

RFP NOTICE No.05/OUIDF-178/2017/Dt.25.11.2017

REQUEST FOR PROPOSAL (RFP)

**For Appointment of Independent Engineer for Solid Waste
Management Projects at Berhampur Municipal Corporation
implemented through Design-Build-Operate-Transfer (DBOT) mode**

Letter of Invitation (LoI)

1. Sealed Tenders are invited by Odisha Urban Infrastructure Development Fund (OUIDF) for appointment of Independent Engineer for Solid Waste Management Projects at Berhampur Municipal Corporation from Nationally Reputed Consultancy firms in Solid Waste Management Sector.
2. RFP document can be downloaded from the websites www.urbanodisha.gov.in and www.ouidf.in.
3. Pre-bid meeting will be held on 05/12/2017 at 11:00 A.M in the office of The Odisha Urban Infrastructure Development Fund, 4th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar-23, Odisha.
4. The Bidders shall submit their proposals latest by 08/01/2018 upto 4.00 P.M.
5. The Technical Proposal shall be opened on 09/01/2018 at 11:00 A.M of next day of PDD in the presence of representatives of bidders at office of The Secretary, OUIDF.
6. The Project for which Independent Engineer is proposing to be engaged is given below.

NIT No	Name & Details of Work	Bid Security
005	Appointment of Independent Engineer for Solid Waste Management Projects at Berhampur Municipal Corporation	Rs. 150,000/-

Interested Bidders may obtain further information by writing/ email from the office of:

The Secretary, OUIDF,

4th Floor, Fortune Towers, Chandrasekharpur, Bhubaneswar, Odisha-751023,

Ph-0674-2300396/397, Email: ouidf.hudd@gmail.com

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Secretary, OUIDF

1. Introduction

- 1.1 Background of Project:** The Government of Odisha, with assistance from KfW has set up Orissa Urban Infrastructure Fund (OUIDF) to facilitate systematic development and financing of urban infrastructure projects in the state of Odisha. Berhampur Municipal Corporation being one of the beneficiaries intends to appoint Independent Engineer for Supervision of Implementation for Municipal Solid Waste Management Project in Berhampur Municipal Corporation (the "Project") implemented through Design-Build-Operate-Transfer Mode for 20 years.
- 1.2 Request for Proposal:** OUIDF invites Proposals (the "Proposal") for selection of Independent Engineer for Municipal Solid Waste Management Project in Berhampur Municipal Corporation implemented through Design-Build-Operate-Transfer Mode for 20 years.
- 1.3 Validity of the Proposal:** The proposal shall be valid for a period of not less than 180 (one hundred eighty) days from the last date of submission of proposal ("Proposal Due Date").
- 1.4 Brief description of the Selection Process:** OUIDF shall adopt a three stage selection process in evaluating the Proposals. In the first stage Pre-qualification Evaluation will be carried out with respect to minimum eligibility criteria set out in clause no 2.1.1 and 2.1.2. In the second stage, a Technical Evaluation will be carried out as specified in Clause 3.1. Based on this Technical Evaluation, a list of short-listed bidders shall be prepared as specified in Clause 3.2. In the third stage, a Financial Evaluation will be carried out as specified in Clause 3.3. Proposals will finally be ranked according to their combined Technical and Financial scores based on Combined Quality and Cost Based Selection (CQCBS) as specified in Clause 3.4. The first ranked bidder (the "Selected Bidder") shall be selected for negotiation while the proposal of the second ranked bidder will be kept in reserve.
- 1.5 Currency rate and payment:** All payments to the Consultant shall be made in INR in accordance with the provisions of this RFP.
- 1.6 Schedule of Selection Process :** OUIDF would endeavour to adhere to the following schedule

Sr.No.	Event Description	Date & Time
1	Pre Proposal /Pre Bid Meeting	05/12/2017 at 11:00 AM
2	Proposal Due date (PDD)	08/01/2018 at 4:00 PM
3	Date of Technical Opening	09/01/2017 at 11:00 AM of the next day of PDD
4	Letter of Award(LOA)	Within 30 days of PDD

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY
BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION &
TRANSFER (DBOT) MODE

Sr.No.	Event Description	Date & Time
5	Signing of Agreement	Within 45 days of PDD
6	Validity of Application	180 days from Proposal Due Date

1.7 Pre-Proposal Conference/Pre-bid meeting:

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

Date: 05/12/2017

Time: 11:00 AM

Venue: Conference Hall, 4th Floor, Odisha Urban Infrastructure Development Fund, Fortune Towers, Chandrasekharpur, Bhubaneswar, Odisha-751023

1.8 Communications: All Communications including the submission of Proposal shall be addressed to by writing /email:

The Secretary OUIDF,

Address: OUIDF Trust, Zone A/2, Fourth Floor, Fortune Towers, Bhubaneswar-751023

Phone: 0674-2300396, 2300397 email: ouidf.hudd@gmail.com

2. INSTRUCTIONS TO BIDDERS

A. General

2.1 Conditions of Eligibility of Bidders

2.1.1 Bidders must read carefully the minimum conditions of eligibility (the "Conditions of Eligibility") provided herein. Proposals of only those Bidders who satisfy the Conditions of Eligibility will be considered for evaluation.

2.1.2 The Bidder is allowed to form a Consortium of a maximum of 2(two) Members. The Bidder shall fulfill the following:

- a) The Bidder/Consortium Member shall have successfully completed one similar project involving fee of Rs.25 lakhs and above or for an ongoing project experience of minimum one year with fee received for Rs.25 Lakh as an Independent Engineer / Project Management Consultancy / Authority's Engineer /Construction Supervision in last 10 (Ten) years from the date of publication of the RFP. The proof of such engagement shall be provided in the form of client Work Order and Completion Certificate (or Client Certificate of satisfactory services for ongoing project) with details of Scope of Work, date of start and completion of assignment and Consultancy fee value.
- b) Bidder or Consortium shall have jointly average annual turnover of at least Rs. 3 (Three) Crores from Consultancy Business in last 3 (three) years. The Bidder must ensure that they submit the evidence of eligibility criteria on turnover & positive net worth as on 31st March 2016 in the form of audited financial statements signed by Chartered Accountant for the last 3 (three) Financial Years
- c) For the purpose of clause 2.1.2 a) "Similar Projects" are defined as
 - a. Solid Waste Management Project with Processing / Treatment and Landfill / Disposal Facility
 - b. Hazardous Waste Treatment Disposal Facility.
 - c. Industrial Park / SEZ project with Treatment / Processing and Landfill / Disposal Facility as an integral component of the Project.
 - d. Any Industrial Project with Waste Treatment and Disposal as an integral component of the Project.
- d) Consulting Firms shall not have an ownership interest or a continuing business interest or not be an associate with bidder for selection of DBOT Operator of Proposed SWM Project of Berhampur Municipal Corporation.

- e) Conditions shown in 2.1.2(a) to (d) are minimum qualifying criteria (Pass/Fail). The Bidder not meeting the above requirement will not be considered for further evaluation.
- 2.1.3 Any entity which has been barred by the Central Government, any State Government, a statutory Independent or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal either by itself or through its Associate (“Associate” means a firm have common controlling shareholders or other ownership interest as that of the Bidder).
- 2.2 Conflict of Interest:** Bidder shall not have a conflict of interest that may affect the Selection Process or the assignment (the “Conflict of Interest”). Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, OUIDF shall have the right to forfeit and appropriate the Bid Security, without prejudice to any other right or remedy that may be available to OUIDF hereunder or otherwise. The guidance note for “Conflict of Interest” is given in Annexure XII.
- 2.3 Number of Proposals:** No Bidder or its Associate shall submit more than one Proposal.
- 2.4 Cost of Proposal:** The Bidders shall be responsible for all of the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiations, visits to OUIDF, Project site etc. OUIDF will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.
- 2.5 Due Diligence by Bidder:** Bidders are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, access to site, and availability of data with Berhampur Municipal Corporation (BeMC), Applicable Laws and regulations or any other matter considered relevant by them. For this purpose, Bidders shall intimate the Municipal Commissioner of BeMC in advance. .
- 2.6 Right to reject any or all Bids**
- 2.6.1 Notwithstanding anything contained in this RFP, OUIDF reserves the right to accept or reject any Bid and to annul the Selection Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 2.6.2 Without prejudice to the generality of Clause 2.6.1, OUIDF reserves the right to reject any Proposal if :a) At any time, a material misrepresentation is made or uncovered, or b) The Bidder does not provide, within the time specified by OUIDF, the supplemental information sought by OUIDF for evaluation of the Proposal.

2.6.3 Misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Bidder gets disqualified / rejected, then OUIDF reserves the right to consider the next best Bidder, or take any other measure as may be deemed fit in the sole discretion of OUIDF, including annulment of the Selection Process.

B. Documents

2.7 Contents of the RFP

2.7.1 This RFP comprises the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.9:

Request for Proposal

- Introduction
- Instructions to Bidders
- Criteria for Evaluation
- Fraud and corrupt practices
- Pre-Proposal Conference/Pre-bid Meeting
- Miscellaneous

Annexures:

- Annexure I: Terms of Reference
- Annexure II: Cover Letter
- Annexure III: Statement of Legal Capacity
- Annexure IV: Power of Attorney
- Annexure V: Details of Bidder
- Annexure VI: Financial Qualification of Bidder
- Annexure VII: Eligible Project Experience of Bidder
- Annexure VIII: CV of Key Personnel's
- Annexure IX: Legally binding signed declaration of undertaking
- Annexure X: Salient Aspect of Technical Proposal
- Annexure XI: Financial Proposal
- Annexure XII: Guidance note on conflict of interest
- Annexure XIII: Consulting Services Contract
- Annexure XIV: Consortium Agreement

2.8 Clarification

2.8.1 Bidders requiring any clarification on the RFP may send their queries to OUIDF in writing/through e-mail before the date of Pre bid meeting. The emails shall clearly bear the following identification: "Queries/Request for Additional Information concerning RFP for Appointment of Independent Engineer for Municipal Solid Waste Management

Projects at Berhampur by Berhampur Municipal Corporation implemented through Design Build Operation & Transfer (DBOT) mode ". OUIDF shall endeavor to respond to the queries during Pre-bid meeting.

- 2.8.2 Any question, communication or requests for additional information concerning this RFP are only permitted in writing (e-mail) and up to three (3) weeks before the PDD. Answers / clarifications will be communicated to all Bidders by uploading in referred website (www.ouidf.in & www.urbanodisha.gov.in) in good time, no later than 14 calendar days prior to the PDD. Thus, all bidders shall keep themselves informed about answers / clarifications by checking the website regularly. If necessary, the PDD will be postponed accordingly. The Minutes of the Pre-Bid Meeting / Addenda/Corrigenda shall form an integral part of the Contract Agreement.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the deadline for submission of RFP, OUIDF may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP document by the issuance of Addendum/ Amendment and posting it on its website and notification through email.
- 2.9.2 In order to afford the Bidders a reasonable time for taking into account the amendments/ addendum, or for any other reason, OUIDF may, in its sole discretion, extend the PDD and posting it on its website and notification through email, simultaneously and in good time, no later than 14 calendar days prior to the PDD.

C. Preparation and Submission of Proposal

- 2.10 Language:** The Proposal with all accompanying documents (the "Documents") and all communications in relation to or concerning the Selection Process shall be in English language and strictly in the format provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for. In case of any of these documents is in another language, it must preferably be accompanied by an accurate translation of all the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.11 Format and signing of Bid

- 2.11.1 The Bidder shall provide all the information sought under this RFP. OUIDF would evaluate only those Proposals that are received in the specified format and complete in all respects.
- 2.11.2 The Bidder/Lead Member of Consortium shall prepare one original set of Technical Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP with Pre-Bid Clarification & Addenda if any) and clearly

marked "ORIGINAL". In addition, the Bidder/Lead Member of Consortium shall submit 1 (one) copy of Technical Proposal, along with Documents, marked "COPY". In the event of any discrepancy between the original and its copies, the original shall prevail. Bidder shall also submit copy of Technical Proposal in a CD/ DVD.

2.11.3 The Technical Proposal and its Copy shall be typed or written in indelible ink and signed by the Authorised Signatory of the Bidder/Lead Member of Consortium who shall initial each page. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, pre-bid clarifications, addenda, additions, or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal. The Proposals must be properly signed by the authorised representative (the "Authorised Representative") as detailed below:

- a) By a Partner, in case of a Partnership firm and/or Designated Partner in case of Limited Liability Partnership;
- b) By a duly Authorised person holding the Power of Attorney, in case of a Limited Company or a Corporation;
- c) Lead Member of Consortium in case of Bidder is Consortium of Bidders and Consortium Agreement shall authorize Lead Member to do so.

A copy of the Power of Attorney and a Consortium Agreement in case of Consortium along with Power of Attorney in non-judicial stamp paper certified under the hands of a Partner or Director of the Bidder/ Members of Consortium and notarized by a notary public in the form as specified in Annexure IV and Annexure XIV shall accompany the Proposal.

2.11.4 Except as specifically provided in this RFP, no supplementary material will be entertained by OUIDF, and that evaluation will be carried out only on the basis of Documents received by the closing time of PDD. Bidders will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, OUIDF reserves the right to seek clarifications under and in accordance with the provisions of Clause 2.21.

2.12 Technical Proposal

2.12.1 Bidders shall submit the technical proposal in the formats from Annexure II to Annexure X (the "Technical Proposal").

2.12.2 While submitting the Technical Proposal, the Bidder shall, in particular, ensure that:

- a) The Bid Security is provided;

- b) All Forms are submitted in the prescribed formats and signed by the authorised signatories;
- c) Power of Attorney, is executed as per Applicable Laws;
- d) CVs of all Key Personnel have been included;
- e) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 3.1.3 of the RFP; The CV of each Key Personnel shall be submitted as per the format at Annexure VIII.
- f) No alternative proposal for any Key Personnel is being made and CV for each position has been furnished;
- g) Key Personnel would be available for the period indicated in the ToR;
- h) No Key Personnel should have attained the age of 70 years at the time of submitting the proposal; and
- i) The proposal is responsive in terms of Clause 2.19.3.
- j) Duly executed Consortium Agreement as per Annexure XIV is submitted in case of Consortium

2.12.3 Failure to comply with the requirements spelt out in this Clause 2.12 shall make the Proposal liable to be rejected.

2.12.4 If an individual Key Personnel makes a false statement regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of OUIDF for a period of 3 (three) years. The award of work to the Bidder may also be liable to cancellation in such an event and the Bid Security and / or Performance Security if submitted will be forfeited.

2.12.5 OUIDF reserves the right to verify all statements, information, and documents submitted by the Bidder in response to the RFP. Any such verification or the lack of such verification by OUIDF to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of OUIDF there under.

2.12.6 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Consultant either by issue of the LOA or entering into of the Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall notwithstanding anything to the contrary contained therein or in this RFP, be

liable to be terminated, by a communication in writing by OUIDF without OUIDF being liable in any manner whatsoever to the Selected Bidder or Consultant, as the case may be. In such an event, OUIDF shall have the right to forfeit and appropriate the Bid Security and / or Performance Security without prejudice to any other right or remedy that may be available to OUIDF.

2.13 Financial Proposal

2.13.1 Bidders shall submit separate financial proposal (Financial Proposal) as per the format given in Annexure XI clearly indicating the total cost of the Consultancy in both figures and words, in Indian Rupees, and signed by the Bidder's Authorised Representative. In the event of any difference between figures and words, the amount indicated in words shall prevail.

2.13.2 While submitting the Financial Proposal, the Bidder shall ensure the following:

- a. All the costs associated with the assignment shall be included in the Financial Proposal.
- b. The Financial Proposal shall take into account all expenses and tax liabilities except GST (as applicable). Please note that the remuneration which you receive from the contract will be subject to normal tax liability in India. The applicable Goods Service Tax alone is reimbursable by the client. Kindly contact the concerned tax authorities for further information in this regard if required.
- c. Costs shall be expressed in INR.

2.14 Submission of Proposal

2.14.1 The Bidders shall submit the Proposal in bound form with all pages numbered serially and by giving an index of submissions. In case of any discrepancy between the version of the RFP submitted and the original RFP issued by OUIDF, the latter shall prevail.

2.14.2 The Proposal will be sealed in an outer envelope which will bear the address of OUIDF, RFP Notice number, name of assignment i.e. "RFP for Appointment of Independent Engineer for Municipal Solid Waste Management Project at Berhampur by Berhampur Municipal Corporation Implemented through Design Build Operation & Transfer Mode" and the name, address and contact number of the Bidder. It shall bear on top, the following: **"DO NOT OPEN, EXCEPT IN PRESENCE OF THE AUTHORISED PERSON OF OUIDF"** If the envelope is not sealed and marked as instructed above, OUIDF assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and consequent losses, if any, suffered by the Bidder.

2.14.3 The aforesaid outer envelope will contain two separate sealed envelopes; one clearly marked 'Technical Proposal' and the other clearly marked 'Financial Proposal'. The

envelope marked "Technical Proposal" shall contain the bid in the prescribed format Annexure II to X and the supporting documents. .

2.14.4 The envelope marked "Financial Proposal" shall contain the Financial Proposal in the prescribed format in Annexure XI.

2.14.5 The completed Proposal must be delivered in hard copy on or before the specified time on PDD. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.

2.14.6 The rates quoted shall be firm throughout the period of performance of the assignment up to and including discharge of all obligations of the Consultant under the Agreement.

2.15 Proposal Due Date

2.15.1 Proposal should be submitted on or before 04:00 PM on the PDD specified at Clause 1.6 at the address provided in Clause 1.8 in the manner and form as detailed in this RFP.

2.15.2 OUIDF may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders by uploading in the referred Website.

2.16 Late Proposals

2.16.1 Proposals received by OUIDF after the specified time on PDD shall not be eligible for consideration and shall be summarily rejected.

2.17 Modification/ substitution/ withdrawal of Proposals

2.17.1 The Bidder may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by OUIDF prior to PDD along with letter from Authorised Representative of Bidder (Power of Attorney holder). No Proposal shall be modified, substituted, or withdrawn by the Bidder subsequent to the PDD.

2.17.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.14, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.17.3 Any alteration / modification in the Proposal or additional information or material supplied subsequent to the PDD, unless the same has been expressly sought for by OUIDF, shall be disregarded.

2.18 Bid Security

2.18.1 The Bidder shall furnish as part of its Proposal, a bid security of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) in the form of a Demand Draft issued by Nationalised/ Scheduled Banks in India in favor of the "The Secretary, OUIDF" payable at

Bhubaneswar (the "Bid Security"), returnable not later than 180 days from PDD except in case of the two highest ranked Bidders. In the event that the first ranked Bidder commences the assignment, the second ranked Bidder, whose proposal has been kept in reserve, shall be returned forthwith, but in no case not later than 180 (one hundred and eighty) days from the PDD. The Bid Security of the first ranked and successful Bidder shall be returned after submission of Performance Guarantee as set out in Clause 2.18.2 hereafter.

2.18.2 The successful Bidder shall submit a Performance Guarantee for an amount equal to 10% of the value of the Contract in the form of a Bank Guarantee. The Performance Guarantee shall be returned, after 12 (twelve) months of successful completion of Consultancy Services by the Consultant.

2.18.3 OUIDF shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

2.18.4 The Bidder, by submitting its Proposal pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to OUIDF's any other right or remedy hereunder or in law or otherwise, the Bid Security shall be forfeited and appropriated by OUIDF under the following conditions:

- a) If a Bidder engages in any of the Prohibited Practices specified in Section 4 of this RFP;
- b) If a Bidder withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Bidder from time to time;
- c) In the case of a Selected Bidder, if the Bidder fails to sign the Agreement or commence the assignment as specified in Clauses 2.26 due to the reason solely attributed to the Bidder; or
- d) If the Bidder is found to have a Conflict of Interest as specified in Clause 2.2; and
- e) If the selected Bidder commits breach of the Agreement

D. Evaluation Process

2.19 Evaluation of Proposals

2.19.1 OUIDF shall open the Proposals at time specified in Clause 1.6 at the Venue specified in Clause 1.8 and in the presence of the Bidders who choose to attend. The envelopes marked "**Technical Proposal**" shall be opened first. The envelopes marked "**Financial Proposal**" shall be kept sealed for opening at a later stage.

2.19.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.17 shall not be opened.

2.19.3 Prior to evaluation of Proposals, OUIDF will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:

- a) The Technical Proposal is received in the formats from Annexure II to Annexure X
- b) The Financial Proposal (Annexure XI) is submitted in separate sealed envelope with address and contact no. of Bidder.
- c) Both sealed Technical Proposal and sealed Financial Proposal are enclosed in bigger outer envelope, properly sealed and with address, contact no. and subject superscribed on it.
- d) It is received by the PDD including any extension thereof pursuant to Clause 2.15;
- e) It is accompanied by the Bid Security as specified in Clause 2.18;
- f) It is accompanied by the Power of Attorney;
- g) It contains all the information (complete in all respects) as requested in the RFP;
- h) It does not contain any condition or qualification; and
- i) It is not non-responsive in terms hereof.
- j) It is accompanied by duly executed Consortium Agreement as per format provided (Annexure-XIV) in the RFP.

2.19.4 OUIDF reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by OUIDF in respect of such Proposals.

2.19.5 OUIDF shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.4 and the criteria set out in Section 3 of this RFP.

2.19.6 After the technical evaluation, OUIDF shall prepare a list of shortlisted Bidders in terms of Clause 3.2 for opening of their Financial Proposals. A date, time and venue will be notified to all shortlisted Bidders for announcing the result of Technical Evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the list of shortlisted Bidders along with their Technical Score will be read out. The opening of Financial Proposals shall be done in presence of respective representatives of Bidders who choose to be present. OUIDF will not entertain any query or clarification from Bidders who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4. The Financial Proposal of Bidders whose bids are disqualified in technical evaluation will not be opened for financial evaluation.

2.19.7 Bidders are advised that selection shall be entirely at the discretion of OUIDF. Bidders will be deemed to have understood and agreed that OUIDF shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.

2.19.8 Any information contained in the Proposal shall not in any way be construed as binding on OUIDF, its agents, successors or assigns, but shall be binding against the Bidder if the Consultancy is subsequently awarded to it.

2.20 Confidentiality : Information relating to the examination, clarification, evaluation, and recommendation for the selection of Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional adviser advising OUIDF in relation to matters arising out of, or concerning the Selection Process. OUIDF shall treat all information, submitted as part of the Proposal, in confidence and shall require all those who have access to such material to treat the same in confidence. OUIDF 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 to enforce or assert any right or privilege of the statutory entity and/or OUIDF or as may be required by law or in connection with any legal process.

2.21 Clarifications

2.21.1 To facilitate evaluation of Proposals, OUIDF may, at its sole discretion, seek clarifications from any Bidder regarding its Proposal. Such clarification(s) shall be provided within the time specified by OUIDF for this purpose. Any request for clarification(s) and all clarification(s) in response there to shall be in writing.

2.21.2 If any Bidder does not provide clarifications sought under Clause 2.21.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, OUIDF may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of OUIDF.

E. Appointment of Consultant

2.22 Negotiations

2.22.1 The Selected Bidder may, if necessary, be invited for negotiations. The negotiations shall generally be related to the Scope of Work and Terms of Reference.

2.22.2 Prior to expiration period of proposal validity, the Client will notify the successful Consultant who submitted the combine highest scoring proposal in writing by registered letter/ email or facsimile and invite it to negotiate the Contract.

- 2.22.3 The aim of Negotiations is to reach agreement on all points and initials a Draft Contract by the conclusion of Negotiations.
- 2.22.4 Negotiations will commence with a discussion of your Technical Proposal, the proposed Methodology (Work Plan), Staffing and any suggestions you may have made to improve the TOR. Agreement must then be reached on the final TOR, the staffing and staff months, logistics and reporting. Special attention will be paid to optimise the required outputs from the Consultants and to define clearly the inputs required from the Client to ensure satisfactory implementation of the Assignment.
- 2.22.5 Having selected Consultants, among other things, on the basis of an evaluation of proposed key professional staff, the Client expects to negotiate a contract on the basis these staff named in the proposal and prior to contract negotiation will require assurance that these staff will be actually available. The Client will not consider substitutions during contract negotiations except in cases of unexpected delays in the starting date or incapacity of professional staff for reason of health.
- 2.22.6 Changes agreed upon will then be reflected in the draft contract, using proposed unit rates (no negotiation of the Unit rates, including the man month rates).
- 2.22.7 The negotiations will be concluded with a review of the draft form of Contract. The Client and the Consultants will finalize the Contract to conclude negotiations.
- 2.22.8 The Contract will be awarded after successful negotiations, with the selected Consultant. If negotiation fails, the Client will invite the Consultant having obtained the second highest score to Contract negotiations. Upon successful completion, the Client will promptly inform the other Consultants that their proposals have not been selected.

2.23 Indemnity

The Consultant shall, subject to the provisions of the Agreement, indemnify OUIDF, for an amount not exceeding the value of the Agreement, for any direct loss or damage that is caused due to any deficiency in Services.

2.24 Award of Consultancy

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by OUIDF to the Selected Bidders and the Selected Bidders will, within 15 (Fifteen) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidders are not received by the stipulated date, OUIDF may, unless it consents to extension of time for submission thereof, cancel the LOA and award the Project to the next highest ranking Bidder may be considered.

2.25 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Bidders, they will execute the Agreement within the period prescribed in Clause 1.6 or any date communicated by the OUIDF after submitting the Performance Security as per Clause 2.18.2. . If the Successful Bidder is a Consortium to whom the LOA is issued, each Partner of Consortium shall sign and execute the Agreement with OUIDF and shall jointly and severally responsible to the OUIDF for performance of Contract. The Selected Bidders will not be entitled to seek any deviation in the Agreement.

2.26 Commencement of assignment

The Independent Engineer shall commence the Services at the Project site within 4(Four) Weeks of the date of the Agreement or such other date as may be mutually agreed. If the Consultants fail to either sign the Agreement as specified in Clause 2.25 or commence the assignment as specified herein, OUIDF may invite the second ranked Bidder for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated and the Bid Security / Performance Security of the first ranked Bidder shall be forfeited and appropriated in accordance with the provisions of Clause 2.18.4.

2.27 Proprietary data

Subject to the provisions of Clause 2.20, all documents and other information provided to OUIDF or submitted by any Bidder to OUIDF shall remain or become the property of OUIDF. Bidders are required to treat all information as strictly confidential. OUIDF will not return any Proposal or any information related thereto. All information collected, analyzed, processed or in whatever manner provided by the Consultants to OUIDF in relation to the Consultancy shall be the property of OUIDF.

3. CRITERIA FOR EVALUATION

3.1 Technical Evaluation

3.1.1 In the first stage, Technical Proposal (Annexure II to X) will be evaluated on the basis of Minimum Eligibility Criteria set out in clause no. 2.1.1 and clause no. 2.1.2(a) to 2.1.2(c). This is a pass/fail type evaluation and no marks in evaluation are awarded. In the second stage, the Technical Proposal will be evaluated on the basis of Bidder's understanding of TOR, proposed methodology and Work Plan as per Annexure X, the qualification, experience of Key Personnel as per Annexure VIII and Bidder's experience in carrying out similar assignments as per Annexure VII. Only those Bidders whose Technical Proposals get a score of 75 (Seventy Five) marks or more out of 100 (Hundred) shall qualify for further consideration, and shall be ranked from highest to the lowest on the basis of their technical score (ST).

3.1.2 The scoring criteria to be used for evaluation shall be as follows.

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION & TRANSFER (DBOT) MODE

Sr. No.	Position/Criteria	Marks
1	Key Personnel (as detailed in Clause 3.1.4)	65
2	<p>I. Clarity on Completeness of Bids for Documentation-05 Marks</p> <p>a. Cover letter, Statement of Legal Capacity, Power of Attorney, Declaration of Undertaking as per format(2 Marks)</p> <p>b. CVs as format(1 marks)</p> <p>c. Presentation of Technical Proposal - Approach and Methodology, Work Plan, Manning Schedule, Comments on TOR as per format(2 marks)</p> <p>II. Approach & Methodology for Content and Presentation-15 Marks</p> <p>a. Understanding of the scope of work(3 marks)</p> <p>b. Site appreciation(2 Marks)</p> <p>c. Proposed methodology of Consultant for undertaking the assignment(10 marks)</p> <p>III. Work Plan-05 Marks</p> <p>IV. Manning Schedule-05 Marks</p> <p>V. Comments on TOR-05 Marks</p> <p>Approach and Methodology, Work Plan and Manning Schedule shall be provided as per the formats given in Annexure X</p>	35
	Total	100

The Project Manager shall make a presentation on the proposed approach for undertaking the assignment and also demonstrate their capability to undertake the tasks proposed. Power Point Presentation shall be made only by the Project Manager. Any other representative of the Bidder shall not be permitted to make the presentation. However in case of any unavoidable circumstances beyond control of the Bidder, other Authorized Person can be allowed with permission of Client.

3.1.3 The breakup of scoring for key personnel would be as follows:

SL No	Position	Maximum Marks
1	Project Manager	35
2	SWM Expert	20
3	Site Engineer	10
	Total	65

Each of the Key Personnel must fulfill the Conditions of Eligibility specified below:

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY
 BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION &
 TRANSFER (DBOT) MODE

Sr. No.	Position	Inputs Requirement	Tasks Assigned	Qualification & Experience
1	Project Manager (1 No)	(Full Time) - 24 Man Months	Responsible for overall project planning and management, construction supervision and quality control of works at site on daily basis, technical input at various stages, coordination, approval of design & final submission of deliverables.	Graduate in Civil Engineering with minimum 7 years of experience & Shall have worked in Construction Supervision and quality control of works of at least one Eligible Project defined Under Clause 3.1.4
2	Solid Waste Management Expert (1 No.)	(Part Time) - 9 Man Months	Assist the Project Manager in tasks, vetting and approval of design & drawings of SWM system and equipment of Operator as proposed in the Agreement between BeMC & DBOT Operator, preparation of Supervision Manual, Technical guidance to Operator, approval of O&M Manual of Operator. Should visit the site at least once every 2 months, should be present at site during the Commissioning stage and will be responsible for approval for Compliance to Environmental Clearances, Consent to Operate, Consent to establish, logistic capacity, Completion Certificate and Operational Acceptance	Masters in Environmental Engineering / Environmental Sciences with 5 years of experience in Solid Waste Management sector. He should have experience in designing and commissioning of Solid Waste Management projects SWM Expert shall have carried out at least one Eligible Project defined under Clause 3.1.4
3	Site Engineer	(Full Time) - 24 Man Months	Review BOQ items and quantity with drawings and point out the discrepancies/variations, if any, to Project Manager Measure quantities of work, record measurements and verify items / Work quantities executed in the Operators monthly statement, verify and examine interim payment certificates received from Operators Prepare variation statement for review by Project Manager, Maintain a permanent record of all measurement for the work quantities Assist Project Manager in preparing the monthly reports and Financial Statements,	Degree in Civil Engineering with minimum 3 years of experience as Site Engineer in Urban Infrastructure Project for civil works.

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION & TRANSFER (DBOT) MODE

Sr. No.	Position	Inputs Requirement	Tasks Assigned	Qualification & Experience
			Responsible for correctness, accuracy of measurement and quantity of works recorded	
4	Mechanical Engineer	Part Time - 5 Man Months	Review and approval of the Plant & Machinery and Vehicles proposed by the Operator for the Project as per stipulations in the Contract between Operator and Berhampur Municipal Corporation. Should be present at Site during the erection and commissioning of Plant & Machinery for the Project and should certify their compliance as per the approved specifications. He would also certify the compliance of the procured vehicles as per the approved specifications.	Graduate in Mechanical Engineering. Experience in Commissioning of Plants / Factories.
5	Structural Engineer	Part Time - 1 Man Month	Review and approve the design and drawing submitted by the Operator.	Masters in Structural Engineering. Minimum 3 years' experience in design of Industrial Buildings.

Note: The Man Months provided above are indicative and the Experts shall be deployed as per the actual requirement for the project.

3.1.4 The (minimum) criterion for Marking of qualified Persons to be deployed is as below:-

Position	Marks for Person having Qualification		Marks for their experience		No. of Eligible Projects	
Project Manager	Graduate in Civil Engineering/	Master in Construction Management/ Environmental Engineering/ Environmental Science	7 years	More than 7 years	1	More than 1
Marks for Project Manager	6 marks	8 marks	10 marks	1 mark for each completed year beyond 10 years subject to	8 marks	2 mark for each completed project beyond 1 subject to maximum

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY
BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION &
TRANSFER (DBOT) MODE

Position	Marks for Person having Qualification		Marks for their experience		No. of Eligible Projects	
				maximum 15 marks(Cumulative)		12 marks (Cumulative)
SWM Expert	Masters in Environmental Engineering / Environmental Sciences		5 Years	More than 5 years	1	More than 1
Marks for Solid Waste Management Expert	5 marks	0 marks	5 marks	1mark for each completed year beyond 5 years subjected to maximum 10 Marks(Cumulative)	2 Marks	1mark for each completed project beyond 1 subjected to maximum 5 marks (Cumulative)
Site Engineer	Graduate Degree in Civil Engineer	Higher Qualification	2 Years	More than 2 Years	1	More than 1
Marks for Site Engineer	4 Marks	No Marks	2 Marks	1mark for each completed year beyond 2 years subjected to maximum 4 marks(Cumulative)	2 Marks	No Marks

Note: - Person having qualification and experience less than the prescribed Qualification and experience in the RFP will be marked as Nil. Bid will be rejected if the Key Personnel proposed by the Bidder in the Technical Proposal do not have minimum Qualification as defined in Clause 3.1.3.

- **Eligible Project:**

- **Project Manager:** Eligible Project means Construction Supervision and Quality Control Works for one of the projects mentioned below. Project Manager shall have carried out at least one Eligible Project as Project Manager
 - a. Solid Waste Management Project with Processing / Treatment and Landfill / Disposal Facility
 - b. Hazardous Waste Treatment/Disposal Facility.
 - c. Industrial Park / SEZ project with Landfill as an integral component of the Project.
 - d. Any Industrial Project with Waste Treatment and Disposal as an integral component of the Project
- **SWM Expert:** Eligible Project means design of SWM Projects involving processing facility of 50 TPD Capacity. SWM Expert shall have carried out at least one Eligible Project.
- **Site Engineer:** Quantity Surveying, Certification of Bills and supervision work for Civil Works

3.2 Short-listing of Bidders

Of the Bidders ranked as aforesaid in Clause 3.1.1, shall be short-listed for financial evaluation in the second stage.

3.3 Evaluation of Financial Proposal

3.3.1 In the second stage, the financial evaluation will be carried out as per this Clause 3.3. Each Financial Proposal will be assigned a financial score (SF).

3.3.2 For financial evaluation, the total fee indicated in the financial proposal as per Annexure XI will be considered.

3.3.3 OUIDF will determine whether the Financial Proposal is complete, unqualified and unconditional. The fee indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. The lowest Financial Proposal (FM) will be given a financial scoring (SF) of 100 points, the financial scores of other proposals will be computed as follows:

$$SF=100 \times FM/F$$

FM = Lowest financial Proposal Amount

F = Amount of other Financial Proposal

3.4 Combined Evaluation of Proposal

- 3.4.1 Following completion of evaluation of Technical and Financial Proposals, final ranking of the Proposals will be determined. This will be done by applying a weightage of 0.7 (Seventy percent) and 0.30 (Thirty percent) respectively to the technical and financial scores of each evaluated qualifying Technical and Financial Proposals. The relevant combined total score for each Consultant Proposals will finally be ranked according to their combined technical scores (ST) as defined in clause 3.1.2 and financial (SF) scores as evaluate in clause 3.3.3 as follows : $S = (0.70*ST + 0.30SF)$ Where "S" is the combined score.
- 3.4.2 The Selected Bidder shall be the first ranked bidder (having the highest combined score). The second ranked bidder shall be kept in reserve and may be invited for as and when required.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this Invitation of RFP document, OUIDF shall reject a RFP without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process.
- 4.2 Without prejudice to the rights of OUIDF under Clause 4.1 here in above and the rights and remedies which OUIDF may have under the shortlisting process, if an Bidder is found 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 Selection Process, or after the shortlisting process, such Bidder shall not be eligible to participate in any tender issued by OUIDF during a period of 3 (three) years from such date.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning here in after respectively assigned to them:

"Corrupt practice: means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of OUIDF who is or has been associated in any manner, directly or indirectly with the Selection Process or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of OUIDF, shall be deemed to constitute influencing the actions of a person connected with the Selection Process or (ii)engaging in an manner whatsoever, whether

during the Selection Process or after shortlisting ,as the case may be, any person in respect of any matter relating to the Project, who at any time has been or is a legal, financial or technical consultant/adviser of OUIDF in relation to any matter concerning the Project;

"**Fraudulent practice**" means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;

"**Coercive practice**: means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection Process;

"**Undesirable practice**" means establishing contact with any person connected with or employed or engaged by OUIDF with the objective of canvassing, lobbying or in any manner influencing the outcome of the procedure for selection of bidders.

5. PRE-PROPOSAL / PRE-BID MEETING

5.1 Pre-Proposal / Pre-Bid meeting of the Bidders shall be convened at the designated date, time and place. A maximum of two representatives of each Bidder shall be allowed to participate on production of an Authorisation Letter from the Bidder.

5.2 During the course of Pre-Proposal / Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of OUIDF. OUIDF shall endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

6. MISCELLANEOUS

6.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.

6.2 OUIDF, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- a) Suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
- b) Consult in writing with any Bidder in order to receive clarification or further information;
- c) Retain any information and/or evidence submitted to OUIDF by, on behalf of and/or in relation to any Bidder; and/or
- d) Independently verify, disqualify, reject and/or accept any and all submissions or other Information and/or evidence submitted by or on behalf of any Bidder.

- 6.3** It shall be deemed that by submitting the Proposal, the Bidder agrees and releases OUIDF, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in anyway related to or arising from the exercise of any rights and/or performance of any obligations here under, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.
- 6.4** OUIDF reserves the right to make inquiries with any of the clients listed by the Bidders in their previous experience record.

ANNEXURE I: TERMS OF REFERENCE

Berhampur Municipal Corporation (BeMC) intends to implement SWM project at Berhampur in compliance with the Solid Waste (Management and Handling) Rules, 2016, under the aegis of the Environment (Protection) Act, 1986.

BeMC is in the process of appointing an Operator for Design, Build, Operate and Transfer of SWM Project which would include (a) Secondary collection and Transportation system (including static compactors at 5 locations) (b) Windrow Composting Plant (with Pre-Sorting Facilities) of 150 TPD (with subsequent expansion to 300 TPD) and (c) Sanitary Landfill facility to be implemented phase-wise over a period of 20 years and (d) operation of these facilities for a period of 20 years. The estimated period of implementation (construction) is 18 months.

The scope of work of the Operator for SWM Project includes:

- Design, Build Static Compactors (2 compactors per location) at 5 Location along with Hook Loaders for Secondary Transportation and O&M of the same for 20 years.
- Design, Build, Testing, Commissioning of 150 TPD (with subsequent upgradation to 300 TPD) capacity MSW Processing Plant (Compost Plant) together with pre-sorting facility and O&M for 20 years.
- Design, Build, Testing, Commissioning, of Municipal Solid Waste Landfill Facility (MSWLF) within 18 months followed by O&M for 20 years and subsequent transfer to Owner.
- Post closure care of Landfill for a period of 15 years.

Berhampur Municipal Corporation seeks the services of a qualified firm for providing the services as Independent Engineer (IE).

The Terms of Reference for the IE (the "TOR") are, being specified pursuant to the RFP floated by Berhampur Municipal Corporation BMC (BAM)-134 dated 03/03/2017 for Design-Build-Operate & Transfer Municipal Solid Waste Management Project for the City (the "Project") and the subsequent Contract to be entered into between the Berhampur Municipal Corporation (the "Owner") and the selected Bidder (the "Operator") for the Project.

This TOR shall apply to construction, operation and maintenance of the Project. Whereas the TOR details out the scope of the IE, it is hereby clarified that the Contract between Owner and Operator shall govern the scope of the IE (draft Contract along with all the Addendum attached as Annex-11). In the event of any deviation in the scope of the IE in this TOR and the Contract between Operator and Owner, the scope of the IE as per the Contract between Operator and Owner shall be considered.

A. Scope of Work of Independent Engineer

The Independent Engineer shall be responsible for day to day Contract Management and Supervision during the Design Build Period and six (6) months of Operation Period of the Contract between the Operator and the Owner.

1. Scope of Work during Design Build Period

- a. Independent Engineer shall be responsible for Contract Management and Supervision during the Design Build Period as per clause 7.2 of GCC of the Contract between Berhampur Municipal Corporation and Operator.

b. Preparation of Supervision Manual

- (i) The Independent Engineer shall prepare a Supervision Manual outlining routines and procedures to be applied in contract management, construction supervision and administration for the project. The routines and procedures will be in accordance with the requirements, for supervision of the project.

c. Review and Approval of Designs, Drawings and all Design-Build Documents as the Contract between Operator and Owner,

- (i) For the purpose of billing to the Operator, the Independent Engineer shall review the detailed break-up of the price quoted for Design Build Services and Equipment by the Operator. The Independent Engineer must ensure that the detailed Break-up covers all major heads including (but not limited) to the indicative items mentioned in the Billing Schedule.
- (ii) Operator shall submit a detailed BOQ after the approval of Detailed Design and Drawings. The detailed BOQ shall be reviewed and approved by the Independent Engineer. The approved BOQ shall form the basis for percentage of work completed under each head of the detailed break-up of the price quoted for Design Build Services and Equipment by the Operator and shall form the basis for payment to the Operator in compliance with the Billing Schedule in Appendix 2: Terms and Procedures of Payment of the Contract between Berhampur Municipal Corporation and Operator.
- (iii) Review and Approval of Time Schedule submitted by the Operator (as per clause 2.3.3 of General Conditions of Contract between Owner and Operator) and Implementation Plan (part of Design-Build Document as per Design-Build and Operation Services Appendix). The documents would form guidelines for monitoring the progress of the project. The Time Schedule should ensure that the Plans and Programs for Operations as per Clause 2.2 of the Operations Services Appendix are submitted, reviewed and approved before Operations Starting Date.
- (iv) Independent Engineer shall review and approve the detailed Designs and Drawings submitted by the Operator. The detailed Designs and Drawings must be reviewed and

- certified by the Structural Engineer/SWM Expert/Project Manager/Mechanical Engineer of the Independent Engineer. The proposed Plant & Machinery and Vehicles for the Project and the Procurement Plan shall be certified by the Mechanical Engineer of Independent Engineer.
- (v) Review and Approval of all the Design-Build Documents as per Clause 2.1.4 of the Design Build Service Appendix of the Contract between the Owner and Operator.
 - (vi) Review and Approval of Quality Assurance Procedures and Documents as per Clause-3.3.7 of the Design Build Service Appendix of the Contract between the Owner and Operator.
 - (vii) Review and Approval of Site Regulation & Safety submitted by the Operator as per Clause-3.3.9 of the Design Build Service Appendix of the Contract between the Owner and Operator.
 - (viii) The Independent Engineer may ask the Operator to prepare additional document which is necessary to monitor the progress of the Design-Build Services and assess the Operator's compliance.
 - (ix) The Independent Engineer shall review and approve the Designs, Drawings and other Design-Build Documents furnished by the Operator along with supporting data, including if relevant the geo-technical investigations, characteristics of materials from quarry sites, topographical surveys.
 - (x) If the Operator submits a design, drawing, plan, report or other documentation to the Owner in writing, and the Owner, or the Independent Engineer, is required to approve that submission, the Independent Engineer, shall review and either approve or provide written objections or seek clarifications on the Operator's submission no later than 14 days after the day of submission by the Operator to the Independent Engineer.
 - (xi) If the Independent Engineer, fails to approve or refuses to approve the Operator's submission in accordance with GC Section 4.3(1), the Operator shall notify the Owner in writing that it has not received a response to its submission.
 - (xii) If the Independent Engineer, fails to respond to the Operator's written notification pursuant to GC Section 4.3(2) within 14 days after the receipt by the Independent Engineer, of the Operator's written notification, the Operator's submission shall be deemed to be approved.
 - (xiii) In the event that the Independent Engineer has any objection or seeks clarification to the Operator's submission, it shall promptly and without any undue delay notify the Operator its objections or clarifications and suggest changes or modifications or corrections thereto. Thereupon, the Operator shall provide necessary clarification to the Independent Engineer and / or re-submit the document as the case may be, after incorporating the changes, modifications or corrections suggested.

- (xiv) The Independent Engineer shall ensure that the Design, Drawing and the Design Build Documents submitted by the Operator meets the item-wise Minimum Development Obligation set forth in the Contract between Owner and Operator.
- (xv) The Independent Engineer shall ensure that the Design, Drawings and all the Design-Build Documents comply with the Design Build Services Appendix and Technical Standards Appendix as set out in the contract between the Operator and the Owner.
- (xvi) The Independent Engineer shall ensure that the submitted Designs and Drawings are in conformity with the applicable SWM Rules & Manuals.
- (xvii) The Independent Engineer shall review and approve detailed plans and methodologies for testing and inspection of Plant and Equipment (and any part of the Facility as specified in the Contract) prepared by the Operator as per Clause 2.8 (g) of the Design Build Service Appendix of the Contract between the Owner and the Operator. The Independent Engineer shall ensure that these plans and methodologies comply with the General Quality Standards and Attachment-1 of the Technical Standards Appendix of the Contract between the Operator and the Owner.

d. Project Planning and Construction Supervision

- (i) Ensure that the site mobilization and construction works, are in accordance with the Time Schedule, Design Build Services Appendix, Technical Standards Appendix, Environmental Management Plan and other stipulation of the Contract between Owner and Operator.
- (ii) The Independent Engineer shall be responsible for the day to day supervision of construction works at site including monitoring setting out of work, quality control, taking measurements and certification the bills of Operator as per the Contract between Operator and Owner.
- (iii) Independent Engineer may prescribe a form for Monthly Progress Notice to the Operator, review the Monthly Progress Notice submitted by Operator and communicate any defects or deficiencies or both to the Operator as per Clause 6.1 of Design-Build Service Appendix (DBSA) of Contract between Berhampur Municipal Corporation and Operator.
- (iv) Monitor the actual progress of the project viz a viz the approved Time Schedule submitted by the Operator. The Independent Engineer shall use Project Management software like MS Project for such purpose.
- (v) If, at any time, the Operator's progress in respect of the Design-Build Services is too slow to complete the Design-Build Services in accordance with the Time for Completion or has fallen, or will fall, behind the current Time Schedule, the Independent Engineer may instruct the Operator to submit a revised Time Schedule and supporting report

describing the revised methods which the Operator proposes to adopt in order to expedite progress and complete the Design-Build Services.

- (vi) The Independent Engineer shall be required to participate in the project review meetings held from time to time by BeMC, as also to participate in emergency or extraordinary meetings held to deal with any emergency, force majeure event or other exigencies.
- (vii) The Independent Engineer shall be responsible for assessing, verifying and sending replies to day-to-day issues raised by the Operators during the execution of work or after completion of the work. In case of any claims with financial implication, approval of BeMC shall be obtained by the Independent Engineer.
- (viii) The Independent Engineer shall provide all technical services/ guidance/ advice as may in any way relate to or arise out of the construction of the said work as have been entrusted to the Independent Engineer.
- (ix) The Independent Engineer shall attend to audit queries and all arbitration / litigation cases with respect to the project.
- (x) To ensure timely completion of the project without diluting the quality standards envisaged and be fully accountable to the BeMC in this regard.
- (xi) Assist/advise BeMC and the Operator for advance actions required in achieving different milestones for completion of projects as per Time Schedule.
- (xii) Assist BeMC in co-ordination works with different agencies and hold meetings for proper and timely implementation of the project.

e. Material Testing and Quality Control

- (i) The Independent Engineer shall conduct the pre-construction review of the standard samples of Materials as the Independent Engineer may require.
- (ii) The Independent Engineer shall audit the Quality Assurance System instituted by the Operator as per clause 3.3.7 of the Design Build Service Appendix (DBSA) of the Contract between the Owner and Operator and communicate appropriate corrective actions (if any) to the Operator.
- (iii) The Independent Engineer shall review and certify the tests conducted by the Operator as per the plan and methodology as per Clause 2.8(g) of DBSA in conformance with the General Quality Standards and Attachment – 1 of the Technical Standards Appendix of Contract between Operator and Owner.
- (iv) The Independent Engineer shall attend at least 20 (twenty) percent of the quantity or number of tests prescribed for each category or type of test for quality control by the Operator as per Article 5 of DBSA and the plan and methodology as per Clause 2.8(g) of

DBSA in conformance with the General Quality Standards and Attachment - 1 of the Technical Standards Appendix of Contract between Operator and Owner.

- (v) In the event that results of any tests conducted establish any Defects or deficiencies in the Works, the Independent Engineer shall require the Operator to carry out remedial measures.
- (vi) For determining that the Works conform to Technical Standards Appendix including SWM Rules 2016, the Independent Engineer (as per Clause 5.1 (6) of DBSA) may require the Operator to carry out any test or inspection not required by Contract between Operator and Owner.

f. Environmental Protection and Health & Safety

- (i) The Independent Engineer shall ensure that the Operator complies with the Environmental Management Plan as per the Environmental Clearance obtained for the project, the SWM Rules 2016 and all relevant norms and rules as mentioned in OSPCB / CPCB guidelines w.r.t air, water, noise pollution during construction.
- (ii) The Independent Engineer shall ensure the Operator take necessary steps for protection of Environment as per clause 3.3.11 of Design Build Service Appendix of Contract between Owner and Operator.
- (iii) The Independent Engineer shall ensure that the Operator complies and implement Site Regulation & Safety as per Clause 3.3.9 of Design Build Services Appendix of the Contract between Operator and Owner. Independent Engineer shall review Manual of Safety Policies & Procedures and Occupational Health and Safety Program developed by the Operator and ensure that it complies with all applicable laws.
- (iv) The Independent Engineer shall direct the Operator in all matters concerning construction safety and care of the works (including the erection of the temporary signs) and if required, to instruct the Operator to provide any necessary lights, guards, fencing and watchmen.
- (v) The Independent Engineer shall direct the Operator to carry out all such works or to do such things as may be necessary in his opinion to avoid or to reduce the risk in any emergency affecting the safety of life at site or of adjoining property.
- (vi) The Independent Engineer shall direct the Operator to take all necessary steps including those mentioned in the Contract (between Owner and Operator) and Environmental Clearance for the project to protect the environment on and off the site which arise due to construction operations.
- (vii) Advise and direct the Operator to adhere to guidelines of Environmental Climate, Social Sustainability Framework (ECSF) of KfW.

- (viii) The Independent Engineer shall ensure the contractual obligation such as implementation of labor laws, environmental/safety management system obligations and other statutory regulations are adhered during the construction to completion stage.
- (ix) The Independent Engineer shall ensure that the required Insurance is taken for both the work, as well as for the laborers and workers on the project as per clause 33 of SCC of Contract between Owner and Operator.
- (x) The Independent Engineer shall submit Environmental Protection and Safety Audit Report regarding the status of compliance by the Operator on the environmental protection, social safe guard and Health & Safety in respect to provisions in the Contract between Operator and Owner.
- (xi) Preparation of Compliances and Reports as stipulated in Environmental Conditions and SWM Rules and any other document as required by Berhampur Municipal Corporation or OUIDF.

g. Certification of Payments, Certification of Completion and Commissioning of Project

- (i) The Independent Engineer shall certify the monthly bills raised by the Operator for the work done in the preceding month and recommend the payment amount to be made to the Operator as per the Billing Schedule in Appendix 2: Terms and Procedures of Payment of the Contract between Berhampur Municipal Corporation and Operator. Detailed Break-up of the price quoted by the Operator for Design-Build Services and Equipment and approved BOQ shall form the basis for the payment of civil works in the monthly bills to be paid to the Operator.
- (ii) The Independent Engineer will be responsible for ensuring that all measurements are taken as per specifications and drawings for the works and are recorded in presence of the representative of Operator and are countersigned by him. In processing contractual payments, the Independent Engineer will certify that they have checked all the measurements and quality control tests done by the Operator.
- (iii) For Liquidated Damages caused by Operator due to delay in completion of specified milestones/activities in accordance with clause 14 of SCC of Contract between Berhampur Municipal Corporation and Operator, Independent Engineer should recommend the amount of Liquidated Damage in payment certification of the Operator.
- (iv) In case of Force Majeure, Independent Engineer should certify the period and recommend to the BeMC the impact of Force Majeure for execution of project relevant to Contract between Berhampur Municipal Corporation and Operator.
- (v) In the event that the Operator fails to achieve any of the Project Milestones as per the Time Schedule, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays (if any) and instruct the Operator for submission of revised Time Schedule and supporting reports as per the clause 2.3 of GCC of the Contract between Berhampur Municipal Corporation and Operator.
- (vi) The Independent Engineer shall issue Completion Certificate as per Clause 6.2 of the DBSA of the Contract between Berhampur Municipal Corporation and Operator.

- (vii) The Independent Engineer shall issue Operational Acceptance Certificate as per Article 7 of Design Build Service Appendix of Contract between Berhampur Municipal Corporation and Operator. The SWM Expert and Mechanical Engineer must be present at site during the Commissioning Stage of the project.

h. Record keeping and MIS

- (i) Maintain records of all labour, material used in the construction of the works and tests conducted during the Design-Build Period.
- (ii) The Independent Engineer shall maintain a hindrance register indicating details of delays and the measures to be undertaken to complete the work on time.

i. Operations Plans and Programs

- (i) The Independent Engineer shall review and approve the Plans and Programs related to the Operations Period as per clause 2.2.1 of Operations Services Appendix of the Contract between Operator and Berhampur Municipal Corporation.

2. Responsibilities during Operation Period (upto 6 months of Operations Period)

- a. Independent Engineer shall be responsible for Contract Management and Supervision during the Design Build Period as per clause 7.2 of GCC of the Contract between Berhampur Municipal Corporation and Operator.
- b. Independent Engineer shall ensure the Operator performs Operations Services as per the Operations Services Appendix of the Contract between Berhampur Municipal Corporation and the Operator.
- c. The Independent Engineer shall ensure that the Operator operates the facilities as per conditions stipulated in Environmental Clearance, SWM Rules 2016 and Contract between Operator and Berhampur Municipal Corporation and submit the Environmental Protection and Safety Audit Report every month on the status of its Compliance by the Operator.
- d. Independent Engineer shall certify the daily waste received by the Operator at the Secondary Transfer Stations, daily waste transported to the SWM site in Mahuda, daily amount of compost produced, daily amount of recyclables sold and daily amount of waste landfilled.
- e. The Independent Engineer shall submit Monthly Progress Report (Operations Period) which shall include Status of Operations Services provided by the Operator as per the Operations Services Appendix of the Contract between Berhampur Municipal Corporation and Operator including compliances of Environmental Clearance, SWM Rules 2016 and amount of waste received, recycled, processed, compost generated and landfilled.
- f. Certify the monthly bills submitted by Operator for Operations Services performed in the preceding month and recommend the amount to be paid as per the Contract between

Berhampur Municipal Corporation and Operator. Independent Engineer shall develop a format for submission of the monthly bills by the Operator.

B. Outcome & Deliverables

The Independent Engineer shall submit the following reports (but not limited to) to the BeMC with a copy to OUIDF:

- (i) Inception Report within 1 month of Letter of Award
- (ii) Supervision Manual within 1 month of Letter of Award
- (iii) Monthly Progress Reports (Design-Build Period) - Describing works and services performed and issues encountered during the reporting month, scheduled activities, Status of works viz a viz approved Time Schedule including action taken for expedition of work if behind schedule (if applicable), Quality Control Statement to be submitted within a week of the end of the reporting period i.e. last day of every month.
- (iv) Quarterly Progress Reports (Design Build Period) - Describing in detail the implementation progress of all project components viz a viz Time Schedule with issues highlighted to be submitted within a week of the end of the reporting period i.e. every quarter. Independent Engineer should also recommend corrective measure taken (if any) to complete the project as per Time Schedule.
- (v) Independent Engineer's Statement (refer clause 6.1 (2) of DBSA of Contract between Operator and Berhampur Municipal Corporation) - To be submitted monthly indicating the percentage of Design-Build Services completed.
- (vi) Environmental Protection and Safety Audit Report during Design-Build Period (Monthly) - Describing compliance by the Operator on the environmental protection, social safe guard and Health & Safety in respect to provisions in the Contract between Operator and Berhampur Municipal Corporation.
- (vii) Environmental Protection and Safety Audit Report during Operations Period (Monthly) - Status of Compliance of the Operations of the Project in respect to the provisions in the Contract between Operator and Berhampur Municipal Corporation including stipulations in the Environmental Clearance.
- (viii) Monthly Progress Report (Operations Period) - Status of Operations Services provided by the Operator as per the Operations Services Appendix of the Contract between Berhampur Municipal Corporation and Operator including compliances of Environmental Clearance, SWM Rules 2016 and amount of waste received, recycled, processed, compost generated and landfilled.

C. Deployment of Personnel

The Full Time Key Experts for the Project which would include Project Manager and Site Engineer and Part-Time Key Experts which would include SWM Expert, Mechanical Engineer and Structure Engineer.

The Project Manager and the Site Engineer are required to be posted at the Project Site Full-time during the entire project duration. In case no construction activity is envisaged at site or suspension of work at site (due to reasons stipulated in the Contract between Berhampur Municipal Corporation and Operator), the Full Time Key Experts may be granted leave of absence from the site after taking prior approval from Berhampur Municipal Corporation who shall not unreasonably withhold such request. Any taking of leave by Full Time Experts for a period exceeding 4 days shall be subject to the prior approval of the Berhampur Municipal Corporation, and the Consultant shall ensure that any absence on leave will not delay or affect the progress and quality of the service by the Independent Engineer.

SWM Expert shall visit the site at least once every 2 months for the review the progress of work and review the compliances as per Environmental Clearance and SWM Rules 2016. SWM Expert should also visit the site and attend meetings when requested by Berhampur Municipal Corporation during the period of the Tripartite Contract of Independent Engineer, Berhampur Municipal Corporation and OUIDF. SWM Expert shall also be present at site during the Commissioning Stage up to the Operational Acceptance of the Project and should attend all the Tests on Commissioning as per Article 7 of DBSA of Contract between Berhampur Municipal Corporation and Operator.

The Mechanical Engineer shall be present at the site during the supply and erection of Plant and Machinery for Compost Plant / Secondary Transfer Station / ETP and at the Commissioning Stage of the Project. The Engineer shall certify that Plant & Machinery and Vehicles procured for the Project conforms to or is superior to the specifications as per the Minimum Development Obligations, Technical Services Appendix and the approved Design-Build Documents.

The Structure Engineer shall review and approve the design and drawings as per the Contract between Berhampur Municipal Corporation and Operator taking into account all the location features (like wind load).

D. Period of Engagement of Independent Engineer

The period of engagement of service of Independent Engineer would be from the date of signing of the Tripartite Agreement between Independent Engineer, Berhampur Municipal Corporation and OUIDF till 6 (six) months of Operations Period after issue of Completion Certificate and Operational Acceptance of the Design-Build Services of Operator.

It is estimated that Design-Build Period (i.e. period upto Operational Acceptance) would take 18 (eighteen) months.

E. Payment Schedule

The Consultant shall be engaged for the entire Design-Build Period of 18(Eighteen) months and Operations Period of 6 (six) months. In case of Delay of Completion by Operator as per clause 2.3.6(2) of General Conditions of Contract of the Contract between Berhampur Municipal Corporation and Operator, Total Consultancy Fee shall remain firm.

The Payment Schedule for Independent Engineer of SWM Project of Berhampur Municipal Corporation is provided in table below:

S No	Deliverable / Milestone	Timeline	% of Consultancy Fee payable at the milestone
1	Submission of Inception report, Supervision manual by Independent Engineer. Independent Engineer's Approval of Time Schedule submitted by the Works Contractor	1 (one) Month from the signing of Agreement	1% after approval from BEMC/OUIDF
2	Independent Engineer's Approval of Detailed Designs, Drawings, BOQ and all Design-Build Documents except As-Built Drawings submitted by Operator. Should include certifications by Structural Engineer ,SWM Expert, Project Manager and Mechanical Engineer where relevant.	As per the approved Time Schedule	7% after approval from BEMC/OUIDF
3	Independent Engineer's Review and Approval of As-Built Drawings and Plans and Programs related to the Operations Period as per clause 2.2.1	Before Operations Starting Date	2% after approval from BeMC/OUIDF

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION & TRANSFER (DBOT) MODE

S No	Deliverable / Milestone	Timeline	% of Consultancy Fee payable at the milestone
	of Operations Services Appendix of the Contract between Operator and Berhampur Municipal Corporation.		
4	70% of total Consultancy fee will be paid in lieu of monthly bills submitted by the Operator and certified by Independent Engineer. (i.e If Operator submits bill of value X % of the price for Design-Build Services and Equipment then the Consultant shall receive payment worth 70% of X% of the total Contract Value for Independent Engineer).*		
	The payment under this head is subject to the submission of monthly progress reports, quarterly progress report, Environmental Protection and Safety Audit Report, Independent Engineer's Statement for months preceding the invoice for payment under this head.		
5	After issue of Completion Certificate and Operational Acceptance Certificate by Independent Engineer.	As per approved Time Schedule	10% after approval by BeMC/OUIDF
6	After submission of Monthly Reports, Environmental Protection and Safety Audit Report during Operations Period for all preceding 3 months. Certification of monthly bills and recommendation of the amount to be paid to the Operator for all preceding 3 months.		5% each in 2 (two) tri-monthly installments with BeMC/OUIDF approval for each installment.

*It is to be ensured that the Operators submit the bill for each month, If not the payment to Consultant for Sr. No.4 of above table shall be held for that month.

F. Performance Security

Consultant has to submit Performance Security of 10% of Contract value before entering into Agreement. Performance Security validity should be 36 month from signing of Agreement and will be released after successful completion of services by the Consultant by selected operator of BEMC subject to deduction if any as per terms & conditions of Contract

ANNEXURE II: COVER LETTER

(On the letter head of Bidder)

The Secretary, OUIDF
Fortune Towers, 4th Floor
Chandrasekharapur, Bhubaneswar-23

Dated:

Subject: Appointment of Independent Engineer for MSW Project at Berhampur Municipal Corporation implemented through Design Build Operation & Transfer (DBOT) mode

Dear Sir,

With reference to your RFP document dated , I/we, having examined the RFP and understood its contents, hereby submit our proposal

1. The technical and financial proposals are unconditional and unqualified.
2. All information provided in the proposal and in the Appendices is true and correct and all documents accompanying such proposal are true copies of their respective originals.
3. This statement is made for the express purpose of appointment as the Consultant for the aforesaid Project.
4. I/ We shall make available to OUIDF any additional information it may find necessary or required to supplement or authenticate the proposal.
5. I/ We acknowledge the right of OUIDF to reject our proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/ We certify that in the last 3 (three) years, we or any of our Associates or Consortium Member have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award against the Bidder, nor been expelled from any project or contract by any public Independent nor have had any contract terminated for breach on our part.
7. I/ We declare that:
 - a. I/ We have examined and have no reservations to the RFP Document, including any Addendum issued by OUIDF.

- b. I/ We do not have any conflict of interest in accordance with Clauses 2.2 of the RFP document;
 - c. I/ We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4 of the RFP document, in respect of any tender issued by or any agreement entered into with OUIDF or any other public sector enterprise or any government, Central or State;
 - d. We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Consultant, without incurring any liability to the Bidders in accordance with Clause 2.6 and Clause 6 of the RFP document.
 9. We believe that we satisfy the Conditions of Eligibility and meet the requirements as specified in the RFP document and are qualified to submit proposal in accordance with the provisions of the RFP document.
 10. We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory Independent which could cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.
 11. We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
 12. We further certify that no investigation by a regulatory Independent is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/employees.

13. We undertake that in case due to any change in facts or circumstances during the Selection Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate OUIDF of the same immediately.
14. 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 OUIDF in connection with the selection of Consultant or in connection with the Selection Process itself, in respect of the above mentioned Project.
15. The Bid Security of Rs.150,000/- (Rupees One Lakh Fifty Thousand only) in the form of demand draft, in accordance with the RFP document.
16. We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.
17. We agree to keep this offer valid for 180 days from the proposal Due Date specified in the RFP.
18. A Power of Attorney in favor of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Annexure-IV
19. We certify that we shall have no claim, right or title arising out of any documents or information provided to us by OUIDF or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.
20. We, _____ (Bidder's name/Lead Member of Consortium Name) herewith enclose the Financial Proposal as Annexure XI for selection of my/our firm as Consultant.
21. We agree and undertake to abide by all the terms and conditions of the RFP document.
22. In witness thereof, we submit this Proposal under and in accordance with the terms of the RFP document.

Yours faithfully,

(Signature, name and designation of the of the Authorised signatory)

(Name and stamp of Bidder)

ANNEXURE III: STATEMENT OF LEGAL CAPACITY

(To be forwarded on the letter head of the Bidder)

Ref. Date:

To
The Secretary, OUIDF
Chandrasekharapur, Bhubaneswar-23
Odisha

Dated:

Sub: Appointment of Independent Engineer for MSW Project at Berhampur Municipal Corporation implemented through design build operation & transfer (DBOT) mode

Dear Sir,

We hereby confirm that we, the Bidder, satisfy the terms and conditions laid down in the RFP document.

We have agreed that (insert individual's name) will act as our Authorised Representative and has been duly authorised to submit our Proposal. Further, the Authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the Authorised signatory/ Lead Member in case of Consortium)

For and on behalf of.....

ANNEXURE IV: POWER OF ATTORNEY

Know all men by these presents, we, (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr./Ms. (name & residential address) who is presently employed with us and holding the position of _____ as our true and lawful attorney (hereinafter referred to as the "**Authorised Representative**") /Lead Member of Consortium (in case of Consortium) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Proposal for Appointment of Independent Engineer for Solid Waste Management Projects at Berhampur by Berhampur Municipal Corporation implemented through Design, Build, Operate and Transfer mode in response to the RFP floated by OUIDF including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the OUIDF, representing us in all matters before the OUIDF, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the OUIDF in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the OUIDF, and, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED
THIS POWER OF ATTORNEY ON THIS.....DAY OF,..... 2017

For

(Signature, name, designation and address)

(In case of Consortium, Authorised Signatory of each Consortium Partner should be the Signatory)

Witnesses:

- 1.
- 2.

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY
BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION &
TRANSFER (DBOT) MODE

Notarized

Accepted

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

Notes:

- 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 stamp affixed in accordance with the required procedure. Copy of such document should be submitted along with the power of Attorney.
- 2) Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favor of the Person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

ANNEXURE-V

Details of Bidder

(To be submitted on Letterhead of Bidder and separate sheet for each Consortium Member in case of Consortium)

1 a) Name:

b) Date of Incorporation/Commencement:

2. Brief Description of Company including details of its main line of Business

3. Shareholding of the Bidder

4. List of Directors:

5. Details of Individual who will serve as the point of contact/communication to Client:

a) Name:

b) Designation:

c) Company:

d) Address:

e) Telephone No:

f) Email Address:

g) Fax Number:

h) PAN No:

i) Service Tax No:

6. Particular of Authorised Signatory of Bidder:

a) Name:

b) Designation:

c) Address:

d) Telephone No.:

e) Email Address:

f) Fax No:

(Bidder should submit Current Annual Report & attested copy of Certificate of Incorporation by Authorised Signatory)

ANNEXURE-VI

Financial Qualification of Bidder

SL No	Financial Year	Annual Turnover(Rs. lakh)
		From Consultancy Business
1	2014-2015	
2	2015-2016	
3	2016-2017	

Statutory Auditor

Name of Audit Firm:

Seal of Audit Firm:

Name of Partner:

Membership No.:

Firm Registration No.:

Contact No:

Address:

Note:

The Bidder shall attach copies of the Balance Sheets, financial statements certified by Chartered Accountant in Practice with his registration no for each financial year. The bidder will submit Statutory Audit Report for each year reflecting annual turnover of Consultancy Business for each year. In case of Consortium, each Consortium Member shall furnish in separate sheet.

ANNEXURE-VII

Eligible Project Experience of Bidder

**Eligible Project Experience of Bidder from Supervision of Construction Work as defined in
 Clause 2.1.2(C) Similar Project in last ten years**

(Following Tables shall be filled in by Bidder/Each Member of Consortium should submit separate sheet in case of Consortium)

S L N o	Name of Project	Completion Date	Eligible Assignment Name & Brief Description of Deliverables /Inputs/Capa city in TPD for both Composting & Landfill	Name of Client, Address & Contact No	Approximate Contract fee Value in INRs.	Value of Project	Role of Bidder in Eligibl e Assign ments	Whethe r as Lead Bidder or Minor Consort ium Partner
Completed								
1								
2								
3								
4								
5								
Ongoing								
6								
7								

**Name & Signature of
 Authorised Signatory**

Annexure-VIII: CV of Key Personnel

A.

SL No	Position	Name of the Expert	Qualification	Year of Experience	No of Eligible Project Completed	Details of Eligible Projects
1	Project Manager					
2	Solid Waste Management Expert					
3	Site Engineer					
4	Mechanical Engineer				Not to be evaluated	
5	Structural Engineer				Not to be evaluated	

B.CV of Key Position

1	Proposed Position				
2	Name of Firm				
3	Name of Staff				
4	Date of Birth				
5	Nationality				
6	Education	Degree	Institution	Year	
8	Professional Memberships				
9	Whether NABET Qualified if Qualified give registration No				
9	Other Training & Publications				

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION & TRANSFER (DBOT) MODE

10	Countries of Work Experiences			
11	Language	Speak	Write	Read
12	Employment Record	From :	Position Held	
	Employer Name & Address with Contact No	To:		
	Detail task assigned as per TOR			
	For Project Manager			
	Details of Projects handled (to be provided for all the eligible projects)	<ul style="list-style-type: none"> ▪ Name of the Project: ▪ Client Name: ▪ Works Contractor Name: ▪ Project Duration-Start Date: End Date: ▪ Name of ULBs/Industrial Parks/SEZ Project/other Authority involved ▪ Type of Project Whether SWM or Hazardous Waste/SEZ/Industrial Parks ▪ Project Cost in Rs: ▪ Scope of Work of the proposed expert involved in the Project ▪ Does the Project involve design & supervision consultancy of Project 		
	For SWM Expert			
	Details of Projects handled (to be provided for all the eligible projects)	<ul style="list-style-type: none"> ▪ Name of the Project: ▪ Client Name: ▪ Works Contractor Name: ▪ Project Duration-Start Date: End Date: ▪ Name of ULBs/Other Authority involved ▪ Technology involved in the Project ▪ Scope of Work of the proposed expert involved in the Project ▪ Does the Project involve design & supervision consultancy of SWM Project ▪ Capacity of SWM Projects in TPD 		
	For Site Engineer			
	Details of Projects handled (to be provided for all the eligible projects)	<ul style="list-style-type: none"> ▪ Name of the Project: ▪ Client Name: ▪ Works Contractor Name: ▪ Project Duration-Start Date: End Date: ▪ Name of Authority involved ▪ Type of Project: 		

RFP FOR APPOINTMENT OF INDEPENDENT ENGINEER FOR MSW PROJECT AT BERHAMPUR BY BERHAMPUR MUNICIPAL CORPORATION IMPLEMENTED THROUGH DESIGN BUILD OPERATION & TRANSFER (DBOT) MODE

		<ul style="list-style-type: none"> ▪ Scope of Work of the proposed expert involved in the Project ▪ Does the Project involve design & supervision consultancy of SWM Project ▪ Capacity of SWM Projects in TPD(applicable for SWM Project) ▪ If not SWM Project then mentions nature and scope of Project and details of responsibilities.
	For Mechanical Engineer	
		<ul style="list-style-type: none"> ▪ Name of the Project: ▪ Client Name: ▪ Description of Project: ▪ Project Duration-Start Date: End Date: ▪ Scope of Work of the proposed expert involved in the Project
	For Structural Engineer	
		<ul style="list-style-type: none"> ▪ Name of the Project: ▪ Client Name: ▪ Description of Project: ▪ Project Duration-Start Date: End Date: ▪ Scope of Work of the proposed expert involved in the Project

(Signature and name of the Key Personnel and authorised signatory of the Bidder)

Notes:

- Use separate form for each Key Personnel
- CV shall be signed and dated by both the Personnel concerned and by the Authorised Representative of the Bidder firm along with the seal of the firm.

Annexure-IX: Legally binding signed declaration of undertaking

We underscore the importance of a free, fair and competitive contracting procedure that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present tendering process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines* . We also underscore the importance of adhering to environmental and social standards in the implementation of the project. We undertake to comply with applicable labour laws and the Core Labour Standards of the International Labour Organization (ILO) as well as national and applicable international standards of environmental protection and health and safety standards. We will inform our staff of their respective obligations and of their obligation to fulfil this declaration of undertaking and to obey the laws of the country of India . We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the OUIDF and KfW if this situation occurs at a later stage. We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the OUIDF and/or KfW, the OUIDF shall be entitled to exclude us/the consortium or, if the contract is awarded to our company/the consortium, to immediately cancel such contract if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion from the tender procedure occurs after the Declaration of Undertaking has been issued.

(Place)..... (Date)..... (Name of company)

(Signature(s))

**Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries“ and
“Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with
Partner Countries*

ANNEXURE X: SALIENT ASPECT OF TECHNICAL PROPOSAL

The salient aspects of the technical proposal shall be described as follows:

1. Clarity on Completeness of Bids

The bid for services must take full account, in content and form, the terms of reference and the conditions of the bid for services in the request for proposal. All the components of the bid for services that are required must be presented. Clarity in the bid means a clear structure, text statements supported with appropriate tables, lists and other editorial aids in accordance with the complexity of the terms of reference, and a balanced use of annexes to keep the main text clear and precise. If there are minor omissions in relation to the terms of reference, points will be deducted. Omissions that considerably restrict comparison with other bids can cause the bidder to be excluded.

2. Approach & Methodology , Work Plan &Manning Schedule

The bid for services must present the methodological approach and the programme of work in such a way that their suitability in regard to the terms of reference can be assessed and they can be compared with other qualified bids. This includes a statement of the work organisation planned and the logistics. If there is an evident and considerable discrepancy between the terms of reference and the quantities given, the bid will not be considered. The text should state clearly how the task is to be proposed to be undertaken and the deployment schedule of staff. In case the key staff is to be supported by additional staff, the same shall be reflected in the approach and methodology. The work plan and manning schedule shall be provided in the form of bar chart. It must be supplemented with diagrams, tables and in case of complex work, appropriate graphics.

The approach and methodology to be covered under the following heads:

- a. Understanding of the scope of work
- b. Proposed methodology of Consultant for undertaking the assignment
 - i. Deployment of staff and logistics
 - ii. Technical approach
 - iii. Methodological framework for Supervision and Monitoring,

Work Plan

Work Plan

SL No	Activity	Duration In Quarter							
		1	2	3	4	5	6	7	8
Inception									
1.1	Task-1:								
1.2	Task-2:								
1.3	Task-3:								
Implementation Plan									
2.1	Task-4:								
2.2	Task-5:								
2.3	Task-6:								
Project Review Meeting and Monitoring the Progress									
3.1	Task-7:								
3.2	Task-8:								
3.3	Task-9:								
Compliance to Municipal Solid-Waste Management Rule 2016									
4.1	Task-10:								
4.2	Task-11:								
4.3	Task-12:								
O&M Plan & Issuance of Project Completion Certificate, As Built Drawing									
5.1	Task-13:								
5.2	Task-14:								
5.3	Task-15:								

Manning Schedule

Sr. No.	Name	Position	Month/Quarter wise Programme (In the form of Bar chart)								No of Months
			1st	2nd	3rd	4th	5th	6th	7th	8th	
Key Staff											
1											Subtotal (1)
2											Subtotal (2)
3											Subtotal (3)
4											Subtotal (4)
Support Staff											
5											Subtotal (5)
6											Subtotal (6)

The Project Manager shall make a presentation on the proposed approach for undertaking the assignment and also demonstrate their capability to undertake the tasks proposed. Power Point Presentation shall be made only by the Project Manager. Any other representative of the Bidder shall not be permitted to make the presentation. However in case of any unavoidable circumstances beyond Control of the Bidder other Authorized Person can be allowed with permission of Client.

ANNEXURE XI: FINANCIAL PROPOSAL

(On the letter head of Bidder)

Appointment of Consultant for Independent Engineer in Integrated Municipal Solid Waste Management Project implemented through DBOT Mode at Berhampur by Berhampur Municipal Corporation

Having gone through the RFP and having fully understood the scope of work for the Project as set out in the TOR, we are pleased to quote the following Professional fees for the Assignment as per the specified scope of Work:

<i>Particulars</i>	Consultancy Fees In figures	Consultancy Fees (Rs.) in words
Total Consultancy Fee		
GST if any @ ____%		
Total		

Signature of authorised representative of the Bidder

Note:

1. The Financial Proposal is inclusive of all out pocket expenses which may be incurred towards travel, accommodation, documentation and communication, during the period of assignment.
2. In case of difference in amount quoted in figures and words, the value in words shall be considered for evaluation.
3. The breakup of expenses shall be provided by Bidder as given below.
4. The Financial Proposal is inclusive of all taxes i.e. income tax, professional tax and education cess except GST (as applicable).

We understand you are not bound to accept any proposal you receive

Cost Estimation of Services

I. Remuneration of Staff

Staff	Name	Man month rate (Rs.)	Working days (month)	Total cost (Rs.)
Project Manager			24 Man Months	
SWM Expert			9 Man Months	
Site Engineer			24 Man Months	
Mechanical Engineer			5 Man Months	
Structural Engineer			1 Man Months	
Other staff proposed for the assignment				
		Subtotal Staff		

II. Direct expenses

Expenses	Rs.
Cost of survey and field investigation expenses	
Printing and stationery	
Other expenses (please specify)	
Sub total (Direct Expenses)	

III. Out of pocket expenses

Expenses	Rs.
Room rent	
Air fare	
Other travel and local conveyance expenses	
Lump sum miscellaneous expenses	
Subtotal (out of pocket expenses)	

(All the breakup of expenses is indicative only to arrive the total consultancy fee)

ANNEXURE XII: GUIDANCE NOTE ON CONFLICT OF INTEREST

1. This Note further explains and illustrates the provisions of Clause 2.2 of the RFP and shall be read together therewith in dealing with specific cases.
2. Consultants should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the OUIDF and a consultant or between consultants and present or future contractors.

Some of the situations that would involve conflict of interest are identified below:

a. OUIDF and consultants:

- i) Potential consultant should not be privy to information from OUIDF which is not available to others;
- ii) Potential consultant should not have defined the project when earlier working for OUIDF
- iii) Potential consultant should not have recently worked for the OUIDF overseeing the project.

b. Consultants and contractors:

- i) No consultant should have an ownership interest or a continuing business interest or an on-going relationship with a potential contractor save and except relationships restricted to project-specific and short-term assignments; or
 - ii) No consultant should be involved in owning or operating entities resulting from the project; or
 - iii) No consultant should bid for works arising from the project.
 - iv) The participation of companies that may be involved as investors or consumers and officials of the OUIDF who have current or recent connections to the companies involved, therefore, needs to be avoided.
4. The normal way to identify conflicts of interest is through self-declaration by consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the OUIDF. All conflicts must be declared as and when the consultants become aware of them.
 5. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.
 6. Another form of conflict of interest called "scope-creep" arises when consultants advocate either an unnecessary broadening of the terms of reference or make

recommendations which are not in the best interests of the OUIDF but which will generate further work for the consultants. Some contracts provide fewer incentives for this, while time and material contracts provide built in incentives for consultants to extend the length of their assignment.

7. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the OUIDF at the earliest. Officials of the OUIDF involved in development of a project shall be responsible for identifying and resolving any conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

Annexure-XIII

TRIPARTITE AGREEMENT FOR CONSULTANCY SERVICES

This Consultancy Agreement (hereinafter called the "**Contract**") is made on day of the month of, 2017, by and between,

Odisha Urban Infrastructure Development Fund, a Trust formed and incorporated under the Indian Trusts Act, 1882 and having its registered office at 4th Floor, Zone A/2, Fortune Towers, Bhubaneswar - 751023 represented by Financial Adviser Cum Administrative Officer, OUIDF (hereinafter called "**OUIDF**" or "**Client**" which includes its successors and permitted assigns), of the First Part

and

Berhampur Municipal Corporation represented by the Municipal Commissioner (hereinafter called the "**ULB**" which includes its successors and permitted assigns), of the Second Part

and

_____ incorporated under Companies Act 1956/2013/ or any other Act() and having its registered office at _____, **India** and represented by its Authorised Representative _____ (hereinafter called the "**Consultants**"), which includes its successors and permitted assigns), of the Third Part

Each of Client, ULB and Consultants are individually referred to as First Party, Second Party and Third Party respectively and collectively referred to as Parties.

WHEREAS

- a) the ULB is desirous of implementing Solid Waste Management (SWM) project and has sought the assistance of Client in appointment of Independent Engineer for Supervision of Construction of SWM Project implemented through Design- Build- Operate-Transfer(DBOT) mode at Berhampur.
- b) the Client has requested the Consultants to provide certain Consulting Services as defined in the General Conditions of Contract attached to this Contract (hereinafter called the "Services");
- c) the Consultants, having represented to the Client that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the Terms and Conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - a) The General Conditions of Contract;
 - b) The Special Conditions of Contract;

c) The following Annexures:

- I. Annex 1 [*Declaration of Undertaking*]
- II. Annex 2 [Minutes of Negotiations pursuant to the Special Conditions]
- III. Annex 3 [Terms of Reference plus Tender Documents]
- IV. Annex 4 [KfW Guidelines for the Assignment of Consultants in Financial Co-operation with Partner Countries],
- V. Annex 5 [Staffing Schedule]
- VI. Annex 6 [Equipment and Furnishings to be provided by the OUIDF and Third-party Services Commissioned by the OUIDF]
- VII. Annex 7 [Time Schedule for the Performance of the Services]
- VIII. Annex 8 [Statement of Costs]
- IX. Annex 9 [The Consultant’s Bid including signed Pre Bid Clarification & Addendum if any]
- X. Annex 10 Model Performance Guarantee
- XI. Annex 11 Contract between Berhampur Municipal Corporation and Operator (with Addendums)
- XII. Letter of Award

2. The rights and obligations of the Client, ULB and the Consultants shall be as set forth in the Contract, in particular:

- a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and
- b) the Client shall make payments to the Consultants in accordance with the provisions of the Contract.
- c) the ULB shall provide necessary assistance to the Consultants and also carry out the duties in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and behalf of Client	
Financial Adviser-Cum-Administrative Officer, OUIDF	Name: Shri Ram Chandra Kar
For and behalf of ULB	
Municipal Commissioner, Berhampur Municipal Corporation	Name:
For and on behalf of Consultant	
Authorised Representative	Name:

General Conditions

PARAGRAPH 1 GENERAL PROVISIONS

1.1 Definitions

The words and expressions used in this Contract shall have the following meanings assigned to them, unless the context requires otherwise.

The “ Agreed Remuneration” means the fee to which the Consultant is entitled as described in Paragraph 5 (Remuneration) , which shall be payable in accordance with this Contract.

The “Commission “ means the performance of the Services pursuant to this Contract

The “Completion Period “ means the period designated for completion of the Services in the Special Conditions.

The “Consultant” shall be the professional undertaking or the professional individual named in the Contract who is appointed by the OUIDF to perform the Services. This shall include the Consultant’s Legal successors as approved by OUIDF subject to prior written consent from KfW.

The “Contract” , except where otherwise stated in the Special Conditions, means the Conditions of this Contract for Consulting Services(General Conditions and Special Conditions) together with the following constituent parts of the Contract

Annex 1(Declaration of Undertaking)

Annex 2 (Minutes of Negotiations pursuant to the Special Conditions)

Annex 3 (Terms of Reference plus Tender Documents)

Annex 4 (KfW Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries)

Annex 5 (Staffing Schedule)

Annex 6(Equipment and Furnishing to be provided by the BEMC)

Annex 7(Time Schedule for the Performance of the Services)

Annex 8 (Statement of Costs)

Annex 9 (The Consultant’s Bid)

Annex 10(Model Performance Guarantee)

Annex 1111 Contract between Berhampur Municipal Corporation and Operator (with Addendums)

Annex 12 (Letter of Award)

The “Country “means the Country or Region to which the Project (or the majority thereof) relates

The “**date on which execution shall be commenced**” means the day specified in the Special Conditions.

A “**day**” means one calendar day.

“**Financing Agreement**” means the (loan agreement/financing agreement) entered into between KfW and (the OUIDF) in order to finance (amongst other thing) the services hereunder.

“**Force Majeure**” means any event whereby one party to the Contract has been prevented from performing the Services due to an unavoidable event such as a natural disaster, hostage-taking, war, revolution, terrorism or sabotage, which, with even the best human judgement and experience and utmost care, could not have been reasonably foreseen in the circumstances, prevented or rendered harmless by economically reasonable means unless such event must be accepted by the relevant party due to its regular occurrence, including, except where otherwise stated in the Special Conditions, circumstances such as crisis, war or terror. If an event occurs as a result of the actions of or risks assumed by a party to the Contract, that event shall not constitute Force Majeure.

“**Foreign Currency**” means any currency other than the Local Currency

The Consultant’s “**Foreign Staff**” means all those staff that does not possess the citizenship of the country.

The “**Local Currency**” means the currency of the country.

A “**notice**” means a notification communicated to one party by the other party.

A “**party**”/the “**parties**” mean(s) the OUIDF, ULB and the Consultant.

“**Contract Value**” shall have the meaning given to it in A.d.5.1.1 of the Special Conditions.

The “**Project**” means the project specified in the Special Conditions for which the Services are to be performed.

The “**Services**” means the contractual services described in **Annex 2** [*Minutes of Negotiations*], **Annex 3** [*Terms of Reference plus Tender Documents*], **Annex 9** [*The Consultant’s Bid*] and Paragraph 3.1 [*Scope of Services*], as well as the standard and special services defined in Paragraph 3.2 [*Standard and Special Services*].

A “**third party**” means any other natural and legal person, according to the context.

“**Written**” or “**in writing**” means written by hand or typed by machine, and produced in a printed or electronic form, the result being a non-editable permanent record.

A “**year**” means 365 days

1.2 INTERPRETATION

1.2.1 Heading in this Contract shall have no bearing on the interpretation of these conditions. Words in the singular, in so far as the context allows, shall also include the plural and vice versa.

1.2.2 Reference to either sex shall include both sexes

1.2.3 Provisions containing the words “agree”, “agreed” or “agreement” (and all derived grammatical forms thereof) shall require written agreement and signature by both parties.

1.3 RANKING AND ORDER OF THE INTEGRAL PARTS OF THE CONTRACT

1.3.1 For the implementation of this Contract, the parts of the Contract listed below shall take precedence in the order shown below and the Annexes shall take precedence in the order in which they are numbered

- a. The agreements of the Contract (General and Special Conditions), without the Annexes.
- b. The Annexes of the Contract in the order in which they are numbered

These General Conditions and the Annexes shall remain – except where otherwise stipulated in the parts of the Contract in question – immutable

1.3.2 In case of inconsistencies or ambiguities between parts of the Contract that cannot be resolved through the ranking set out in Clause 1.3.1, the OUIDF shall interpret the parts of the Contract in line with the intention of the parties based on the purpose and intention of the Contract as a whole, including all Annexes.

1.4 COMMUNICATION

1.4.1 Except where otherwise stipulated, notices, instructions and messages must be communicated between the parties in writing and in the language specified in the Special Conditions, and any such notice, instruction or message may not be unreasonably refused or delayed.

1.5 NOTICES

1.5.1 Except where otherwise stipulated in the Special Conditions, the notices to be served pursuant to this Contract shall take effect upon receipt at the addresses specified in the Special Conditions. The notice may be served in person, by a courier service, by fax (with written confirmation of receipt), by registered letter or by email (only if this is sent in an encrypted and certified form (e.g. S/MIME certificate))

1.6 LAW AND LANGUAGE

1.6.1 The Special Conditions shall contain the language or languages of the Contract, the prevailing contractual language and the law governing this Contract.

1.7 ENTRY INTO FORCE OF THE CONTRACT

1.7.1 This Contract enters into force upon execution by four parties, subject to notification from KfW to the OUIDF that all conditions precedent to disbursement under the Financing Agreement have been satisfied in a form and substance satisfactory to KfW.

1.8 MEASUREMENTS AND STANDARDS

1.8.1 Drawings, plans and calculations shall be based on the OPWD Code to be applied to the Services performed under the Contract .

1.9 ASSIGNMENT AND SUB-CONTRACTING

1.9.1 The Consultant shall not have the right to assign or transfer all or any of its rights under this Contract without the prior written consent of the OUIDF, which shall not be provided without the prior consent of KfW. The OUIDF’s consent shall not be required for the assignment of any amounts due or which shall become due under this Contract.

1.9.2 The Consultant may conclude, terminate or cancel sub-contracts for the performance of a part of the Services that are the subject of this Contract only upon

prior written approval by the OUIDF, which shall not be provided without the prior consent of KfW. In cases where the Services are sub-contracted, the Consultant's obligations to fulfil the Contract shall remain unaffected.

1.10 RIGHTS TO THE RESULTS OF WORK, COPYRIGHT

1.10.1 Except where otherwise stated in the Special Conditions of this Contract, the Consultant shall transfer to the OUIDF all transferrable rights to the Services performed under this Contract on the date any such rights arise, and in any event at the latest, on the date they are acquired. Insofar as a transfer of such rights is not possible, the Consultant shall irrevocably grant the OUIDF an unrestricted, transferrable, licensable and exclusive rights of use and exploitation that are unlimited with respect to time and place of use. Such transfer shall include the right to adapt any transferred rights. The Consultant shall ensure that any relevant creator of such transferrable rights waives its exercise of any such relevant rights.

1.10.2 If the Consultant employs third parties (e.g. employees) to perform the Services, it shall ensure that these parties allow him to transfer and/or grant the rights in full. The Consultant shall ensure that third parties waive the exercise of any relevant rights.

1.10.3 The Consultant shall issue all information requested by the OUIDF and KfW in connection with this Contract, and shall make available free of charge all requested records, documents and information. This obligation shall remain effective after termination of the Contract for a period of 24months.

1.11 OWNERSHIP OF DOCUMENTS AND EQUIPMENT

1.11.1 All studies, reports and pertinent data and documents such as diagrams, plans, statistics and annexes that are made available to the Consultant in the performance of the Commission, as well as software (including the respective source codes) produced or adapted for consideration as part of the Commission, shall become the property of the OUIDF & ULB. The Consultant shall not be entitled to exercise a right of retention with respect to these materials.

1.11.2 Equipment, including vehicles purchased, if any, for the performance of the Consultant's Services and paid for fully by the OUIDF or ULB, shall be handed over to the OUIDF or ULB after completion of the Services. The Consultant shall handle with due care and maintain any such equipment

1.12 CONFIDENTIALITY AND PUBLICATION

1.12.1 The Consultant shall ensure that its employees, keep confidential all documents passed on to it by the OUIDF and KfW, as well as all information exchanged and knowledge acquired concerning this Contract and its implementation, even if such documents have not been expressly designated as confidential. This obligation of confidentiality upon the Consultant and its employees shall remain effective after termination of the Contract. It shall not apply to disclosure to a court or to a public Independent, insofar as this disclosure is made on the basis of legal obligations or by order of a court or a public Independent. It shall also not apply to those materials, information and knowledge acquired for which and insofar as the OUIDF or KfW has given written consent for publication.

1.12.2 The obligation of confidentiality set out in Clause 1.12.1 shall not apply to information which:

- a. was demonstrably already known to the recipient when the Contract was concluded, or thereafter was made known by a third party, without this having constituted any violation of a confidentiality agreement, legal regulations or official orders; or
- b. is publicly known upon conclusion of the Contract or is made publicly known thereafter, insofar as this is not based on a violation of this Contract.

1.13 CONDUCT

1.13.1 During the term of this Contract, the Consultant and its Foreign Staff shall not interfere with the political or religious affairs of the country.

1.14 CORRUPTION AND FRAUD

1.14.1 When discharging their obligations under this Contract, the Consultant, its representatives and its employees shall comply with all applicable laws, rules, regulations and provisions of the relevant legal systems, including the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

1.14.2 The Consultant shall not offer or grant either directly or indirectly any improper advantages to public officials (as defined below) or other individuals in connection with its bid in the tendering process. In addition, it shall not offer or grant any such incentives or conditions when implementing the Contract. The Consultant shall be obliged to notify the OUIDF in detail immediately in writing if the Consultant is prompted by a public official or any other persons to make illegal payments.

1.14.3 The Consultant will inform its members of staff of their respective obligations as well as their obligation to comply with the Declaration of Undertaking and to obey the laws of the country.

1.14.4 A Public Official shall be

- a. Any official or employee of a public Independent or an enterprise under the ownership and control of a government.
- b. Any person who performs a public function
- c. Any official or staff member of a public international organization, such as the World Bank
- d. Any candidate for a political office, or
- e. Any political party or official of a political party.

1.15 REIMBURSEMENT

1.15.1 All reimbursements, insurance payments, guarantee payments or similar payments, if any, shall be made in favour of the Bank account of OUIDF bearing No. 32495633555 of State Bank of India, Secretariat Branch, Bhubaneswar, IFSC:SBIN0010236

1.16 PARTIAL INVALIDITY

1.16.1 The invalidity or unenforceability of one or more provisions of this Contract will not affect the validity or enforceability of any other provisions of this Contract. Any invalid or

unenforceable provision shall be replaced by a valid and enforceable provision which approximates as closely as possible the economic purpose of the invalid or unenforceable provision. The same shall apply accordingly in cases of omissions.

Paragraph 2 The OUIDF

2.1 INFORMATION

2.1.1 During the term of this Contract, the Client, within a reasonable period of time, shall, free of charge, place at the disposal of the Consultant, all data, documentation and information concerning the Services covered by the Commission that are available to it. This shall also include all Commission and Project related provisions of the separate agreements relating to any loan made in respect of the Project, the Project documents entered into between the OUIDF and KfW and consents of KfW as required by this Contract

2.2 DECISIONS & COOPERATION

2.2.1 Subject to the Consultant having provided the OUIDF with all the necessary information including, but not limited to, drawings, studies and replacement staff, the OUIDF shall make its decisions pursuant to this Contract as soon as possible after the Consultant requests such duty to be performed in writing and, in any event, no later than the end of the expiry period specified in the Special Conditions

2.3 SUPPORT

2.3.1 The OUIDF will support, as far as reasonably possible, the Consultant in discharging its obligations pursuant to this Contract. The OUIDF shall make available to the Consultant in good time and in full all the services necessary for the performance of its tasks as detailed in Annex 3 [Terms of Reference plus Tender Documents].

2.3.2 In addition, the OUIDF shall support the Consultant, the Consultant's staff and where applicable relatives of the Consultant in:

- a. Obtaining in good time any documents necessary for entering, residing in, working in and leaving the country (visa, work permit etc.);
- b. granting and/or obtaining unrestricted access to the Project where necessary for the performance of the Services
- c. the import, export and customs clearance of personal items and of goods and commodities required for performance of the Services;
- d. securing return transport in cases of emergency
- e. obtaining permission to import Foreign Currency that is required by the Consultant for the performance of the Services and for personal use by its Foreign Staff;
- f. obtaining permission to export the money paid by the OUIDF to the Consultant under this Contract; and
- g. providing access to other organisations for the purpose of obtaining information to be procured by the Consultant

2.4 TAXES

2.4.1 Subject to the following provisions, the OUIDF shall ensure that the Consultant and its Foreign Staff shall duly comply with all taxes, duties, levies and other charges that are

legally prescribed in the OUIDF's country as applicable from time to time, in connection with:

- a. payments to the Consultant or to its Foreign Staff in connection with the performance of the Services
- b. services performed by the Consultant or its staff in connection with the fulfilment of their tasks;
- c. Equipment, materials, and supplies necessary for the performance of the Services, including motor vehicles and personal belongings of the Foreign Staff that are brought into the country of the OUIDF and shipped out after completion of the Services or that have been destroyed in the course of the performance of the Services.

2.4.2 If it is impossible to meet the obligations arising from Paragraph 2.4.1 [Taxes] due to contrary legal provisions, the OUIDF shall, provided it is legally permissible and except where otherwise stipulated in the Special Conditions of this Contract, upon submission of proof of the payments made, reimburse the Consultant all the amounts paid without delay

2.5 EQUIPMENTS & OFFICES

2.5.1 For the purposes of performing the Services, the Authority shall make available to the Consultant, free of charge, technical and other equipment and offices to the extent described in Annex 6

2.6 CONTACT PERSON OF THE OUIDF

2.6.1 The OUIDF shall appoint two natural persons to act as the OUIDF's contact person and deputy to the Consultant under this Contract, and the OUIDF further undertakes always to appoint another contact person without delay should either of the two individuals appointed no longer be available.

2.7 THIRD PARTY SERVICES

2.7.1 The OUIDF is obliged, at its own expense, to make the necessary provision for the performance of those services by third parties commissioned by it, as described in Annex 6

2.8 PAYMENT FOR SERVICES

2.8.1 The Consultant shall receive from the OUIDF remuneration for the Services performed under this Contract in accordance with Article 5 [Remuneration].

PARAGRAPH 3 THE CONSULTANT

3.1 SCOPE OF SERVICES

3.1.1 The Consultant shall deliver the Services in full and on time.

3.1.2 The Services to be performed by the Consultant encompass all the part services described and explained in this Contract and its Annexes, in particular in Annex 2 [Minutes of Negotiations] Annex 3 [Terms of Reference plus Tender Documents plus Pre Bid Meeting Minutes Plus Addendum] and Annex 9 [The Consultant's bid]. Furthermore, the Consultant

must deliver all the standard and special services as defined in Paragraph 3.2.1. [Standard and Special Services].

3.1.3 The Consultant shall work together with third parties commissioned by the OUIDF, if any, pursuant to Paragraph 2.7 [Third-party services]. The OUIDF is not responsible for these third parties or their performance. In addition, the Consultant must comprehensively coordinate their services with its own services, as far as possible

3.2 STANDARD AND SPECIAL SERVICES

3.2.1 In addition to the Services specified explicitly in the Contract, the Consultant shall also perform all other services, if necessary, that are not listed under the contractual services, but are customarily required in order to properly discharge the contractual obligations (“standard services”). The standard services shall be fully compensated through the Agreed Remuneration.

3.2.2 “Special Services” are services that are not included under the contractual or standard services, but must necessarily be delivered by the Consultant in order to properly perform its duties under the Contract, because the external circumstances of service delivery have changed unexpectedly, or because the OUIDF has suspended the Services pursuant to Paragraph 4.5 [Force majeure], or because the OUIDF, with the prior consent of KfW, requires services that were not included in the invitation to tender but are necessary.

3.3 DUE DILIGENCE

3.3.1 Except where otherwise stipulated in this Contract, or otherwise legally stipulated within the country or within another legal system (including the legal system in the Consultant’s jurisdiction) by provisions that impose higher demands than this Contract, when performing its obligations under this Contract the Consultant shall exercise due diligence and provide the Services in compliance with professional practice and to the recognised quality standards, in accordance with current scientific and generally accepted engineering standards. The Consultant must document its work, the progress of the Project and the decisions it takes in an appropriate form that is acceptable to the OUIDF, bearing in mind the requirements arising from Paragraph 5.7 [Auditing].

3.4 REPORTING

3.4.1 The Consultant shall report to the OUIDF on the progress of the Services in accordance with the Special Conditions. Except where otherwise stipulated in the Special Conditions, in case of longer assignments such as construction management, training or operational support, the Consultant shall draw up quarterly reports, and following the conclusion of the Services draw up a final report covering the entire Completion Period. The reports shall include a comparison of targeted and actual values for the planned activities; the progress of construction; developments in the time frame; financial developments; and information on any problems and identification of possible solutions.

3.4.2 The Consultant shall inform the OUIDF promptly of all extraordinary circumstances that arise during the performance of the services and of all matters requiring KfW’s approval

3.4.3 Furthermore, the Consultant shall, upon request, supply the OUIDF with information in connection with the Services

3.5 STAFFING

3.5.1 The Consultant shall employ the staff specified in Annex 5 [Staffing Schedule] to implement performance of the Services. The list of designated key staff and any changes to it shall require the prior written approval of the OUIDF and KfW.

3.5.2 The OUIDF may require the Consultant to terminate the contract of, or replace, any staff member who fails to meet the requirements or violates Paragraph 1.13 [Conduct]. Any such demand must be submitted in writing to the Consultant stating the reasons for it.

3.5.3 If staff employed by the Consultant need to be replaced, the Consultant shall ensure that the staff member in question is replaced promptly by an individual who possesses at least equivalent qualifications.

3.5.4 If any one of the Consultant's staff falls ill for more than one month and this jeopardises the performance of this Contract by the Consultant, the Consultant shall replace this staff member with another staff member who possesses at least equivalent qualifications.

3.5.5 Staff shall only be replaced after prior approval by the OUIDF, such approval not to be unreasonably withheld. The exchange, replacement, or planned dispensation of replacement (as exception to existing rules) of key staff specified by name shall require the prior approval of KfW.

3.5.6 If the Consultant must terminate the contract of, or replace, any staff during the Contract period, the costs thus accrued shall be borne by the Consultant, except where staff are removed or replaced at the OUIDF's request. In this case, the OUIDF shall meet the costs of replacing the staff member, unless the staff member in question does not meet the requirements or has violated Paragraph 1.13 [Conduct].

3.6 CONTACT PERSON OF THE CONSULTANT

3.6.1 The Consultant shall appoint for the exercise of all rights and obligations arising from this Contract a natural person as its contact person for the OUIDF under this Contract.

3.6.2 The Consultant shall specify and provide respective contact data to the OUIDF and KfW for an individual at the Consultant's place of business who can be reached at any time in cases of emergency or crisis as well as a deputy of the Consultant. The Consultant shall notify the OUIDF and KfW without delay of any change of elected person or their contact data.

3.7 INDEPENDENCE OF THE CONSULTANT

3.7.1 The Consultant undertakes that neither the Consultant nor any enterprise associated with the Consultant shall bid for the Project as manufacturer, supplier, or building contractor. This prohibition also applies to any bidding for any further consulting services, insofar as such consulting services might lead to a restriction of competition or a conflict of interests. Any violation of this stipulation may lead to the immediate cancellation of this Contract and require the reimbursement of any and all costs incurred by the OUIDF up to the time of such violation as well as compensation for any and all losses and damages incurred by the OUIDF as a result of such cancellation.

PARAGRAPH 4 COMMENCEMENTS, COMPLETION, AMENDMENT AND TERMINATION OF THE SERVICES

4.1 COMMENCEMENT AND COMPLETION

4.1.1 The Consultant shall begin performing the Services on the prescribed date on which execution of the Contract shall take place, but not earlier than and without undue delay after the Contract has come into force. The Consultant shall deliver the Services in accordance with the time schedule in Annex 7 [Time Schedule for the Performance of the Services], and shall complete the Services within the Completion Period, subject to any further extensions to this Contract.

4.1.2 In relation to optional services (if any), the Consultant shall commence delivery of the optional services not earlier than upon receipt of notification from the OUIDF, subject to the OUIDF having received KfW's prior consent.

4.1.3 Any change to the time schedule in Annex 7 [Time Schedule for the Performance of the Services] due to a reasonable request by either party shall be mutually agreed upon in writing.

4.2 PENALTIES FOR DELAY

4.2.1 If the Consultant fails to perform any of the Services under this Contract within the requisite time period, for reasons he must warrant, the OUIDF shall, unless the Special Conditions Include derogation, be authorised to inflict a penalty of 0.5% of the Order Value for every week of delay, subject to a cap of 8% of the Contract Value. Beyond such penalty, the OUIDF may not bring any further claims arising from the delay in the performance of the Services. The right of termination shall remain unaffected.

4.3 AMENDED SERVICES

4.3.1 Subject to the prior consent of KfW, the OUIDF shall be entitled to require an amendment of the Contract (amended or additional services or amended deadlines/periods for execution - "amended services").

4.3.2 In this case, the Agreed Remuneration and the Completion Period shall be adjusted accordingly by mutual agreement of the parties. The Consultant shall submit proposals for performance of and remuneration for the amended services

4.3.3 The Consultant shall execute the amended services if the OUIDF agrees, in writing, to the remuneration proposal. If the parties do not agree on the remuneration proposal within three months of the Consultant commencing delivery of the Services, the entitlement to remuneration shall be treated as a dispute under Article 8 [Disputes and Arbitration Procedure].

4.4 IMPEDIMENT

4.4.1 If the performance of the Services is impeded or delayed by the OUIDF or the OUIDF's contractual partners ("impediment") such that the impediment leads to an increase in the costs, the scope or the duration of the Services, the Consultant shall immediately notify the OUIDF of the circumstances and the possible consequences.

4.4.2 If an impediment falls within the sphere of risk of the OUIDF or if the impediment is caused by the OUIDF through intent or gross negligence, the Consultant shall be entitled to reimbursement of the costs incurred by it as a result of the impediment, subject to these costs being evidenced.

4.5 FORCE MAJEURE

4.5.1 In the event of Force Majeure, the contractual obligations, as far as affected by such event, shall be suspended for as long as performance remains impossible due to the Force Majeure, provided that one party to the Contract receives notification of the Force Majeure event from the other party within two weeks after its occurrence. Any and all liability of the Consultant for damages arising due to its absence caused by the Force Majeure is excluded.

4.5.2 In the event of Force Majeure, the Consultant shall be entitled to an extension of the Contract equal to the delay caused by such Force Majeure. If the performance of the Services is rendered permanently impossible by the Force Majeure, or if the Force Majeure event lasts for longer than 180 days, both parties to this Contract shall be entitled to terminate the Contract.

4.5.3 In case of suspension or termination of the Contract due to Force Majeure, the Services performed up to the time of the Force Majeure and all necessary expenditure (which is evidenced) of the Consultant arising from the discontinuing of the Services shall be invoiced on the basis of contractual prices. Neither party shall make any further claims

4.6 SUSPENSION OR TERMINATION

4.6.1 The OUIDF may, with the prior consent of KfW, fully or partially suspend the Services or terminate this Contract after serving written notice of at least 30 days. In this event, the Consultant must immediately take all measures necessary to ensure that the Services are discontinued and the expenditure minimised. The Consultant shall hand over all reports, drafts and documents to be drawn up by the date in question to the OUIDF. If the suspension lasts longer than 180 days the Consultant may terminate the Contract. In case of termination Paragraph 4.5.3 [Force majeure] shall apply mutatis mutandis.

4.6.2 If the Consultant fails to meet its contractual obligations without sufficient reason; in accordance with the Contract; or on time, the OUIDF may serve a notice upon the Consultant and request it to duly perform its Services. If the Consultant fails to remedy the performance deficit within a period of 21 days of having been called upon to do so by the OUIDF, the OUIDF shall be entitled, after this period has elapsed, to terminate the Contract by written notice.

4.6.3 The Consultant may terminate this Contract if any amounts due and payable to it under this Contract have not been paid within 60 days after the receipt of the corresponding invoice, as long as the Consultant has given the OUIDF a written reminder within a period of 30 days after the initial 60 day deadline has passed and the OUIDF does not pay the due amounts within a further period of 30 days after this notice.

4.6.4 If the termination of the Contract is not due to a default on the part of the Consultant, the Consultant shall be entitled to demand the Agreed Remuneration. The Consultant

must, however, mitigate its loss and deduct any proceeds of such mitigation, which shall include

(i) any remuneration paid to the Consultant working on other projects during the time the Consultant was scheduled to work on the Project

(ii) any remuneration that the Consultant would have earned working on other projects during the time the Consultant was scheduled to work on the Project, but which the Consultant has not received as a result of the Consultant's willful actions or omissions.

4.6.5 If the termination of the Contract is due to a default on the part of the Consultant, the Consultant shall be entitled to demand the Agreed Remuneration for the Services performed until the date of termination but not yet remunerated. The OUIDF shall be entitled to demand compensation for the direct damages caused by the default

4.7 CORRUPTION AND FRAUD

4.7.1 If it is proven that the Consultant has breached Paragraph 1.14 [Corruption and fraud], the OUIDF may, notwithstanding the various punishments or other sanctions to which the Consultant is subject according to the law of the country or any other legal system, terminate this Contract in writing. The OUIDF may also terminate this Contract in writing if the Declaration of Undertaking submitted by the Consultant in conjunction with its bid is untrue

4.8 RIGHTS AND OBLIGATIONS OF THE PARTIES IN CASE OF TERMINATION

4.8.1 Termination of the Contract shall not prejudice or affect the rights, claims or obligations of the parties until the date on which the cancellation takes effect.

PARAGRAPH 5 REMUNARATION

5.1 REMUNERATION OF THE CONSULTANT

5.1.1 The Consultant shall receive the remuneration agreed in the Special Conditions for performing the Services owed under this Contract, subject to the conditions listed therein and the conditions below. Annex 8 [Statement of Costs] contains a detailed list of conditions.

5.2 TERMS OF PAYMENT

5.2.1 Except where otherwise agreed in the Special Conditions, the OUIDF shall pay the Consultant's remuneration as follows:

(a) Advance payment, due within 30 days of execution of this Contract upon presentation of an invoice.

(b) The instalments shall be paid upon presentation of corresponding invoices with a maximum of one payment per quarter. The first invoice for the first instalment shall be presented, at the earliest, 3 months after the contractually agreed commencement of the Services. The OUIDF shall have the right to suspend payment of instalments at any stage in the event of substantial deviations from the time schedule and/or insufficient performance on the part of the Consultant. This right shall also apply to payments which are not based on output-

related evidence of performance. If the payment of instalments is suspended, the OUIDF must proceed in accordance with Paragraph 5.6 [Objections to Invoices].

(c) The final payment shall be made after the Services have been performed in full and confirmation had been provided by the OUIDF and KfW to that Consultant.

5.2.2 Only in cases of agency contracts: the Consultant's invoices shall be addressed to the Employer "c/o KfW". KfW shall receive the original invoice. A copy of the invoice shall be sent to the Employer directly. The original final invoice is to be addressed to the Employer, and KfW will receive a copy .

5.2.3 Any guarantees shall be in the form set out in Annexes 10 and shall always be provided as Bank Guarantees made out to the OUIDF as beneficiary. They must be acceptable to the OUIDF and KfW. The original of the guarantee shall be sent to the OUIDF.

5.3 METHOD OF PAYMENT

5.3.1 Payment shall be made according to the Conditions set out in the Special Conditions.

5.4 PRICE ADJUSTMENT

5.4.1 Except where agreed otherwise in the Special Conditions, the following conditions shall with respect to prices. The prices specified in Annex 8(Statement of Costs) shall apply to the Completion Period specified in the Special Conditions and for a period of 3 months thereafter. After this date , prices may be adjusted if the official level of prices and wages in the Consultant's Country of origin(Foreign Currency costs) or in the Employer's Country(Local Currency Costs) has increased, as measured using the base indices specified in the Special Conditions, and this is proven by the Consultant. The following formula shall be used to calculate this:

$$P_n = P_o * (0.15 + 0.85 * L_n / L_o)$$

P_n =Revised Price, P_o = Base Price

L_n = Revised Index, L_o = Base Index

The Price will not be calculated until of the final price index.

5.4.2 Except where otherwise agreed in writing , the Consultant shall only be entitled to remuneration for special services if the services are amended pursuant to Paragraph 4.3(Amended Services)

5.5 PAYMENT DEADLINE

5.5.1 Except in relation to advance payment and where otherwise stated in the Special conditions, payment shall be made within 60 days of presentation of a verifiable invoice by the Consultant to the OUIDF.

5.5.2 If the OUIDF does not make the payment within the period set out in Paragraph 5.5 [Payment Deadline], except where the OUIDF has raised an objection pursuant to Paragraph 5.6 [Objection to Invoices], the Consultant shall be paid compensation at the rate agreed in the Special Conditions. This shall be calculated on a daily basis from the date on which the invoice fell due in the currency agreed. The agreed compensation shall satisfy all the Consultant's claims arising from the OUIDF's delay.

5.6 OBJECTION TO INVOICES

5.6.1 If the OUIDF objects to the whole or part of an invoice of the Consultant, the OUIDF shall notify the Consultant of its intention to withhold payment and shall state the reasons why. If the OUIDF objects only to a part of the invoice, it shall pay that part of the invoice to which it has not objected within the period specified in Paragraph 5.5 [Payment Deadline].

5.7 AUDITING

5.7.1 For services or part services that are not remunerated on a lump-sum basis, the Consultant shall be obliged to maintain up-to-date records that meet professional standards and that clearly and systematically indicate the services provided and the time and expense involved. The Consultant shall permit the OUIDF and KfW to audit these records at any time and make copies of them during the term of the Contract.

5.8 CURRENCY

5.8.1 The Special Conditions shall indicate the currency applicable to the Contract.

PARAGRAPH 6 LIABILITY

6.1 LIABILITY OF THE CONSULTANT FOR BREACHES OF CONTRACT FOR WHICH HE IS RESPONSIBLE

6.1.1 The Consultant shall be liable to the OUIDF for verifiably culpable breaches of its contractual obligations, particularly breaches of Article 3 [The Consultant]. The liability of the Consultant shall be limited to the respective insurance sum, insofar as this is higher than the Contract Value. Otherwise the liability of the Consultant shall be limited to the Contract Value. This shall not affect the liability for premeditation and gross negligence.

6.2 LIABILITY OF THE CONSULTANT FOR SUB- CONTRACTORS

6.2.1 The Consultant shall also be liable for the Services provided by a sub-contractor pursuant to Paragraph 1.9 [Assignment and Sub- contracting].

6.3 PERIOD OF LIABILITY

6.3.1 The Consultant's liability shall terminate on the date of the acceptance of the Services and in the event the Contract does not provide for acceptance of the Services, on the date of performance of the contractually agreed Services in full, unless a different point of time is provided in the Special Conditions.

6.4 LIABILITY FOR CONSEQUENTIAL DAMAGE

6.4.1 Liability for consequential damage is excluded.

6.5 LIABILITY OF THE OUIDF

6.5.1 The OUIDF shall be liable for verifiably Culpable breaches of its contractual obligations, particularly breaches of Paragraph 2 [The OUIDF].

PARAGRAPH 7 INSURANCE

7.1 INSURANCE AGAINST LIABILITY AND DAMAGES

7.1.1 The Consultant shall take out insurance for the period of the Contract, on the terms specified in the Special Conditions, including, but not limited to, the following:

- (a) Professional liability insurance;
- (b) Personal liability insurance;
- (c) equipment insurance covering loss of or physical damage to all equipment acquired, used, provided or paid for by the Authority, if any, within the context of this Contract; and
- (d) Motor vehicle third party liability insurance and motor vehicle comprehensive insurance for the vehicles acquired in connection with this Contract.

7.1.2 The costs incurred in connection with the insurance specified in Paragraph 7.1.1 [Insurance Against Liability and Damages] shall be fully compensated by the Agreed Remuneration.

PARAGRAPH 8 DISPUTES AND ARBITRATION PROCEDURE

8.1 AMICABLE SETTLEMENT

8.1.1 Should a dispute arise from or in connection with this Contract, the representatives of the parties authorised to settle disputes shall, within 21 days of one party submitting a written request to the other party, endeavour in good faith to settle the dispute amicably.

8.2 MEDIATION

8.2.1 If an amicable settlement cannot be reached within a period of 3 months after the written request pursuant to Paragraph 8.1 [Amicable Settlement], the parties may, insofar as both sides agree, attempt to settle the dispute in accordance with the Special Conditions by way of mediation prior to initiating arbitral proceedings. Notwithstanding this, the parties may agree to begin mediation immediately. Unless the parties agree otherwise within a period of 14 days, either party may require that the mediator is appointed by the institution named in the Special Conditions.

Mediation shall begin no later than 21 days after the mediator has been appointed. The mediation process shall be implemented in accordance with the procedure selected by the appointed mediator. All negotiations and talks held in the course of mediation shall be treated confidentially, unless they are concluded in a written, legally binding contract. If the parties accept the recommendations of the mediator or agree to settle the dispute another way, the agreement reached shall be recorded in writing and signed by the representatives of the parties.

8.2.2 If the dispute is not settled within 3 months after the mediator has been appointed, the dispute shall be settled by way of the arbitration procedure pursuant to Paragraph 8.3 [Arbitration Procedure].

8.3 ARBITRATION PROCEDURE

8.3.1 If the parties do not reach amicable agreement Pursuant to Paragraph 8.1 [Amicable settlement] or by way of mediation pursuant to Paragraph 8.2 [Mediation], the dispute shall finally and exclusively be settled - except where otherwise stipulated in the Special Conditions - in accordance with the Rules of Arbitration & Conciliation Act 1996 by one or several arbitrators appointed in accordance with the Rules. The place of arbitration and the language of the arbitration procedure shall be stipulated in the Special Conditions.

Special Conditions

Ad Article 1: General Provisions

Ad 1.1: Definitions

“Completion Period”: The completion period shall be **[24 Months]**.

“Force majeure”: For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party’s performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.

(b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or by or of such Party’s Sub-Consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder ●]

“Project”: The consulting services shall be performed for [Berhampur Municipal Corporation], RFP no. [●], Date [●]

(the “Project”- For Independent Engineer for Solid Waste Management Projects at Berhampur by Berhampur Municipal Corporation implemented through DBOT mode).

“Date on which execution shall be commenced”: The date on which execution shall be commenced is [●] / The date on which execution shall be commenced lies [4] weeks after the day on which the contract comes into force.

Ad 1.4: Communication

The language for notices, instructions, reports and other messages shall be **[English]**.

Ad 1.5: Notices

Address of the OUIDF

Postal address [Odisha Urban Infrastructure Development Fund,4th Floor, Zone-A/2, Fortune Towers, Bhubaneswar-751023●,Odisha]
Email: [ouidf.hudd@gmail.com]
Phone: [0674-2300396/397]Fax: [0674-2300371]

Address of the Consultant

Postal address [●]
Email: [●]
Phone: [●]
Fax: [●]

Ad 1.6: Law and language

The language(s) of the Contract shall be [English].

[The prevailing contractual language shall be [English].]

The law governing this Contract shall be [Indian Law]

Ad 1.10: Rights to the results of work, copyright

[OUIDF]

Ad 1.15: Reimbursements

Account details of the OUIDF's special account for reimbursements in Local Currency: [Secretary, OUIDF , Bank Account No. 32495633555 of State Bank of India, Secretariat Branch, Bhubaneswar; IFSC:SBIN0010236]

Ad Article 2: The OUIDF

Ad 2.1: Deleted

Ad 2.2: Decisions/cooperation

Decisions/cooperative actions⁹ of the OUIDF pursuant to Paragraph 2.2 [Decisions/cooperation] must be taken /performed at the latest within [2] weeks.

Ad 2.4: Taxes

The contractual parties agree on the following provisions regarding taxes and levies [As per Tax law issued by of Govt of India and Govt of Odisha●]

Ad 2.4.2: Reimbursable Taxes - Only Service Tax/ GST (as applicable)

Ad 2.5: Berhampur Municipal Corporation will not provide any Equipment and Office Space . The Consultant will have to arrange all Equipment & Office space Required for Project supervision for its Own.

Berhampur Municipal Corporation will provide Contract Documents with DBOT Operator and all necessary information for implementation of SWM Project

Ad 2.6: Contact person of the OUIDF

The OUIDF's contact person shall be [Sri Badri Prasad Rayaguru, Sr. Project Manager, OUIDF].

Ad Article 3: The Consultant

Ad 3.3: Due diligence

The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the 'OUIDF', and shall at all times support and safeguard the "OUIDF"'s legitimate interests in any dealings with Sub-Consultants or Third parties.

Ad 3.4: Reporting

[As Provided in Term of Reference of RFP]

Ad 3.5.5: Prior Approval of KFW deleted

During the Contract Period if Project Manager is substituted /replaced then 10% of outstanding fee per man month of the Project Manager position mentioned in Financial Proposal will be deducted for remaining period of Contract, for other personnel 5% of outstanding fee per man month mentioned in the Financial Proposal will be deducted for remaining period of Contract. The total compensation towards penalty of this clause should not exceed 20% of Contract Value

Ad 3.5.6

If the Consultant terminate the contract of, or replace, any staff during the Contract period, the costs thus accrued shall be borne by the Consultant. The OUIDF shall may ask for replacing the staff member, if the staff member in question does not meet the requirements or has violated Paragraph 1.13 [Conduct], the cost shall be borne by the Consultant.

Ad 3.6.1: The Consultant's contact person for handling of the Contract

The Consultant's contact person for handling of the Contract shall be [●].

Contact details [●].

The deputy shall be [●].

Contact details [●].

Ad 3.6.2: The Consultant's contact person for cases of emergency or crisis

The Consultant's contact person for cases of emergency or crisis shall be [●].

Contact details [●].

The deputy shall be [●].

Contact details [●].

Ad 4.6.3.: The Consultant may terminate this Contract if any amounts due and payable to it under this Contract have not been paid within 60 days after the receipt of the corresponding invoice subject to approval of deliverables at every stage/milestone from Berhampur Municipal Corporation and OUIDF mentioned in the Scope of Work of the Contract., as long as the Consultant has

given the OUIDF a written reminder within a period of 30 days after the initial
60 day deadline has passed and the OUIDF does not pay the due amounts
within a further period of 30 days after this notice

Ad 4.6.4: Deleted(Applicable for Time based contract)

Ad 4.6.6: If the Consultant becomes insolvent or go into liquidation or receivership
whether compulsory or voluntary

Ad 4.6.7: Client can terminate the Contract If the Consultant fails to comply with any
final decision reached as a result of arbitration proceedings pursuant to Clause
GC 8.3 hereof

Ad 4.6.8: The Consultant can terminate the Contract if the Client fails to comply with
any final decision reached as a result of arbitration proceeding pursuant to
Clause GC 8.3 herof

Ad 4.6.9: Client can terminate the Contract, If the Consultant submits to the "OUIDF" &
"Berhampur Municipal Corporation" a false statement which has a material
effect on the rights, obligations or interests of the "Client".

Ad 4.6.10: Client can terminate the Contract if the Consultant places itself in position of
conflict of interest or fails to disclose promptly any conflict of interest to the
Client

Ad 4.6.11: Parties can terminate the Contract if, as the result of Force Majeure, the
Consultant is unable to perform a material portion of the Services for a period
of not less than One Hundred Eighty (180) days

Ad 4.6.12: If the "Client", in its sole discretion and for any reason whatsoever, recorded in
writing, and with due intimation to the Consultant, decides to terminate this
Contract

Ad Article 5: Remuneration

Ad 5.1.1: Remuneration

For the services to be rendered by the Consultant under this Contract the
OUIDF shall pay the sum of [●] in [Indian Rupees]
("Contract Value").

The Contract Value is composed of:

Fixed fee:[●] in [● Indian Rupees]

Annex 8 [*Statement of Costs*] contains a detailed statement of costs. |

Ad 5.2: Terms of payment

Clause 5.2.1 (a) : No Advance Payment shall be made

Clause 5.2.1(b):The Consultant's remuneration shall be paid against presentation of an invoice, indicating the RFP-No. "Project", as follows:

Terms of Payment as per Terms of Reference of RFP.

The payments are subject to the acceptance of the reports and the documents by the Berhampur Municipal Corporation and OUIDF for every stage of the project.

The first payment shall be made as per on completion of milestone to the satisfaction of Client without furnishing Bank guarantee.

On completion of assignment/defect liability period Performance Guarantee shall be released subject to any deductions

Clause No. 5.2.2 : Deleted

Ad 5.3: Method of payment

[Consultants Fee will be Credited after deducting all necessary taxes and penalty (if any) in Indian Rupees to following Account:

Beneficiary Name of Consulting Firm:

Account No:

MICR Code:

IFSC Code:

Bank Name & Address:]

Ad 5.4.1: Price adjustment: Not Applicable

Ad 5.5: Payment deadline

No Compensation or Interest is Payable for delay in payment

Ad 5.8: Currency

The applicable currency for the Contract shall be **[Indian Rupees]**.

.Ad Article 6: Liability

Ad 6.3: Period of liability

The Consultant's liability shall terminate **[36 Months]**.

Ad Article 7: Insurance

The insurance shall be taken out by the Consultant as mentioned in GCC.

The Consultant Party shall, within the one month (calculated from the Commencement Date), submit to the OUIDF:

(a) Evidence that the insurances described in this Clause have been effected, and

(b) copies of the policies for the insurances [Insurance against Injury to Persons and Damage to Property].

When each premium is paid, the insuring Party shall submit evidence of

payment to the OUIDF

Professional Liability Insurance including coverage for errors and omissions caused by Consultant's negligence in the performance of its duties under this agreement, (A) Total Contract value OR (B) the proceeds, the Consultants may be entitled to receive from any insurance maintained by the Consultants to cover such a liability, whichever of (A) or (B) is higher ;

Third Party motor vehicle liability insurance as required under India's Motor Vehicles Act, 1988, by the Consultant or its Personnel or any Sub-Consultants or their Personnel for the period of consultancy.

Employer's liability and Workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub Consultants, in accordance with the relevant provisions of the Applicable Laws of India, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and

Insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services, by theft, fire or any natural calamity

Ad Article 8: Disputes and Arbitration Procedure

Ad 8.2: Mediation

The mediator shall be appointed by [Commissioner Cum Secretary, Housing & Urban Development Department, Odisha] and the appointment shall be binding for the parties. The costs of the mediation and of the mediator's services shall be shared equally between the parties.

Ad 8.3: Arbitration Procedure

The place of arbitration shall be [Bhubaneswar].

The language of the arbitration procedure shall be [English].

In the case of dispute arising upon or in relation to or in connection with the contract between the OUIDF and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal consisting of 3 (three) arbitrators, one each to be appointed by the Employer and the Consultant, the third arbitrator shall be chosen by the two arbitrators so appointed by the parties and shall act as Presiding Arbitrator. In case of failure of the two arbitrators, appointed by the parties to reach a consensus regarding the appointment of the third arbitrator within a period of 30 days from the date of appointment of the two arbitrators, the Presiding arbitrator shall be appointed by the Secretary of the Ministry / Department. The Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these arbitration proceedings. The decision of the majority of arbitrators shall be final and binding upon both parties. The expenses of the arbitrators as determined by the arbitrators shall be shared equally by the Employer and the Consultant. However, the expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. All arbitration awards shall be in writing and shall state the reasons for the award.

(Bhubaneswar, date)

(for the OUIDF)

(for the Consultant)

List of Annexes

Annex no.	Title
1	Declaration of Undertaking
2	Minutes of Negotiations
3	Terms of Reference plus Tender Documents
4	Guidelines for the Assignment of Consultants in Financial Co-operation with Developing Countries
5	Staffing Schedule
6	Equipment and Furnishings provided by the OUIDF and Third-party Services Commissioned by the OUIDF
7	Time Schedule for the Performance of the Services
8	Statement of Costs
9	The Consultant's Bid including Pre-Bid Minutes, Addendum
10	Model Performance Guarantee
11	Agreement of DBOT Operator for Berhampur Municipal Corporation
12	Letter of Award

Annex 2

Minutes of Negotiations

Annex 3

**Terms of Reference plus Tender Documents including Pre Bid Meeting Minutes
and Addenda**

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Annex 4

**Guidelines for the Assignment of Consultants in Financial Co-operation with
Partner Countries (August 2016)**

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Annex 5
Staffing Schedule

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Annex 6

**Equipment and Furnishings to be provided by the Berhampur Municipal
Corporation**

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Annex 7

Time Schedule for Delivery of the Services

|

Annex 8

Statement of Cost

Annex 9

The Consultant's Bid including Pre-Bid Minutes, Addendum

|

Annex-10
Model Performance Guarantee

Address of guarantor bank:.....

.....

.....

Address of beneficiary (Client):
Secretary, OUIDF.
4th Floor, Fortune Towers
Chandrasekharpur, Bhubaneswar, Odisha-
751007

On _____ you concluded with (name and full address) _____ ("Consultant") a Contract for _____ (Project, object of the Contract) at a price of _____.

We, the undersigned _____ (bank), waiving all objections and defenses under the aforementioned contract, hereby irrevocably and independently guarantee to pay on your first written demand an amount up to a total of _____ (in words _____) against your written declaration that the Consultant has failed to perform the aforementioned contract.

In the event of any claim under this guarantee, payment shall be effected to Secretary, OUIDF, Bhubaneswar account No32495633555 of State Bank of India, Secretariat Branch, IFSC: SBIN0010236 for account of Odisha Urban Infrastructure Development Fund (Client). This guarantee shall expire not later than _____ by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the total amount to be claimed hereunder.

.....

Place, date

.....

Guarantor

Annex 11

Contract between Berhampur Municipal Corporation and Operator (with Addendums)

(a copy of the signed Contract between Berhampur Municipal Corporation and Operator (with all Addendums) shall form Annex 11.*

Draft Contract with Addendum as per the RFP Floated on 03.03.2017 for the selection of Operator for Implementation of Municipal Solid Waste Management Project for the City of Berhampur Municipal Corporation is attached for the reference of the Bidder)

Annex-12
Letter of Award

Annexure-XIV(RFP)
CONSORTIUM AGREEMENT
(In Non-Judicial Stamp Paper)

This Consortium Agreement is executed on this..... day of....., 2017 between M/s....., a company incorporated under laws of.....and having its Registered/Principal Office at..... (here in after called the '**Lead Member**' which expression shall include its successors, executors and permitted assigns)

And

M/s....., a company incorporated under the laws ofand having its Registered/ Principal Office at..... (herein after called the '**Second Member**' which expression shall include its successors, executors and permitted assigns)

The two Consortium Members are collectively referred to as "Consortium Members".

WHEREAS, OUIDF has invited Request for Proposal (RFP) from Consultancy Firm vide its document no. for appointment of Independent Engineer for Solid Waste Management Projects at Berhampur Municipal Corporation implemented through DBOT model

AND WHEREAS as per the RFP document, Consortium applications will also be considered by the OUIDF subject to a maximum of two Consortium members.

AND WHEREAS the Bid documents are being submitted to OUIDF vide Proposal dated based on the Consortium Agreement by these presents in accordance with the requirement of RFP document conditions and requirements and have been signed by all the Consortium members.

NOW THIS INDENTURE WITNESSETH AS UNDER:

In consideration of the above premises and agreements all the Consortium Members to this Consortium do hereby agree as follows:

1. We the partners in the Consortium hereby confirm that the name and style of the Consortium shall be..... Consortium.
2. In consideration of the RFP bid submitted by the Consortium to OUIDF, qualification of our bid by OUIDF if considered acceptable and on the award of contract by OUIDF to the Consortium (if selected by OUIDF), we the partners to the Consortium, hereby agree that the Lead Member (M/s.....) shall act as the lead partner for self, and for and on behalf of Second Member and further declare and confirm that we shall jointly and severally be bound unto OUIDF for execution of the contract in accordance with the contract terms and shall jointly and severally be liable to OUIDF to perform all contractual obligations including technical guarantees. Further, the Lead Member is authorised to incur liabilities and receive instructions for and on behalf of any or all partners of the Consortium.
3. The roles and responsibilities of each Consortium partner is as given below.

Consortium member	Scope of work
Lead Member	
Second Member	

4. In case of any breach of the said contract by any of the partners of the Consortium, we hereby agree to be fully responsible for the successful execution/ performance of the contract in accordance with the terms of the contract.
-

5. It is expressly understood and agreed between the partners to this agreement that the responsibilities and obligations of each of the partners shall be as detailed in clause 3 *supra*. It is further agreed by the partners that the above sharing of responsibilities and obligations shall not in any way be a limitation of the joint and several responsibilities of the partners under the contract.
6. This Consortium Agreement shall be governed, construed and interpreted in accordance with Laws of India. Courts of Bhubaneswar shall have exclusive jurisdiction in all matters arising there under.
7. In case of award of Contract, we the partners to this Consortium Agreement do hereby agree that we shall furnish the contract Performance Guarantee in favour of OUIDF from a bank acceptable/ approved by OUIDF for a value as stipulated in the Contract award and such guarantee shall be in the names of Lead Member of the Consortium.
8. It is further agreed that this Consortium Agreement shall be irrevocable and shall form an integral part of the Contract and shall continue to be enforceable till OUIDF discharges the same. It shall be effective on the date first above mentioned for all purposes and intents.

IN WITNESS WHEREOF, the partners to this Consortium agreement have, through their respective Authorised Representatives, have executed and delivered this Consortium Agreement on the day first above mentioned.

For M/s.....(Lead Member)

Signature of Authorised Representative

Name

Designation

For M/s.....(Second Member)

Signature of Authorised Representative

Name

Designation

Witness 1:

Witness 2: