any other document furnished by the Licensee to BDA 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.
- 13.1.11. 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 BDA shall not be liable for the same in any manner whatsoever to the Licensee.
- 13.1.12. 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 BDA. The Licensee shall at all times comply and represent to the staff and labour employed/

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

- 13.2. 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 BDA of the same.

**13.3. Licensor's Covenant**

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

- 13.3.1. 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.
- 13.3.2. 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.
- 13.3.3. 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.
- 13.3.4. Sanctioned Plans:** The Licensor had constructed the building known as \_\_\_\_\_ in accordance with the Planning Permission bearing No. \_\_\_\_\_, approved plan obtained from the Bhubaneswar Development Authority ("BDA") 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 \_\_\_\_\_ (which includes the demised premises) and that the Licensee and / or other occupants can use the building for \_\_\_\_\_ purposes.
- 13.3.5. 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 demises 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

- 14.1.** 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.
- 14.2.** 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. BDA 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.
- 14.3.** 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 BDA 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 BDA from any claims that may arise in connection with above.
- 14.4. 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.
- 14.5. Misuse:** The Licensee shall use the licensed space under the agreement only for those services as permitted by BDA 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 BDA (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 BDA for any losses/ penalties on this account levied by any judicial/statutory authorities/courts.
- 14.6. 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.

**14.7. 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.

**14.8. Notices: BDA and Licensee voluntarily and unequivocally agrees -**

14.8.1. That any notice to be served upon BDA shall be sufficiently served and given if delivered to-

**Chief Engineer cum Engineer Member**

Bhubaneswar Development Authority,  
Aakash Shova Building, Sachivalaya Marg,  
Bhubaneswar, Odisha- 751001.

14.8.2. That any notice which may be required to be served upon the Licensee shall be served and given if delivery by Registered AD/Speed Post/Courier at the Address given on the First page of the License Agreement or delivered in person to the authorized representative of Licenser.

14.8.3. 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 activities including day to day management, billing, cancellation/termination/surrender etc. shall be carried out from the office of the Manager, ISBT or by his duly authorized representative. All Notice shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14.8.4. No instruction/ notice of any party if not communicated in writing, shall be entertained by the other party.

**14.9. 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 rising out of this License or acquiescence to or recognition of any right and/or any position other than that expressly stipulated in the License.

**14.10. 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.

**14.11. Copies:** This License Agreement is made in duplicate with the Licenser and Licensee retaining one set each. The Licensee shall retain one set of the stamped original License Agreement.

**14.12. 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.

.....-2023

.....- 2023

Authorized Signatory

Authorized Signatory

FOR AND ON BEHALF OF

FOR AND ON BEHALF OF LICENSEE

BHUBANESWAR DEVELOPMENT AUTHORITY

## **ANNEXURE –I (B)**

### **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 BDA.
- vi. Any product/ service the sale of which is unlawful/ illegal or demand or restricted for sale under any Indian act or legislation.
- vii. Any other product/ services as notified by Government of India/ Government of Odisha/ Bhubaneswar Development Authority in the public interest or due to security/ safety reasons.

**ANNEXURE-II**  
**Handing Over of Licensed Premises**

Date: XX.XX.XXXX

Agreement No:

Site Admeasuring \_\_\_\_ x \_\_\_\_ = \_\_\_\_ Sqft of commercial space, at ISBT, Bhubaneswar is 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.

## **FORMAT OF SECURITY DEPOSIT BANK GUARANTEE**

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

**BANKGUARANTEENO.**\_\_\_\_\_ **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 Corporate office at \_\_\_\_\_ and branch / Zonal office at \_\_\_\_\_ (Name and address of Bank) \_\_\_\_\_ (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**

**Bhubaneswar Development Authority** (hereinafter called “**BDA**”, which expression shall, unless it be repugnant to the subject or context thereof, include its successors and permitted assigns), having its registered office at Aakash Shova Building, Sachivalaya Marg, Bhubaneswar, Odisha- 751001 of the other part;

**Whereas** BDA 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 BDA.

**And Whereas**, accordingly the Bank has agreed to guarantee to BDA 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 BDA, shall pay on the same day to BDA 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 BDA 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 up to dd/mm/yyyy till the entire License Period and shall not be revoked by the Bank at any time without BDA’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 BDA 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 BDA 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 BDA 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 BDA 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 BDA against the Licensee or omission on the part of BDA or any indulgence by BDA 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 "BDA" 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 up to dd/mm/yy
  - c) The Bank is liable to pay the guaranteed amount or part thereof only and only if the BDA 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\_\_\_\_\_ Name\_\_ Address \_\_\_\_\_

Notes:

1. The stamp papers of appropriate value shall be purchased in the name of the Bank, who issues the „Bank Guarantee“.
2. The Bank Guarantee shall be from the Scheduled Commercial Bank based in India.