



# ODISHA STATE HOUSING BOARD

## Bid Invitation Notice

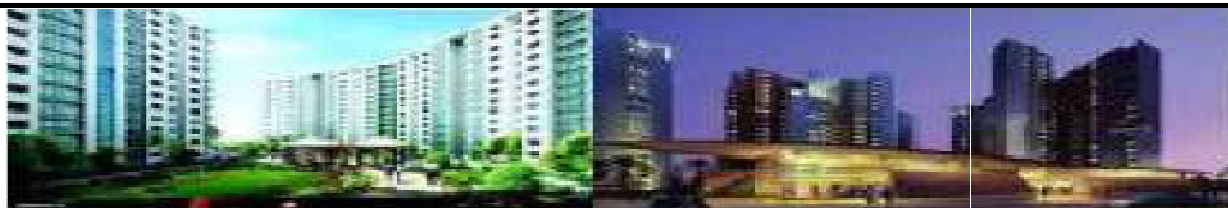
No -736

Date- 25.01.2021

File No- EB-I/44(P-I)/2020

Bid Identification Number/ 01 /CE/OSHB/2020-21.

Odisha State Housing Board invites Developers for Development of an Integrated Residential cum Commercial Complex over an area of 6.589 Acre of land at Patrapada Bhubaneswar, Odisha through e-auction process in Public Private Partnership mode.



### The Project

Odisha State Housing Board (OSHB) proposes to develop an integrated residential cum commercial complex in Bhubaneswar. OSHB plans to develop the projects on Public Private Partnership mode and intends to select a Developer through e-auction of the land who shall be responsible for infrastructure development, marketing, operation and maintenance of the projects. The Developer shall have to develop a minimum of 2/3<sup>rd</sup> of the total built up area for residential use and maximum of 1/3<sup>rd</sup> of the total built up area for commercial use. OSHB has identified a strategically located piece of land spread over an area of around 6.589 Acre in Mouza Patrapada, under Bhubaneswar Tahasil, Khurda, Orissa for the Project.

Reserve price of the land is fixed at Rs. 66,62,00,000=00 crores ( Rupees Sixty six Crores sixty two lakhs) only

### Selection Process

The Developer would be selected through an open competitive( e-auction) double stage bidding process. Intending Bidders/Developers are hereby invited too submit their Bids for the development of the projects.. The detail eligibility criteria are provided in the Request for Proposal document.

### Issue of Request for Proposal (RFP) Document

RFP document, detailing the project information and requirements can be obtained from OSHB office from **27.01.2021** onwards till 3.00PM on **24.02.2021** on payment of a non-refundable cost of Rs. 53,100.00 (Rupees Fifty three thousand one hundred) only, inclusive of GST @ 18%. It can also be downloaded from [www.oshb.org](http://www.oshb.org). In this case, a non-refundable demand draft of Rs. 53,100.00 (Rupees Fifty three thousand one hundred) only in favour of "Orissa Housing Board Fund" payable at Bhubaneswar shall be submitted along with the Bid towards cost of the RFP document.

The completed RFP along with required documents should reach OSHB office on or before **24.02.2021** at 15:00 hrs by registered post/speed post/courier only. No drop box facility is available and hand delivery is not allowed. OSHB will not be responsible for any postal/courier delay. The technical bids will be opened on Dt.**26.02.2021** at 11.00 hours in the OSHB conference hall in the presence of bidders or their authorised representatives.

OSHB reserves the right, without any obligation or liability, to accept or reject any or all the RFPs at any stage of the process, to cancel or modify the process or any part thereof or to vary any or all the terms and conditions at any time, without assigning any reason whatsoever.

Any modification/amendment/corrigendum, if any, to the RFP document, shall not be advertised in the newspapers but shall be posted in the website only.

### Contact Persons

Mr. Narayan Majhi, Executive Engineer (PPP), OSHB, [pe1@oshb.org](mailto:pe1@oshb.org), +91 9437226043

Completed RFP may be sent to

The Housing Commissioner-cum-Secretary  
Orissa State Housing Board (OSHB), A/32, Unit III, Sachivalaya Marg  
Bhubaneswar - 751 001, Orissa, India.  
Tel No: 0674 - 2393524, 2393277, 2393525 | Fax No: 0674 2393952

-Sd/-  
Housing Commissioner cum Secretary

*Request for Proposal*

*Part I – Selection Process Document*

Selection of Developer Through E-Auction of the  
Land Measuring 6.589 Acres at Patrapada for  
Development of an Integrated Residential-cum-  
Commercial Complex in Bhubaneswar

*Odisha State Housing Board*

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## Request For Proposal (RFP)

### Odisha State Housing Board (OSHB)

SELECTION OF A DEVELOPER THROUGH E-AUCTION OF THE LAND FOR THE DEVELOPMENT OF AN INTEGRATED RESIDENTIAL –CUM-COMMERCIAL COMPLEX OVER 06.589 ACRES OF LAND LOCATED AT MOUZA PATRAPADA UNDER BHUBANESWAR TAHASIL ,KHURDA, ODISHA, INDIA.

This RFP consists of:

*Part I: Selection Process Document*

*Part II: Draft Development Agreement*

1. *This Part I: Request for Proposal - Selection Process Document contains 59 pages.*

## 1 ACKNOWLEDGEMENT

To be returned to the following address on receipt of this Document:

To,  
The Housing Commissioner-cum-Secretary,  
Odisha State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: 0674 2393524, 0674 2390141, 0674 2393525  
Fax No: 0674 2393952

<i>Request for Proposal Document Received by (Name of the Person)</i>	
<i>Designation</i>	
<i>Name of the Organisation</i>	
<i>Address</i>	
<i>Signature</i>	
<i>Date of Receipt</i>	

## 2 DISCLAIMER

1. Consequent upon the order of the Hon'ble Supreme Court in W.P(C) No.(s) 940/2017( Bikram Chatarjee & others Vs. Union of India & others) , dated 14.10.2019, terminating the agreement executed earlier with M/s Amrapali Homes Project Private Limited on dated 15.05.2012 and direction to OSHB to invite fresh bid for auction of the land to select the developer for development of an integrated residential –cum-Commercial complex over 06.589 acres of land located at Mouza Patrapada under Bhubaneswar Tahasil ,Khurda, Odisha, India, OSHB invites this bid for selection of the developer through e- auction process of the land for development of an integrated residential –cum-Commercial complex over 06.589 acres of land located at Mouza Patrapada under Bhubaneswar Tahasil , Khurda, Odisha, India in PPP( Public Private Partnership) mode.
2. Though adequate care has been taken in the preparation of the RFP, the Bidder(s) should satisfy itself/themselves that it is complete in all respects. Intimation of discrepancy, if any, should be intimated to OSHB immediately, but in any case not later than the date mentioned in Section 5.2.1 of Part I of the RFP. Non-receipt of any such intimation by the due date shall be deemed to be a confirmation that the Bidder is satisfied about the completeness of the RFP in all respects.
3. Neither OSHB, nor its employees, consultants, advisors accept any liability or responsibility for the accuracy or completeness of, nor make any representation or warranty, express, or implied, with respect to the information contained in the RFP, or on which the RFP is based, or any other information or representations supplied or made in connection with the Selection Process.
4. The RFP does not address concerns relating to diverse investment objectives, financial situation and particular needs of each party. The RFP is not intended to provide the basis of any investment decision and each prospective Bidder must make its own independent assessment in respect of the Project. No person has been authorised by OSHB to give any information or to make any representation not contained in the RFP.
5. Nothing in the RFP is, or should be relied on, as a promise or representation as to the future. In furnishing the RFP, neither OSHB, nor its employees, consultants, advisors undertake to provide the recipient with access to any additional information or to update the RFP or to correct any inaccuracies therein which may become apparent. OSHB, its employees, consultants, and advisors reserve the right, without prior notice, to change the procedure for the identification of the Preferred Bidder or terminate discussions and the delivery of information at any time before the signing of any agreement for the Project without assigning reasons thereof.
6. Neither OSHB nor its employees or consultants will have any liability to any prospective Bidder or any other person under law, equity or contract, or otherwise for any alleged loss, expense or damage which may arise from or be incurred or suffered in connection with anything contained in the RFP, any matter deemed to form part of the RFP, the award of the Project, the Project information and any other information supplied by or on behalf of OSHB or their employees, any consultants or otherwise arising in any way from the selection process for the Project.
7. OSHB reserves the right to change, modify, add to or alter the Bid Process including inclusion of additional evaluation criteria. Any change in the Bid Process shall be intimated to all short-listed Bidders.

8. OSHB reserves the right to change any or all of the provisions of the RFP or abandon/withdraw the RFP without assigning any reason whatsoever. Such changes will be intimated to all short-listed Bidders.
9. OSHB reserves the right to reject any or all of the Bids submitted in response to the RFP at any stage without assigning any reasons whatsoever.
10. The intending bidders are free to inspect the site of schedule plot at their cost and risk before filing the bid. Any objections, if any, after filing of bid, concerning the schedule plot on its situation/advantages/disadvantages shall not be entertained.

### 3 DEFINITIONS

Affiliate	: For a Bidding Company or the Lead Consortium Member, only those entities would be “Affiliate(s)” eligible for evaluation in which the Promoter(s) of the Bidding Company / Lead Consortium Member: Hold not less than 26% of the voting securities, either directly or indirectly, in case the relevant entity is a company. Holding an indirect stake in a company implies a stake held in the company through a chain of other companies, in which event, the percentage holding would be considered on proportionate terms, OR Is a partner with not less than 26% of share of the profits, in case the relevant entity is a partnership firm.
Agreement Date	: The date on which the Development Agreement is executed between OSHB and the Developer.
Agreement	: The Development Agreement executed between OSHB and the Developer transferring the development rights for developing and managing the Project.
BDA	: Bhubaneswar Development Authority
Bid	: The proposals submitted by the Bidders in response to the RFP.
Bid Process	: The various activities leading up to the selection of the Preferred Bidder, including without limitation, the issuance of the RFP, submission of Bids, and scrutiny and evaluation of such Bids.
Bidder	: Bidding Company or Bidding Consortium, as defined below, that has submitted a Bid in response to this RFP.
Bidding Company	: If the Bid is submitted by a single entity, it shall be referred to as Bidding Company / Bidder. The Bidding Company / Bidder would necessarily have to be an Eligible Entity.
Bidding Consortium	: If the Bid is submitted jointly by more than one entity, such group of entities shall be referred to as a Bidding Consortium / Bidder.
BMC	: Bhubaneswar Municipal Corporation



Capability	: The technical and financial capability of the Bidder to be assessed in accordance with Section 6.2 of Part I of the RFP.
Commercial Offer	: Commercial Offer means the offer with respect to the Quoted Bid Amount in E-auction over and above the reserve price as stipulated in clause no. 5.16.4 of RFP-Part-I.
Commercial Operation Date	The date on which Occupancy Certificate is issued by the Competent Authority(ies).
Consortium Member	: Each entity in the Bidding Consortium shall be referred to as a Consortium Member. Each Consortium Member would necessarily have to be an Eligible Entity.
Developer	: The Preferred Bidder or the Special Purpose Vehicle (SPV) incorporated by the Preferred Bidder for the implementation of the Project who would enter into the Development Agreement with OSHB.
Development Agreement	: The Agreement through which OSHB will grant to the Developer the rights to develop the Project as per prevailing guidelines and norms of BDA/BMC/ORERA.
Effective Date	The date on which the Lease cum Development Agreement is executed between OSHB and the Developer.
Eligible Entity	: An Eligible Entity is one, which satisfies at least one of the following: The entity is a Company under the Companies Act, 1956 or an incorporated entity under equivalent Acts, in case of foreign entities. OR The entity is a Partnership firm under the Indian Partnership Act, 1932 or the equivalent Acts in case of foreign entities. OR The entity is a Trust under the Indian Trusts Act, 1882 or the equivalent Acts in case of foreign entities. OR The entity is a Statutory Board / Authority / Corporation created under a separate Law / Act.

Evaluation Committee	: The Committee appointed under the Chairmanship of the Housing Commissioner-cum-Secretary, OSHB and consisting of senior officials of OSHB and other technical and financial experts responsible for evaluating the technical proposals of the bidders including the concept plan and designs.
EWS	: As specified in “Policy for Housing for All in Urban Areas, Odisha, 2015” or any Govt/OSHB guide lines as amended from time to time.
Financial Closure	: The legally binding commitment of equity holders and debt financiers to provide or mobilize funds for the Project.
FAR	: Floor Area Ratio allowable in accordance with the prevailing (Planning and Building Standards) of the Competent Authority
GoO	: The Government of Odisha.
Lead Consortium Member (LCM)	<p>: In case of a Bidding Consortium, the Lead Consortium Member (LCM) shall be that Consortium Member vested with the prime responsibility of developing the Project. The Lead Consortium Member, (including its Promoters and/or Affiliates provided each of these entities is an “Eligible Entity”), shall make an equity contribution in the SPV of not less than 26%.</p> <p>The MOU shall reflect the above. The LCM shall be the authorised representative of the Bidding Consortium and shall be liable to OSHB for all the obligations of the Bidding Consortium. The LCM would necessarily have to be an Eligible Entity.</p>
Lease Deed	Lease Deed shall have the meaning ascribed to it in article 18.1(A) , Part II – Draft Development Agreement
Letter of Intent	: Letter to be issued to the Preferred Bidder inviting it to sign the Development Agreement on fulfilment of the conditions laid out in this RFP document.
LIG	: As specified in “Policy for Housing for All in Urban Areas, Odisha, 2015” or any Govt/OSHB guide lines as amended from time to time.
MoU	: MoU means the Memorandum of Understanding entered into between the Consortium Members.
ORERA	: Odisha Real Estate Regulatory Authority constituted under RERA Act-2017.

OSHB	: Orissa State Housing Board constituted under OSHB Act-1968.
Other Preferred Bidder(s)	: Other Preferred Bidders shall mean the Qualified Bidders ranked 2 and ranked 3 as per Section 6.3.1 of Part I of the RFP.
Performance Security	: Performance Security shall mean <b>5%</b> of Quoted Bid Amount in e-auction in the form of a Demand Draft or a Bank Guarantee from a Nationalised Bank to be paid by the Developer before execution of the Development Agreement as defined in section 5.16.2 of Part I of the RFP.
Policy for Housing	: “Policy for Housing for All in Urban Areas, Odisha, 2015” as amended from time to time.
Preferred Bidder	: Preferred Bidder is the Bidder ranked one as per the process set out in Section 6.3.1 of Part I of the RFP.
Project	: The Project refers to the development of an Integrated Residential - cum-Commercial Complex over Ac. 06.589 of land in Mouza Patrapada under Bhubaneswar Tahasil. Khurda, Orissa as per the conditions of the RFP, any subsequent detailed document provided by OSHB as part of the Bid Process, and as per the terms of the Development Agreement between the Developer and OSHB.
Project Commencement Date	: Shall mean the date of obtaining registration from ORERA.
Promoter	: For a Bidding Company or a Lead Consortium Member, only those entities would be “Promoter(s)” eligible for evaluation who: Hold not less than 26% of the voting securities, either directly or indirectly, in the Bidding Company/Lead Consortium Member, in case the Bidding Company/Lead Consortium Member is a company. Holding an indirect stake in a company implies a stake held in the company through a chain of other companies, in which event, the percentage holding would be considered on proportionate terms. OR Is a partner with not less than 26% of share of the profits, in the Lead Consortium Member, in case the Lead Consortium Member is a partnership firm.
Quoted Bid Amount	: Quoted Bid Amount shall mean the auctioned amount quoted by the Bidder in E-auction Process.

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Qualified Bidders	: Bidders who are qualified / short listed after the evaluation of the Technical Bid.
Request for Proposal (RFP)	: The Request For Proposal refers to this document, issued in 2 parts. Part-I- Selection Process Document, Part-II- Draft Development Agreement.
Selection Process	: Same as 'Bid Process'.
Subsidiary	<p>: For a Bidding Company or a Lead Consortium Member, only those entities would be “Subsidiary(ies)” in which the Bidding Company / Lead Consortium Member:</p> <p>Hold not less than 26% of the voting securities, either directly or indirectly, in case the relevant entity is a company. Holding an indirect stake in a company implies a stake held in the company through a chain of other companies, in which event, the percentage holding would be considered on proportionate terms, OR</p> <p>Is a partner with not less than 26% of share of the profits, in case the relevant entity is a partnership firm.</p>

## 4 PROJECT

### (A) BACKGROUND

Bhubaneswar is the capital city of the State of Odisha and has good rail, air and road connectivity. Bhubaneswar emerged first in the National Smart City Challenge of Government of India and is being developed as a Smart City. The city has also been ranked as the 3rd best city among 17 cities in the country in terms of ease of doing business, according to a survey report by the World Bank.

In recent times, the city has experienced strong growth in terms of population as well as opportunities. Because of the business friendly environment of the city, there is a steady growth in business travellers to the city. Additionally, Bhubaneswar being the Temple city and a gateway to other tourist attractions in Odisha like Jagannath Temple at Puri and Sun Temple at Konark, tourists flow is also significant.

In order to cater to the Housing Requirements of Bhubaneswar, OSHB proposes to develop an integrated Residential -cum-Commercial complex with modern amenities and facilities at Patrapada, Bhubaneswar. The Project is aimed towards meeting the growing need for quality housing space in Bhubaneswar. OSHB has identified a strategic area spread over an area of around Ac. 06.589 for the project. The Project site is located in Mouza Patrapada under Bhubaneswar Tahasil. Khurda , Orissa and is situated within half kilometre from AIIMS, Bhubaneswar , NH-16 and in front of Biju Pattnaik Police Academy.

*OSHB plans to develop the project by auctioning the land on as is where is and what ever there is basis and wishes to select a Developer who would be responsible for planning infrastructure development, construction, marketing and planning operations and maintenance of the Project as per prevailing guidelines, norms, permissions, licenses and Environmental norms from BDA/BMC/ORERA/ other statutory bodies. OSHB, in no way whatsoever, will be held responsible for any sort of litigation relating to the project to be developed by the successful bidder.*

OSHB proposes to select the preferred bidder through a process of transparent & competitive E-auctioning process of the land, wherein the bidders would be selected on the basis of their technical proposals and the quoted amount in E-auction. The Selected Developer will be required to form an SPV for developing the complex within a given timeframe and the SPV shall be responsible for planning, financing, developing, marketing and maintaining the proposed integrated Residential -cum-Commercial complex. The auction shall be conducted by OSHB through their authorised E-auction platform.

#### Schedule of Auction

SI. No.	Event Description	Date
1	Issue of Advertisement	25.01.2021
2.	Uploading of RFP in Website	27 /01 /2021
3	Last date of receiving queries	04 /02 /2021 up to 17.00 hours
4	Pre- Bid Meeting	11.00 hours on 09 /02 /2021

5	OSHB response to queries	11/02/2021
6	Issue of Addendum / Corrigendum / revised RFP by OSHB (If required)	15/02/2021
7	Proposal Due Date	15.00 hours on 24/02/2021
8	Opening of Technical proposal	11.00 hours on 26/02/2021
9	Presentation by the bidders	11.00 hours on 04/03/2021
10	Publication of list of qualified bidders	08/03/2021
11	Date of E-Auction	11.00 hours to 17.00 hours on 15/03/2021

### (B) PROJECT CONCEPT

The objective of this project is to provide quality Residential along with associated complementary commercial facilities. With this objective, the Project is expected to provide the following minimum facilities:

1. Residential Built-up Space (minimum 2/3<sup>rd</sup> of the built-up area);
2. Commercial Built-up Space (maximum 1/3<sup>rd</sup> of the built-up area) including a Shopping complex which can serve the daily requirements of the residents;
3. EWS (Economically Weaker Section)/LIG (Low Income Group) - EWS & LIG units will be taken up as per prevailing BDA Planning & Building Standards Regulation.
4. MIG( Middle Income Group) and HIG (High Income Group) category of flats: The size, sale price and number of such flats will be decided by the Developer in consonance with the permissions granted by competent authorities.
5. Entertainment Centres, Food Courts, etc.
6. Uninterrupted quality power supply, water supply, internal roads and such other services required for the Project;
7. Landscaping, Garden, Parks, Water bodies, Community centres; and
8. High quality round the clock facility management and maintenance services.

A synopsis of the proposed project components are appended below for ready reference:

Sr. No.	Project Component	Built-up Area (Sq. Mt.)
1	Residential Space ( Minimum)	2/3 <sup>rd</sup> of total built-up area
2	Commercial Space ( Maximum)	1/3 <sup>rd</sup> of total built-up area

The various activities proposed to be carried out by the Developer shall include:

1. Project conceptualization, design and planning;
2. Raising finances for the Project as required;
3. Development of the Project including infrastructure facilities and amenities;
4. Development of necessary infrastructure such as internal roads, street lighting, sewerage, drainage, etc;
5. Development of linkages with external infrastructure at the plot boundary required for the Project like electricity supply, water supply, waste water and solid waste disposal and rain water harvesting;
6. Development of social amenities as may be required;
7. Marketing the Project;
8. Operation, maintenance and management of the Project; and
9. Any other activities that may be required for the successful development of the Project and as specified in local, municipal, central acts as amended from time to time.

#### PROJECT PHASING & DEVELOPMENT MILESTONES

The developer shall develop the project as per the project phasing and development plan/mile stone submitted to ORERA and other Competent Authorities, for obtaining approvals and ORERA Registration.

The Developer should achieve the following Development Milestones:

Sr. No	Description of Milestone	Time for Achieving the Milestone
PHASE 1		
Milestone 1	Finalization of the Engineering Documents, Designs & drawings for the entire project .	Within 180 days from the Effective Date.
Milestone 2	Application to the different statutory authorities for all the project approvals	Within 180 days from the Effective Date.
PHASE 2		

Milestone 3	Submission of Plan of Completion	Within 09 months from the Effective Date
Milestone 4	Submission of report from Independent Engineer that Company has successfully achieved the Development Milestones as stated in Plan of Completion	Within 18 months from the Effective Date
Milestone 5	Submission of report from Independent Engineer that Company has successfully achieved the Development Milestones as stated in Plan of Completion	Within 30 months from the Effective Date
Milestone 6	Development / Construction of Built-up Space and occupancy (residential + commercial space).	As per ORERA/BDA/BMC approvals.

### (C) CONTRACTUAL ARRANGEMENT

The Bidders shall be required to submit their technical and financial proposals as per the provisions of the RFP document. Bidders who score a minimum of 70 marks (out of a maximum of 100) in the technical proposal shall be declared as Qualified Bidder. The technically Qualified Bidders shall only be eligible to participate in E-auction process and such bidder quoting the highest Commercial Offer shall be the Preferred Bidder.

OSHB proposes to grant development rights to the Developer / SPV, as per the terms of the Development Agreement, a draft of which is enclosed in Part II of this RFP document. The Development Agreement will set out in detail the terms and conditions on which the Developer will implement the Project, the particulars of the phases in which the Project is proposed to be implemented, the rights and obligations of the parties, etc.

After the selection of the Developer, OSHB will issue a Letter of Intent (LOI) requiring the bidder to accept the LOI within 15 days from the issue of the LOI.

The Preferred Bidder shall within forty five (45) days of the issue of LoI form a Company under the Companies Act 1956 and 2013 as the case may be and submit necessary documents like copies of MoA , AoA and Certificate of Incorporation to OSHB. The Development Agreement shall be executed between the OSHB and the Developer subject to fulfilment of other obligations by the Preferred Bidder as stipulated in the RFP document.



The Development Agreement will be executed between OSHB and the SPV within a period of 45 days from the issue of LOI unless extended in writing by OSHB.

The Preferred Bidder is required to make the following payments after the issue of LOI and before the execution of the Development Agreement:

Upfront Payment of **25%** of the Quoted Bid Amount to OSHB prior to execution of the Development Agreement.

A Performance Security of **5%** of Quoted Bid Amount in the form of Demand Draft or a Bank Guarantee from a Nationalised bank. Subject to clause 35 of the Draft Development Agreement and other contingencies if any, this Performance Security may be released by OSHB to the Selected Bidder on or after Commercial Operation Date.

## 5 INSTRUCTIONS TO BIDDERS

### 5.1 General Rules

#### 5.1.1 Eligible Applicants

- (1) The Bidder may be a single entity or a group of entities (“Consortium”), coming together to implement the Project. The term Bidder used hereinafter would therefore apply to both a single entity and a Consortium. The purchaser of the RFP must be the Bidder itself or a member of the Consortium submitting the Bid. The Bidder should submit a Power of Attorney as per the format enclosed at Section 17, authorising the signatory of the Bid to commit the Bidder. Bids submitted by a Consortium should comply with the following additional requirements:
  - a. The Bid should contain the information required for each member of the Consortium;
  - b. One of the Consortium members should have purchased the RFP from OSHB;
  - c. The Bid should include a description of the roles of individual members as required by Form 4 A (refer Section 16);
  - d. An individual Bidder cannot at the same time be a member of the Consortium bidding for the Project. Further, a member of a particular Consortium cannot be member of any other Consortium bidding for the Project. Any Bidder who submits or participates in more than one Bid will be disqualified and will also lead to disqualification of the Consortium(s) of which it is a member;
  - e. Members of the Consortium shall nominate one member as the ‘Lead Consortium Member’. The nomination(s) shall be supported by a Power of Attorney as per the format enclosed at Section 18 signed by all the members. The Lead Consortium Member shall be required to meet the additional criteria specified in Clause 6.2.4
  - f. Members of the Consortium shall enter into a Memorandum of Understanding (the “MoU”) for the purpose of submitting the Bid.

The MoU shall, *inter alia*, also convey the intent to form a joint venture company, with shareholding commitment(s) in accordance with Clause 5.15 herein, which joint venture company would execute such documentation as is mandated by the Project Documents and subsequently carry out all the responsibilities as Developer in terms of the Project Documents, in the event that the Project is awarded to the Consortium. The MoU shall also clearly outline the proposed roles and responsibilities of each member at each stage and shall commit the minimum equity stake as required under Clause

A notarized copy of the MoU should be submitted with the Bid. The principles of the MoU are enclosed in Section 19. The MoU entered into amongst the members of the Consortium should be specific to the Project and should contain the above requirements failing which the Bid shall be rejected as non-responsive. The MoU shall be governed by the laws, rules and regulations of India and would be subject to jurisdiction of Indian courts alone.

- (2) Any entity, which has been barred by OSHB or GoO from participating in projects in Orissa and if the bar is subsisting as on the Bid Due Date, would not be eligible to submit the Bid, either singly or in Consortium.

#### 5.1.2 Number of Bids

Each Bidder shall submit only one (1) Bid, in triplicate (one original and two copies), in response to this RFP. Any Bidder who submits or participates in more than one Bid will be disqualified.

#### 5.1.3 Bid Preparation Cost

The Bidder shall be responsible for all of the costs associated with the preparation of its Bid and its participation in this selection process, including, without limitation, any and all costs, direct or indirect incurred in verifying, gathering and collating material, information and data, whether included in the Information or not, or on securing the services of advisors and / or consultant, etc. OSHB will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of this selection process.

#### 5.1.4 Project Inspection and Site Visit

If any Bidder so desires, may visit the site to ascertain the location, surroundings, or any other matter considered relevant by it. The cost of visiting the site shall be borne by the Bidder. OSHB shall not be liable for such costs, regardless of the outcome of the selection process. Any objection in respect of any data and /or information after submission of the Bid shall not be entertained nor shall be a ground to avoid the responsibility consequent upon selection of Developer.

#### 5.1.5 Bid Warranty and OSHB Presumption

- (1) It would be deemed that by submitting the Bid, the Bidder warrants that it has:
  - (a) Made a complete and careful examination of the RFP document;
  - (b) Received all relevant information requested from OSHB; and
  - (c) Independently verified all Information received from OSHB.

And it shall be further deemed that by submitting the Bid to OSHB, OSHB is entitled to presume the existence of and rely on the afore-stated Bidder warranty.

- (2) OSHB shall not be liable for any wrongful presumption, mistake or error on the part of the Bidder in respect of the above or in respect of the selection process or Project generally.

### 5.1.6 Right to Accept Any Bid and to Reject Any or All Bids

- (1) Notwithstanding anything contained in this RFP, OSHB reserves the right to accept or reject any Bid and to annul the selection process and reject all Bids/ proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, without assigning any reasons.
- (2) OSHB reserves the right to reject any Bid, if at any time a material misrepresentation is made or uncovered. This would lead to the disqualification of the Bidder.
- (3) If such disqualification and / or rejection occurs after the Commercial Offers have been opened and the preferred bidder gets disqualified and / or rejected, then OSHB reserves the right to either:
  - a. Invite the next preferred bidder to match the highest Commercial Offer; or
  - b. Take any measure as may be deemed fit in the sole discretion of OSHB including annulment of entire selection process and inviting fresh Bids and / or Proposals.

## 5.2 Documents

### 5.2.1 Clarifications

- (1) A prospective Bidder requiring any clarification on the RFP document may notify OSHB in writing by facsimile or email ([secretary@oshb.org](mailto:secretary@oshb.org)) or written correspondence.
- (2) OSHB may respond to any request for clarification received up to 17.00 hours of Dt. **04.02.2021**. The responses will be sent by fax or email and shall also be available at the OSHB office. Copies of OSHB's responses will be forwarded to all purchasers of the RFP and would include a description of the enquiry without identifying its source.

### 5.2.2 Amendment of RFP

At any time prior to the Bid Due Date, OSHB may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder add, alter, delete, modify or amend the RFP by the issuance of addenda ("Addenda" or "Addendum", as the case may be). Any Addendum thus issued will be sent in writing to all those who have purchased the RFP document. In order to afford the Bidder, a reasonable time in which to take an Addendum into account, or for any other reason, OSHB may, at its discretion, extend the last due date for submitting the bid.

### 5.2.3 Declaration from the Bidders

The Bidders should along with their Bid also furnish to OSHB a declaration in the form of an affidavit specifying therein the following particulars, if applicable namely:

- i. Details of any conviction of the Bidder or where applicable, of its sister concerns, by a Court of Law under applicable law, or any indictment/adverse order by a regulatory authority;

- ii. Details of any conviction of the Bidder or its sister concerns with regard to any offence with regard to the security and integrity of the country;
- iii. Details of any proceedings/investigations pending in respect of (i) and/or (ii) above along with the names of the persons against whom such proceedings/investigations have been instituted/commenced; and
- iv. Details of any convictions/adverse orders as stated in (i) and (ii) above which may have been passed against the Director/Partner/Manager/Employee of the Bidder.

OSHB reserves the right to reject any Bidder based on the declaration provided above. The declaration should be a part of the Technical Bid.

### 5.3 Preparation and Submission of Bids

#### 5.3.1 Language

The Bid and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by Bidder with the Bid may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

#### 5.3.2 Currency

The currencies for the purpose of the Bid submission shall be the Indian Rupee (Rs).

### 5.4 Validity of Bids

Bidders, by submitting the Bid, agree that the Bid shall be valid for a period of 6 months from the Bid Due Date (the "Bid Validity Period"). OSHB reserves the right to reject any Bid, which does not meet this requirement.

### 5.5 Extension of Validity of Bids

In exceptional circumstances, prior to expiry of the original Bid Validity Period, OSHB may request Bidders to extend the Bid Validity Period for a specified additional period.

### 5.6 Format and Signing of Bids

The Bidder would provide all the information as per this RFP. OSHB would evaluate only those Bids that are received in the required format and complete in all respects. The Bidder shall prepare one original of the documents comprising the Bid and clearly marked "ORIGINAL". In addition, the Bidder shall make two (2) copies of the Bid, clearly marked "COPY". In the event of any discrepancy between the original and the copy, the original shall prevail. The Bid and its copy shall be typed or written in indelible ink and each page shall be initialled by the Bidder. All the alterations, omissions, additions, or any other amendments made to the Bid shall be initialled by the person (s) signing the Bid.

### 5.7 Sealing and Marking of Technical Bids

- (1) The Bidder shall seal the original and each copy of the Technical Bid in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope.

- (2) Each envelope shall contain:
  - (a) Covering letter stating clearly the validity of the Bid;
  - (b) Bid in the prescribed formats along with supporting documents;
- (3) The envelopes shall clearly bear the following identification - “Technical Bid: E-auction of the land for Development of an Integrated Residential -cum-Commercial Complex at Patrapada, Bhubaneswar, Odisha , India”.
- (4) The Bidder shall seal the original and each copy of the Commercial Offer in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer envelope.
- (5) The envelopes shall clearly bear the following identification - “Commercial Offer: Development of an Integrated Residential -cum-Commercial Complex at Patrapada,Bhubaneswar, Odisha, India”.
- (6) Both the sealed Envelopes for Technical and Commercial Bids shall be placed in another envelope and sealed. This envelope shall clearly bear the following identification - “Bid: Development of an Integrated Residential -cum-Commercial Complex at Patrapada, Bhubaneswar, Odisha, India”.
- (7) The envelope shall be addressed to:

To,  
 The Housing Commissioner-cum-Secretary,  
 Odisha State Housing Board (OSHB),  
 Sachivalaya Marg,  
 Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141  
 Fax No: +91 674 2393952,

- (8) If the envelope is not sealed and marked as instructed above, OSHB assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted.
- (9) Further, all copies of every Bid must be submitted in a bound form (spiral bound or any bound form) with all pages numbered serially, along with an index of submissions. In the event, any of the instructions mentioned herein have not been adhered to, OSHB may reject the Bid.

#### 5.8 Bid Due Date

The Bids should be submitted no later than 15.00 hours IST on **24.02.2021**, at the address provided in clause 5.7 (7) in the manner and form as detailed in this RFP. Bids submitted by either e-mail, facsimile transmission or telex would not be acceptable. Bids submitted after the time stated above will be rejected.

#### 5.9 OSHB may, in exceptional circumstances, and at its sole discretion, extend the

Bid Due Date by issuing an Addendum.

#### 5.10 Late Submissions

OSHB will not accept any Bid received by it after the Bid Due Date for any reason whatsoever.

#### 5.11 Modifications / Substitution / Withdrawal of Bids

- (1) The Bidder may modify, substitute, or withdraw its Bid after submission, provided that written notice of the modification, substitution, or withdrawal is received by OSHB by the Bid Due Date. No Bid shall be modified, substituted, or withdrawn by the Bidder after the Bid Due Date.
- (2) The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with clause 5.7 with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

#### 5.12 Evaluation of Bid

##### 5.12.1 Opening of Bids

- (1) OSHB would open the Technical Bids at 11.00 hours on **26.02.2021** for the purpose of evaluation. Bidders can depute their representatives to the office of the person mentioned in Clause 5.7 (7) for witnessing the opening of the Bids.
- (2) Bids for which an acceptable notice of withdrawal has been submitted in accordance with Clause 5.11 shall not be opened.
- (3) OSHB would subsequently examine and evaluate the bids in accordance with the criteria set out in Section 5 of the RFP.
- (4) OSHB reserves the right to reject any Bid if:
  - a. At any time, a material misrepresentation is made or uncovered; or
  - b. The Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Bids.

##### 5.12.2 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation in relation to the Bidders shall not be disclosed to any person not officially concerned with the process. OSHB will treat all information submitted as part of Bid in confidence and would require all those who have access to such material to treat the same in confidence. OSHB will not divulge any such information unless it is ordered to do so by any authority that has power under law to require its disclosure. OSHB however reserves the right to make public disclosure of the names of the Bidders.

##### 5.12.3 Tests of responsiveness

- (1) Prior to evaluation of Bids, OSHB will determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive if it:

- (a) Is received /deemed to be received by the Bid Due Date including any extension thereof pursuant to clauses 5.8 and 5.9;
  - (b) Is signed, sealed and marked as stipulated in clauses 5.6 and 5.7;
  - (c) Is accompanied by the Power of Attorney as specified in Clause 5.1.1;
  - (d) Contains all the information as requested in the RFP;
  - (e) Contains information in formats same as those specified in this RFP;
  - (f) Mentions the validity period as set out in Clause 5.4;
  - (g) Is accompanied by a copy of the receipt of purchase of the RFP document.
- (2) OSHB reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by OSHB in respect of such Bids.

#### 5.13 Clarifications

To facilitate evaluation of Bids, OSHB may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

#### 5.14 Selection / Short Listing and Notification

- 5.14.1 After the evaluation of the Technical Bids as per Article 6.2.5 of RFP Document, OSHB would announce a list of bidders who have been short listed. To the extent possible, the selected bidders will be notified in writing by OSHB not later than **08.03.2021**.

#### 5.15 GENERAL COMPLIANCE CRITERIA

1. The Bidding Company / all Consortium Members should be Eligible Entities;
2. In case of a Bidding Consortium,
  - i. The Lead Consortium Member (LCM) shall be that Consortium Member which is charged with the prime responsibility of developing the Project;
  - ii. The Lead Consortium Member shall commit to hold a minimum equity stake equal to 26% of total paid up equity capital of the joint venture company participating in the Project Company up to three years after Commercial Operation Date; and
  - iii. Each member of the Consortium, who are not the Lead Member, would be required to commit to hold a minimum equity stake equal to 10% in the total paid up equity capital of the joint venture company participating in the Project Company upto the Commercial Operation Date of the Project.

#### 5.16 Fees and Deposits to be paid by the Bidders



#### 5.16.1 Earnest Money Deposit

Bidders are required to submit a Demand Draft from any nationalised bank in India favouring “Orissa Housing Board Fund” payable at Bhubaneswar or through RTGS ( **Bank Name- Bank of Baroda, OGNB branch, Bhubaneswar, Current Account No- 78350200000330, IFSC code BARB0VJORIS**) for an amount of **Rs. 1,99,86,000=00 (Rupees One Crore Ninety Nine Lakhs Eighty six thousands)** only along with their Bid. Bids which are not accompanied by the Earnest Money Deposit shall be rejected by OSHB as “Non-Responsive”.

OSHB shall forfeit the Earnest Money Deposit under the following circumstances:

- a. If the Bidder revokes his Bid at any time during the stipulated period of bid validity as per Section 5.4 of Part I of the RFP (or during the extended period of the bid validity);
- b. If the Bidder, for the period of Bid validity:
  - i. does not comply with any of the terms and / or conditions contained in the RFP and / or subsequent communication from OSHB in this regard and / or what is contemplated; and/ or
  - ii. fails or refuses to execute the Letter of Intent (in the event of the award of the Project to them).

The Earnest Money Deposit of the Qualified Bidder shall be returned within one month of signing of the Development Agreement.

The Earnest Money Deposit of Bidders other than Qualified Bidder shall be returned within one month from the date of opening of Commercial Offer (Finalisation of E-Auction).

#### 5.16.2 Performance Security

The Developer has to submit a **Performance Security** of **5%** of the Quoted Bid Amount (through E Auction) in the form of Demand Draft or Bank Guarantee from a Nationalised bank before execution of the Development Agreement. Subject to clause 35 of the Draft Development Agreement and other contingencies if any, this Performance Security may be released by OSHB to the Selected Bidder on or after Commercial Operation Date.

#### 5.16.3 Application fees

Bidders are required to submit the application fees of INR 45,000.00(Non-refundable) + GST @ 18% in shape of Demand Draft from any Nationalised Bank drawn in favour of Orissa Housing Board Fund payable at Bhubaneswar along with submission of the proposal.

#### 5.16.4 Reserved Price-

The Reserved Price of the land is fixed at INR 66,62,00,000=00 (Rupees Sixty six crores sixty two lakhs) only. The bidder has to pay statutory taxes over and above his quoted bid amount as applicable from time to time. The bidder may refer the definition of tax at clause-1.1.45 of Draft Development Agreement. It is made clear that a bidder quoting less amount than the reserve price shall not be entertained.

#### 5.17 TIME TABLE AND MILESTONES – TENTATIVE SCHEDULE

<i>Milestones</i>	<i>Dates</i>
Issue of RFP Documents	27.01.2021
Site visit assisted by OSHB	27.01.2021 to 01.02.2021 (during office hours)
Last date for receipt of clarification to be addressed in the pre-bid conference	Up to 17.00Hours on 04.02.2021
Pre-bid conference*	On 09.02.2021 at 11.00 Hrs (OSHB Conference Hall)
Issue of Addendum, if required	15.02.2021
Last date for receipt of Bids*	Up to 15.00 Hours on 24.02.2021
Opening of Technical bids *	At 11.00 Hours on 26.02.2021 (OSHB Conference Hall)
Presentation by Bidders to the Evaluation Committee	At 11.00 hours on 04.03.2021
Short listing of Bidders by Evaluation Committee	By 08.03.2021
E-auction	At 11.00Hours to 17.00 hours on 15.03.2021

\*In case the dates as mentioned above are declared as a holiday, then the same will be received and opened on the following working day at the same time.

In order to enable OSHB meet the target dates, the Bidders are expected to respond expeditiously to clarifications, if any, requested during the evaluation process. OSHB shall adhere to the above schedule to the extent possible. OSHB, however, reserves the right to modify the same. Intimation to this effect shall be given to all the Bidders in writing.

## 6 SELECTION PROCESS

### 6.1 SELECTION PROCESS

The selection of the developer will be done as follows:

- Technical Bid – Evaluation of Technical & Financial Capability cum Evaluation of Technical Proposal.
- Commercial Offer – Evaluation of Commercial Offers.

### 6.2 TECHNICAL BID

The Technical Bid would require to be submitted in ONE sealed cover as indicated below:

- a) Technical and Financial Capability as stipulated in Cl: 6.2.1 & 6.2.2.
- b) Fund Raising Capability, Business Plan, Financing Plan, Marketing Plan, Concept Plan and Design.

#### 6.2.1 Technical and Managerial Capability and Relevant Past Experience (“Technical Capability”)

The Bidder should furnish the details of Technical Capability as per Form 4B.

The following categories of experience would qualify as Technical Capability and eligible experience:

Category 1: Development experience in Real estate Projects

Category 2: Engineering Procurement Construction (EPC), Lump-sum Turnkey (LSTK) and Item rate contracts experience in Real estate Projects

The Experience in each category, in terms of residential built-up area constructed shall be multiplied by the applicable factor in the Table below and then aggregated.

Factors for Experience across categories

	Factor
Category 1	1.00
Category 2	0.60

Bidders must have developed aggregate residential / commercial real estate of built-up area not less than 0.5 million sq. ft in the last 5 years.

Experience for any activity relating to a Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

### 6.2.2 Financial Capability

**As per the latest audited financial results as on Dt. 30.06.2020, the Bidders must have Tangible Net Worth, as per Indian Companies Act, not less than Rs.3000 Lacs.**

(For the purposes of this clause, the financial year would be the same as the one normally followed by the Bidder for its Annual Report).

The Bidder must submit details of its financial capability as per Form 4C. The Form 4C must be supported by a certificate from the Bidder's statutory auditor.

The Bidder must be accompanied by the audited balance sheet and profit and loss account of the Bidder for the last three (3) financial years along with IT returns.

### 6.2.3 Evaluation of Technical Proposal

The capability and strategy of the Bidder to finance develop and market the Project and the quality of concept plan and designs, shall be assessed at this stage. This evaluation shall consist of assessment of the following:

1. Project Financing and Implementation Capability
2. Business Plan Evaluation for the Project
  - a. Financing Plan
  - b. Marketing Plan
  - c. Concept Plan and Design

### 6.2.4 Consideration for Evaluation

The Bidding Company / Lead Consortium Member / Consortium Member or their Promoter / Affiliate / Subsidiary to be considered for any of the Capability criteria as per the following conditions:

- a) For a Bidding Company

For evaluation under the various capability criteria, either the strength of the Bidding Company or if it so prefers, the strength of any one Promoter / Affiliate / Subsidiary of the Bidding Company shall be considered as representing that of the Bidding Company. The Promoter / Affiliate / Subsidiary would also be required to be designated as per the formats.

- b) For a Bidding Consortium

It is intended that the Preferred Bidder should have a very well rounded capability for successful implementation of the Project. However, in the event that the Bidder does not have the same on his own merit, opportunity is given to bring together a consortium with the relevant strengths in accordance with Cl: 5.1.1 of Part I of the RFP.

The Technical and Financial Capability of the consortium would be taken as an arithmetic sum of the Technical and Financial Capabilities subject to the following terms and conditions:

Consortium would need to specify a Lead Consortium Member (LCM) for the Project;

The LCM would be required to commit to hold a minimum equity stake equal to 26% of total paid up equity capital of the joint venture company participating in the Project Company up to three years after Commercial Operation Date; and

Each member of the Consortium, who are not the Lead Member, the said members would be required to commit to hold a minimum equity stake equal to 10% in the total paid up equity capital of the joint venture company participating in the Project Company upto the Commercial Operation Date of the Project.

The consortium would need to specify a Lead Member for the project in accordance with the definition of Lead Member, as stated in Section 3.

The Lead Consortium Member would be required to:

- 1) Achieve a minimum of 50% of the Technical and Financial Capability on its own; and
- 2) Commit to hold a minimum equity stake equal to 26% of total paid up equity capital of the joint venture company participating in the Project Company up to three years from the Commercial Operation Date.

#### Qualification through Affiliates

Bidders may satisfy the Financial Capability and the Technical capability through the net worth or through the technical experience (as applicable) of one or more Affiliates. In either case, the ownership relationship between the Bidder and the Affiliate(s) must be explained.

#### Disqualification

Even if the Bidders meet the above criteria, they are subject to be disqualified if the Bidders, have:

- (1) Made, incorrect, misleading or false representations in the forms, statements and attachments submitted, whether intentionally or unintentionally; or
- (2) Been debarred by OSHB or GoO.

#### 6.2.5 Evaluation of Technical Proposal

The following scoring pattern will be adopted for evaluation of the Technical Proposal:

- |   |             |           |
|---|-------------|-----------|
| 1. Project Financing and Implementation Capability                                      | –           | 25 points |
| 2. Business Plan Evaluation   | –           | 40 points |
| Financing Plan  | (10 points) |           |
| Marketing Plan  | (10 points) |           |
| Concept Plan & Design   | (20 points) |           |
| 3. Presentation on the Project Finances and Implementation Capability, Financing Plan , |             |           |
| Marketing Plan and Concept Plan & Design  | –           | 35 points |

*Bidders securing a total score of 70 points and above would qualify for Commercial Offer evaluation( To participate in E-auction).*

#### 6.2.6 Mechanism for Evaluation

##### a. Project Financing and Implementation Capability (25 points)

Bidders who have successfully financed and implemented infrastructure projects having aggregate project cost in excess of Rs 8,000 Lacs over the past 5 years would be awarded the maximum 25 points. For the purpose of evaluation only those projects in which the Bidder has minimum 26% equity stake shall be considered.

Bidders who have successfully financed and implemented infrastructure projects having aggregate project cost lower than Rs. 8,000 Lacs would be awarded proportionately lower points. Bidders shall provide information relating to their experience in project financing and implementation of infrastructure projects as per format provided in Section 12 duly certified by a Chartered Accountant.

Illustration:

Bidder 1 has financed and implemented projects worth Rs. 12,000 Lacs

Bidder 2 has financed and implemented projects worth Rs. 8,000 Lacs

Bidder 3 has financed and implemented projects worth Rs. 4,000 Lacs

The scoring for the bidders would be as follows:

Bidder 1 – 25 points - Maximum

Bidder 2 – 25 points - Maximum

Bidder 3 – 12.50 points (4,000/8,000 X 25)

##### b. Business Plan Evaluation (40 points)

The Bidders should submit the Business Plan for the Project indicating the broad Project configuration, the Project structure, the financing plan and the marketing plan. The Business Plan shall be evaluated and the points will be awarded by the Evaluation Committee based on its suitability, innovativeness and uniqueness.

Bidders would be evaluated on the following parameters:

##### *Financing Plan (10 points)*

Bidders should submit a development plan indicating the phases of development and a detailed financing plan along with Project cost estimates and means of financing that they propose for funding the Project. Further the bidders would be required to

submit adequate supporting documents (comfort letter from banks / financial institutions for financing the Project debt requirements, equity commitment letters, etc.) to demonstrate the ability of the bidding company / consortium to raise the funds required to finance the Project.

The financing plan will be examined by the Evaluation Committee and the financial advisors of OSHB to assess the capability of the bidder to raise the funds required for financing the Project. The Evaluation Committee shall award points based on their assessment of the financing plan. Bidders shall provide information relating to their financing plan as per format provided in Section 12.

*Marketing Plan (10 points)*

Bidders should submit a detailed marketing plan listing the strategy to be adopted to market the Project effectively. The marketing plan should document the pricing strategy to be adopted. The marketing strategy should clearly identify the clientele to be targeted and the approach that shall be adopted to sell the Project as a concept to the potential occupants. Besides, the marketing plan should be synchronised with the development plan in order to ensure parallel progress of the two activities.

*Concept Plan & Design (20 points)*

The concept plans and designs submitted by the Bidders would be evaluated by the Evaluation Committee and the points would be awarded by the panel keeping in mind various aspects of the plan like area utilization, Project configuration, adherence to the local development authority norms, innovative features, etc.

c. Presentation on the Project Finances and Implementation Capability, Financing Plan, Marketing Plan and Concept Plan & Design (35 points)

*Presentation by Bidders to the Evaluation Committee*

After the Technical Bids are opened, the bidders will be required to make a presentation before the Evaluation Committee. The Technical Evaluation of the bidders would be based on the Technical bid submitted AND the presentation to the Evaluation Committee. The presentation should cover the following aspects:

- Key strengths of the bidder
- Financial, technical and marketing capability of the bidder
- Concept plans and designs
- Indicative development plan along with key facilities and amenities proposed
- Development time frame for implementation of the Project
- Strategy to be adopted for development and marketing of the Project
- Manner in which the Project would improve commercial/residential infrastructure in the city/State
- Other unique features of the Project that the bidder would like to highlight

### 6.2.7 Assumption for Currency Conversion

For evaluation of the Bid the exchange rate considered for foreign currencies would be taken as 1 USD = Rs. 72.

### 6.2.8 Qualification Criteria

The maximum score that can be received in the technical capability criteria is 100. Bidders having total score of 70 points and above would qualify for the Commercial Offer evaluation stage.

## 6.3 COMMERCIAL OFFER

The Commercial Offer shall be submitted through E-auction Process. Only the technically qualified Bidders shall be allowed to participate in E-Auction Process.

### 6.3.1 Evaluation of Commercial Offer

The Bidder quoting the highest Quoted Bid Amount shall be the “Preferred Bidder”. Bidder’s quoting the 2<sup>nd</sup> highest and 3<sup>rd</sup> highest Quoted Bid Amount shall be the “Other Preferred Bidders”.

### 6.3.2 Objective of Commercial Offer Evaluation

The Commercial Offer evaluation criterion seeks to identify the entity offering the Highest commercial terms to OSHB in implementation of the Project.

### 6.3.3 Commercial offer: Evaluation Criteria

The Commercial Offers considered for evaluation shall be ranked in the order of Quoted Bid Amount offered to OSHB. The Qualified Bidder offering the highest Quoted Bid Amount as part of its Commercial Offer shall be declared the Preferred Bidder. In case Agreements are not concluded with the Preferred Bidder, the next highest ranked Bidder would be considered. OSHB will retain the right within the above broad framework to make modifications and apply uniformly to all Bidders.

In case the Commercial Offers of two or more bidders are found to be equal, the bidders shall be ranked in the order of their technical capability criteria scores, (i.e.) the bidder with the higher technical capability criteria score shall be ranked higher than the bidder with the lower technical capability criteria score.

### 6.3.4 Undertaking for Commercial Offer

The undertaking for Commercial Offers are to be submitted strictly in the formats provided in [Section 13](#) of Part I of the RFP, without any modifications, supplementary information or



conditions. OSHB reserves the right to reject conditional commercial offers. If any information is required by OSHB, the Bidders shall provide the same within a stipulated time period, failing which OSHB may treat such information as not submitted for evaluation.

#### 6.3.5 E-Auction Process

- i. The eligible bidders as finalized in Technical Evaluation(Technically Qualified), shall be allowed to participate in E-Auction.
- ii. Mandatory Requirement
  - The applicant must have a valid Permanent Account Number (PAN) of the Income Tax Department.
  - The bidder must have a (DSC) Digital Signature Certificate of Class-II or Class-III. Without DSC, bidders will not be able to participate in the auction.

*Note:*

*Interested applicants are requested to take early step for obtaining DSC to avoid last minute rush / dislocation.*
- iii. Other Requirement and Process:
  - The bidders are required to get registered online in the e-auction portal with Class-III or Class-II Digital signature and keep themselves ready for the e-auction.
  - The applicants who had already registered may renew their registration within time to participate in the e-auction. Registration charge(s) and Auction participation charge(s) are to be done/ paid through online payment mode only.

The bidder who quotes the highest Upfront Lease Premium shall be declared as the “Preferred bidder”.
- iv. The bidding parameter for selection of the Preferred Bidder, subject to other Qualification Criteria and eligibility criteria being met, would be the Highest Upfront Lease Premium (ULP) to be quoted by the Bidder (in INR) in the E-Auction.
- v. The bidding will be conducted in Indian Rupees (INR) only. The bid will trigger off from reserve price.
- vi. Incremental value: Incremental Value for this auction is Rs.1,00,000/- (Rupees One Lakhs) only. Minimum Bid increment shall be available to the Bidders at the start of the auction. The bidder can bid higher than the Highest Bid (H1 Price) at any point of time in the auction by multiples of the minimum Bid increment. The minimum incremental value shall be displayed against each property on the bidding screen of all participating bidders. The

software will not accept any bid other than the multiple of incremental value.

vii. H1 Price: It is the highest value placed in the bid at any point of time during the auction for the property. It will be visible to all the bidders on the screen and the bidders can bid an amount of “H1 price + (plus) incremental value or in multiples of incremental value” only.

viii. Auto Auction extension of the Closing time.

(a) Auto Extension: if any bidder submits the bid less than 5 minutes prior to Auction closing time, the system will automatically extend the auction closing time by 10 minutes.

*For Example: If the auction is closing at 17:00 Hrs and if any bidder bids between 16:55 and 17:00 , the auto auction extension will extend the auction closing time to 17:10 and if any bidder bids between 17:05 and 17:10, it will be extended to 17:20 and so on.*

(b) Unlimited Auto auction extension: As indicated above, if the bidder bids within the last 5 minutes of the auction closing time, the Auto Auction extension will continue to extend the Auction time till no bid is received within the last 5 minutes of the auction closing time.

ix. Auto Bid: The Auto Bid feature allows Bidders to place an Automated Maximum Bid in an auction and bid without having to enter a new amount each time a competing Bidder submits a higher offer. Bidders are supposed to quote their next highest price in confirmation to the incremental value and in multiples of thereof only. There is no restriction on changing of the Auto Max Bid/value. But once Auto Max Bid/value is clicked and freezed, the same cannot be withdrawn at any point of time during the auction period. However, if the auction is cancelled and new auction dates are announced, the earlier Auto Max Bid/value shall have no relevance. After fixing his highest limit, the manual Bid button will be disabled. The system will automatically bid on his behalf, based on the auction's H1 price. His bidding dashboard will show his Rank, the H1 price and the highest bid ongoing in the auction. Until his auto-bid amount is not reached (in the H1 price box) for a particular property in the e-auction, the manual Bid button on his screen will remain disabled. Once his auto bid amount reaches or crosses the Auto Max Bid/value amount, then he will have to bid manually otherwise the bidder may opt for auto bid again by setting a new maximum bid amount.

x. Max multiples of increment value allowed per bid: bidder can quote the next H1 price up to current H1 price + (plus) the maximum allowed multiple of incremental value.

For these auction Max Multiples of increment value allowed is 10 Times of the incremental value.

E.g.: Reserve price=62,00,000, increment value 1,00,000, max multiple of increment

allowed = 10 times i.e. Rs.10,00,000/-

If Current H1 value = 68,00,000 maximum next bid can be = 78,00,000 i.e. 68,00,000  
(current H1) + 1,00,000 (increment value) x 10 (max multiple of increment))

- xi. Preferred Bidder: At the end of the forward auction, OSHB shall decide upon the winner based on the highest bid placed for the plot of land(s) under auction and subsequent acceptance by OSHB. In this regard, the decision of “Chairman, OSHB” shall be final & binding on all the bidders.

#### 6.3.6 HIGHLIGHTS OF E-AUCTION

- i. E-auction portal Registration: The bidder(s) are required to get registered online in the e-auction portal with Class III or Class II Digital signature (refer DSC Manual for details and support) and keep themselves ready for the e-auction.
- ii. Any qualified bidder can participate in the E-auction through the e-auction portal for the land.
- iii. Online forward auction bidding shall commence at 11:00 hr on Dt. **15.03.2021** and continue till 17:00 hr on **15/03/2021**, with auto extension facility as per conditions mentioned.
- iv. Applicants who have qualified during technical evaluation, can start bidding in the online forward auction from the bid start price (Reserve price) onwards only. Hence, the first online bid that comes in the system during the online forward auction shall be Reserve Price.
- v. Then onwards, bidding shall have to be higher by at least one incremental value than the H1 (Current Highest bidder) rate as quoted and displayed on screen or higher than the H1 rate/price by multiples of the incremental value.
- vi. Bidders will be able to view the following on their screen along with the necessary fields in the forward auction.
  - Opening bid start price & minimum Increment Value.
  - Leading (highest) Bid in the e-Auction.
  - Bidder himself is H1.

- vii. Bids once made by a Bidder, cannot be cancelled / withdrawn by the Bidder and the Bidder shall be bound by the bid quoted, failing which the Earnest Money will be forfeited.
- viii. The Bidder must read the terms and conditions of the e-Auction very carefully for participating in bidding process.
- ix. OSHB reserves rights to cancel the highest bid in any condition; whatsoever. The Notice for such cancellation shall be duly notified on the e-Auction portal.
- x. OSHB reserves the right to modify/ amend the terms and conditions and intimate the same prior to commencement of e-Auction or while the auction is in progress.
- xi. OSHB reserves the right to postpone the date of auction due to technical issues. In such an event, all the applicants/ bidders will be intimated by e-mail and this will be advertised in the newspapers.
- xii. TRAINING: Interested Bidder can avail the training (online and offline) by a request mail/contacting the auction support team (details are given below) before the start of Auction period of bidding.

*Mail id:*            [eauctionbhubaneswar@gmail.com](mailto:eauctionbhubaneswar@gmail.com)

*Contact:-*

Support desk No- 08040482100 and 9686115304

Mr. Satamanyu, Mob No. 09937140591

- xiii. MANUALS: Auction manual shall be made available in the Web site.  
[www.tenderwizard.com/OSHB](http://www.tenderwizard.com/OSHB) under Manual

## 7 PROCEDURES TO BE FOLLOWED

### 7.1 Enquiries & Clarifications

Enquiries, if any, should be addressed to:

To,

The Housing Commissioner-cum-Secretary,

Orissa State Housing Board (OSHB),

Sachivalaya Marg,

Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

OSHB shall aggregate all requests for clarifications received from Bidders by the due date stated in Section 5.2.1, without specifying the source of such request(s), and shall prepare a consolidated response as appropriate, which shall be distributed to all short-listed Bidders.

### 7.2 Checklist

Bidders are required to arrange their documents forming part of their Bid in the following order.

Technical Bid	<ol style="list-style-type: none"> <li>1. Covering Letter as per the format specified in Section 8 of Part I of the RFP, along with a duly stamped original Power of Attorney authorising the authorised representative and signatory to act on behalf of the Bidder.</li> <li>2. Description of the Bidder as per the format specified in <a href="#">Section 11</a> of Part I of the RFP.</li> <li>3. Affidavit as described in Clause no. 5.2.3</li> <li>4. Letter of Acceptance as per the format specified in Section 9 of Part I of the RFP, from each of the Consortium Members in case the Bidder is a Bidding Consortium.</li> <li>5. Letters of Commitment as per the format specified in Section 10 of Part I of the RFP, from each of the entities (which may be Promoter or Affiliate or Subsidiary of the Bidding Company or of the Lead Consortium Member), the strengths of which are desired to be considered for the purpose of evaluation.</li> <li>6. Earnest Money Deposit to be paid by the bidder as per clause no. 5.16.1 of Part I of the RFP along with Application Fees as per Clause 5.16.3 of RFP-I.</li> <li>7. Project Financing and Implementation Capability as per the format specified in <a href="#">Section 12</a> of Part I of the RFP.</li> <li>8. Business Plan <ol style="list-style-type: none"> <li>a. Financing Plan as per the format specified in <a href="#">Section 12</a> of Part I of the RFP.</li> <li>b. Marketing Plan.</li> <li>c. Concept Plan &amp; Design.</li> </ol> </li> </ol>
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The Bidder can submit the Bid by registered post / speed post / courier , ( no drop box facility is available for submission of sealed cover Bid and hand delivery of Bid is not allowed . However prototypes / models if any may be submitted physically) so as to reach the under mentioned address by the time and date stipulated in the RFP. Bids received after the due date and time shall not be accepted.

To,  
The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141  
Fax No: +91 674 2393952

Each Bid shall indicate that it is a firm and irrevocable offer, and shall remain valid and open for a period of not less than six (6) months from the last date for submission of the Bid as indicated in the RFP. Non-adherence to this requirement may be a ground for declaring the Bid as “Non-responsive”. However, OSHB may solicit the Bidder’s consent for extension of the period of validity. The request and response shall be in writing. A Bidder accepting OSHB’s request for extension of validity shall not be permitted to modify his Bid in any other respect.

## 8 FORMAT OF THE COVERING LETTER

*(The covering letter is to be submitted by the Bidder on appropriate company letterhead)*

Date:

Place:

To,

The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

Dear Sir,

Sub: Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India.

Please find enclosed one (1) original + two (2) copies of our Stage-1 Technical Bid in respect of the Selection of Developer through E-auction process for development of an Integrated Residential - cum-Commercial Complex at Bhubaneswar, Orissa, India, in response to the *Request for Proposal* ("RFP") Document issued by the OSHB dated \_\_\_\_\_.

We hereby confirm the following:

1. The Bid is being submitted by \_\_\_\_\_ (*name of the Bidding Company/Lead Consortium Member*) who is the Bidding Company / the Lead Consortium Member of the Bidding Consortium comprising \_\_\_\_\_ (*mention the names of the entities who are the Consortium Members*), in accordance with the conditions stipulated in the RFP. (In case of a Bidding Consortium) Our Bid includes the Letter(s) of Acceptance in the format specified in the RFP, and the MoU (as per the principles stated in the RFP) between, \_\_\_\_\_ (*mention names of the entities that are the Consortium Members*), who are the Consortium Member(s) as per the conditions stipulated in the RFP.
2. We have examined in detail and have understood the terms and conditions stipulated in the RFP issued by OSHB and in any subsequent communication sent by OSHB. We agree and undertake to abide by all these terms and conditions. Our Bid is consistent with all the requirements of submission as stated in the RFP or in any of the subsequent communications from OSHB.
3. We desire / do not desire (*Please strike out* \_\_\_\_\_ *whichever is not applicable*) to get credited

- for the financial strength of our Promoter or Affiliate or Subsidiary.
4. We desire / do not desire (Please strike out whichever is not applicable) to get credited for the technical strength of our Promoter or Affiliate or Subsidiary.
  5. \_\_\_\_\_ (*mention name(s) of the entities that are Promoter(s) / Affiliate(s) / Subsidiary(ies)*), is/are the Promoter(s) / Affiliate(s) / Subsidiary(ies) as per the conditions stipulated in the RFP, of \_\_\_\_\_ (*mention name(s) of the Bidding Company / respective Consortium Members whose Promoter(s) / Affiliate(s) / Subsidiary(ies) have been listed above and cite relationship thereof*).
  6. The information submitted in our Bid is complete, is strictly as per the requirements as stipulated in the RFP, and is correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our Bid.
  7. \_\_\_\_\_ (*mention the names of the entities who are the Consortium Members*), \_\_\_\_\_ (*mention name(s) of the entities that are Promoter(s)/Affiliate(s)/Subsidiary(ies)*), satisfy the legal requirements laid down in the RFP.
  8. We as the Bidding Company / Lead Consortium Member (Please strike out whichever is not applicable), designate Mr./Ms. \_\_\_\_\_ (*mention name, designation, contact address, phone no., fax no., E-mail id, etc.*), as our Authorised Representative and Signatory who is authorised to perform all tasks including, but not limited to providing information, responding to enquiries, entering into contractual commitments etc. on behalf of us in respect of the Project.
  9. A Power of Attorney from the Bidding Company/Lead Consortium Member authorising the undersigned as the Authorised Representative, Signatory and Contact Person who is authorised to perform all tasks including, but not limited to providing information, responding to enquiries, entering into contractual commitments on behalf of the Bidder, etc., in respect of the Project is included as a part of the Proposal.
  10. Our Bid is a firm and irrevocable offer and shall remain valid until \_\_\_\_\_. We agree to reasonably consider any request from OSHB to extend further the validity period beyond this date.

For and on behalf of :  
Signature :

(Authorised Representative and Signatory)

Name of the Person :  
Designation :

List of Enclosures :



## 9 FORMAT OF LETTER OF ACCEPTANCE

*(The Letter of Acceptance is to be submitted by EACH Consortium Member of the Bidding Consortium on appropriate company letterhead)*

Date:

Place:

To,  
The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

Dear Sir,

Sub: Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India.

This has reference to the Stage-1 Technical Bid being submitted by \_\_\_\_\_ *(mention the Lead Consortium Member of the Bidding Consortium)*, as Lead Consortium Member of the Bidding Consortium comprising \_\_\_\_\_ *(mention name(s) of the Consortium Members)* in respect of the Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India in response to the *Request for Proposal* ("RFP") Document issued by the OSHB dated \_\_\_\_\_.

We hereby confirm the following:

1. We \_\_\_\_\_ *(name of the Consortium Members furnishing the Letter of Acceptance)*, have examined in detail and have understood and satisfied ourselves regarding the contents including in respect of the following :

The RFP issued by OSHB;

All subsequent communications between OSHB and the Bidder, represented by \_\_\_\_\_ *(Mention name of the Lead Consortium Member)*;

The principles of the MoU to be signed between / among

\_\_\_\_\_ (*names of the Consortium Members*), as members of  
the Bidding Consortium; and  
The Bid being submitted by \_\_\_\_\_ (*name of the Lead Consortium Member*).

2. We authorise \_\_\_\_\_ (*name of the Lead Consortium Member*), as the Lead Consortium Member and authorise the same to perform all tasks including, but not limited to providing information, responding to enquiries on behalf of the consortium, in respect of this Project.
3. The acts done / performed, understanding arrived at , decision taken and /or dispute finalised by the Lead Member shall be final and binding to all consortium member in all respects.

For and on behalf of :  
Signature :

(Authorised Representative and Signatory)

Name of the Person :  
Designation :

## 10 FORMAT OF THE LETTER OF COMMITMENT

*(The Letter of Commitment is to be submitted by EACH Promoter or Affiliate or Subsidiary of the Bidding Company / Lead Consortium Member of the Bidding Consortium whose strengths are desired to be considered for purpose of the evaluation of the Minimum Eligibility Criteria of the RFP, on appropriate company letterhead)*

Date:

Place:

To,  
The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

Dear Sir,

Sub: Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India.

This has reference to the Stage 1 Technical Bid being submitted by \_\_\_\_\_ (*mention the Lead Consortium Member of the Bidding Consortium*), as Lead Consortium Member of the Bidding Consortium comprising \_\_\_\_\_ (*mention name(s) of the Consortium Members*) in respect of the Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India in response to the Request for Proposal ("RFP") Document issued by the OSHB dated \_\_\_\_\_.

We hereby confirm the following:

1. We \_\_\_\_\_ (*name of Promoter/Affiliate/Subsidiary*), have examined in detail and have understood and satisfied ourselves regarding the contents mainly in respect of the following  
:

The Request for Proposal (RFP) Document issued by OSHB;

All subsequent communications between OSHB and the Bidder, represented by

\_\_\_\_\_ (name of the Bidding Company or of the Lead Consortium Member in case of a Bidding Consortium);

(applicable only for a Bidding Consortium) The principles of the MoU to be signed in the

Second Stage among the Consortium Members; and

The Bid being submitted by \_\_\_\_\_ (name of the Bidding Company or of the Lead Consortium Member in case of a Bidding Consortium).

2. We have satisfied ourselves regarding our role as \_\_\_\_\_ (here give a brief description of the role) in the Project as specified in the Bid. If \_\_\_\_\_ (name of the Bidding Company / Bidding Consortium) is awarded the Project we shall perform our role as outlined in the Bid to the best of our abilities.
3. The nature of our legal relationship with the Bidding Company / Consortium Members of the Bidding Consortium is specified in the Bid, as per the requirements stated in the RFP.
4. We undertake to support \_\_\_\_\_ (name of the Bidding Company / Consortium Members, for which the Letter of Commitment is being furnished) in respect of the roles \_\_\_\_\_ (briefly define the roles of the Bidding Company / respective Consortium Members) as detailed in the Bid being submitted by \_\_\_\_\_ (name of the Bidding company or of the Lead Consortium Member in case of a Bidding Consortium).
5. We (in case of Promoter(s), Affiliate(s), Subsidiary(ies), whose strengths are desired to be credited for evaluation of Minimum Eligibility Criteria) also agree that after the submission of the Bid, we shall not change our role/ stakes in a way that violates the selection. In any case, if any change is proposed in a Promoter of the Bidding Company / Lead Consortium Member after submission of the RFP, we agree to secure a prior approval of OSHB.
6. We therefore request OSHB to consider our strengths, our experience, and our track record as specified in the RFP pursuant to the conditions specified in the RFP, for the purposes of evaluation.

For and on behalf of :

Signature :

(Authorised Signatory of respective Promoter / Affiliate / Subsidiary)

Name of the Person :

Designation :

## 11 DESCRIPTION OF THE BIDDER

### 11.1 FOR A BIDDING COMPANY

Name of the Bidding Company	
Nature of the Bidding Company	(Whether the Bidding Company is a Corporation, Partnership, Trust etc.)

### 11.2 FOR A BIDDING CONSORTIUM

Name of the Lead Consortium Member	
Nature of the Lead Consortium Member	(Whether the Lead Consortium Member is a Corporation, Partnership, Trust etc.)

Sr. No.	Name of the Consortium Member	Nature of the Consortium Member	Proposed % Equity contribution into the Project	Role in the Bidding Consortium

## 12 INFORMATION SUBMISSION FOR CAPABILITY EVALUATION

### 12.1 FORMATS FOR SUBMISSION OF INFORMATION ON PROJECT FINANCING AND IMPLEMENTATION CAPABILITY TO BE CERTIFIED BY CHARTERED ACCOUNTANT

Please use one table for each project.

Name of Project	
Total Project Cost	
Project Financing Structure <ul style="list-style-type: none"> <li>- Equity Investment</li> <li>- Debt Raised</li> <li>- Other (please specify)</li> </ul>	
Year of Project Completion	
Banks/ FIs from which Funds were Raised	
Brief Description of the Project	
Stake of Entity being Evaluated in Company for which Funds were Raised	

### 12.2 FORMAT FOR INFORMATION ON FINANCING PLAN

Estimated Project Cost			
Proposed Debt-Equity Ratio			
Proposed Financing Plan <ul style="list-style-type: none"> <li>- Equity</li> <li>- Debt</li> <li>- Internal Accruals</li> </ul>			
Proposed List of Equity Investors			
Proposed List of Banks/ Financial Institutions for Securing Debt			
Details of Supporting Documents from Investors/ Banks/ FIs for Securing Debt and Equity	Equity/ Debt	Amount (in Rs.)	Supporting Document Provided

## 13 UNDERTAKING OF COMMERCIAL OFFER

(On appropriate company letterhead)

Date:

Place:

To,

The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

Dear Sir,

Sub: Selection of Developer through E-auction process for development of an Integrated Residential cum Commercial Complex at Bhubaneswar, Orissa, India.

Please find enclosed our undertaking Commercial Offer in respect of the Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India in response to the *Request for Proposal* ("RFP") Document issued by the OSHB dated \_\_\_\_\_.

We hereby confirm the following payment mechanism for the above Quoted Bid Amount:

1. We hereby confirm that we shall abide the Quoted Amount during the E-auction process.
2. We confirm that an upfront payment of 25% of Quoted Bid Amount ( Instalment I) and Performance Security of 5% of Quoted Bid Amount is to be paid to OSHB prior to execution of the Development Agreement.
3. We confirm that the balance 75% of the Quoted Bid Amount is to be paid to OSHB as per the following schedule :
4. (A) We will pay 25 % of the Quoted Bid Amount (Instalment II) to OSHB on or before 365 days from the Effective Date (Date of signing of Development Agreement). Along with this payment of 25 % of the Quoted Bid Amount (Instalment II) we will also submit bank guarantee including interest charges thereon, for a period of two years, for the outstanding 50% of the Quoted Bid Amount. This bank guarantee will be valid for a period of two years from this date. We will pay this 50% of the outstanding Quoted Bid Amount within two years from this date along with interest till date of payment.

We confirm that an interest of SBI MCLR rate (in percentage) + 2% per annum compounded monthly will be levied on all outstanding Quoted Bid Amount at any particular time from 365

days of the Effective Date.

OR

(B) We will pay remaining unpaid 75% of the Quoted Bid Amount to OSHB within 365 days from the Effective Date.

We confirm that an interest of SBI MCLR rate (in percentage) + 2% per annum compounded monthly will be levied on all outstanding Quoted Bid Amount from 365 days from the Effective Date.

5. We understand that this offer of Quoted Bid Amount in e-auction will be incorporated in the Development Agreement to be signed between OSHB and the Developer.
6. We confirm that we have the option of prepayment of balance Quoted Bid Amount in part or full. The interest charged would be on outstanding balance and till the date of payment.
7. We agree that in case any variance in the area is found at the time of handing over possession, the balance Quoted Bid Amount offered by us shall be adjusted on pro-rata basis.
8. We also understand that in addition to the Quoted Bid Amount, we shall provide other considerations as per the terms and conditions of the Agreements.
9. We also understand that the final selection is solely based on the Quoted Bid Amount and as such our offer shall be incorporated without any changes whatsoever in the Development Agreement to be signed between OSHB and the Developer.
10. We also understand that our offer for Quoted Bid Amount and other considerations to be made to OSHB are key obligations under the Agreements.

For and on behalf of

:

Signature

:

(Authorised Representative and Signatory)

Name of the Person

:

Designation

:



## 14 FORMAT OF BANK GUARANTEE FOR PERFORMANCE SECURITY

From:

[Name of the Bank, and its Branch Address]

To:

Orissa State Housing Board,  
Sachivalaya Marg,  
Bhubaneswar - 751 001,  
Orissa.

A. ....(the “Company”) has bid for the development of an Integrated Residential-cum-Commercial Complex in Bhubaneswar, Orissa, India (hereinafter referred to as “the Project”) and has been selected as the Preferred Bidder and has been intimated through the Letter of Intent vide letter no. .... dated ..... (“the LoI”) issued by Orissa State Housing Board (“OSHB”).

B. .... is required to fulfill the Conditions Precedent in accordance with the Development Agreement (the “Agreement”) to be executed between it and OSHB for the Project.

C. As per the terms of Clause 5.16.2 of the Request For Proposal (Part I) document issued by OSHB, the Company is required to furnish to OSHB an unconditional & irrevocable Bank Guarantee for an amount of Rs. .... only (Indian Rupees .....Only) as Performance Security .

D. The outstanding Quoted Bid Amount is to be paid as per the Development Agreement signed between OSHB & the Company as per Clause 18.1. (a) of the Request For Proposal (Part II) document issued by OSHB.

E. [Name of the Bank] (the “Guarantor”) has agreed to give OSHB the above mentioned guarantee on the terms set out herein.

### Guarantee

1. We, [Name of Bank] (the “Guarantor”) with its registered office at [Address of the Bank], guarantee to pay OSHB upon first written demand and without any deduction any sum claimed by OSHB upto a maximum of Rs. .... only (Indian Rupees ..... Only) (the “Guaranteed Sum”) subject to the conditions set out below.

2. OSHB shall make a demand no greater than the sum equivalent to the obligation amount of the Company.

3. The copy of the demand by OSHB has been sent to the Company.

4. The Guarantor irrevocably promises to pay upon the receipt of a written demand from OSHB, which shall be final and conclusive as against the Guarantor requiring the Guarantor to make the payment to OSHB.

5. This guarantee is valid and effective from .....and shall remain in full force and effect for .....months thereafter. This Guarantee shall be valid and effective up to [Date of validity of the Bank Guarantee] for enabling OSHB to lodge a claim for payment under the Guarantee till the date of expiry of the term of the Guarantee.

6. However, the Guarantee shall be released earlier by OSHB to the Company;

a. Upon payment of the total outstanding Quoted Bid Amount equivalent to the Guaranteed Sum by the Company to OSHB; or

7. The Guarantor agrees that its obligation to pay any demand made by OSHB before the expiry of this Guarantee will continue until the amount demanded has been paid in full. However, if OSHB does not make written demand within specified period, the Guarantor will be discharged from all its obligations at the expiry of the Guarantee.

8. The Guarantor agrees that it will not assign its obligations under this Guarantee without the prior written consent of OSHB. OSHB will not unreasonably withhold its consent if the proposed assignee is of at least equal financial standing to the Guarantor and the assignee assumes in writing the obligations of the Guarantor under this Guarantee at the same time or before the assignment.

9. This Guarantee binds the Guarantor, its successors and permitted assigns.

10. The Guarantor has power to issue this Guarantee and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under \_\_\_\_\_.

11. Our liability under this Bank Guarantee shall not exceed Rs. -----.

12. This Bank Guarantees shall be valid up to Dt.-----.

13. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only against the written claim or demand on or before Dt.-----.

Seal of the Guarantor:

Name of the Guarantor:

Signature:

Name:

Title:

Date:

## 15 FORMAT OF BANK GUARANTEE FOR OUTSTANDING QUOTED BID AMOUNT

From:

[Name of the Bank, and its Branch Address]

To:

Orissa State Housing Board,  
Sachivalaya Marg,  
Bhubaneswar - 751 001,  
Orissa.

A. ....(the “Company”) has bid for the development of an Integrated Residential-cum-Commercial Complex in Bhubaneswar, Orissa, India (hereinafter referred to as “the Project”) and has been selected as the Preferred Bidder and has been intimated through the Letter of Intent vide letter no. .... dated ..... (“the LoI”) issued by Orissa State Housing Board (“OSHB”).

B. .... is required to fulfill the Conditions Precedent in accordance with the Development Agreement (the “Agreement”) to be executed between it and OSHB for the Project.

C. As per the terms of Clause 18.1.a of the Request For Proposal (Part II) document issued by OSHB, the Company is required to furnish to OSHB an unconditional & irrevocable Bank Guarantee for an amount of Rs. .... only (Indian Rupees .....Only) towards outstanding quoted bid amount.

D. The outstanding Quoted Bid Amount is to be paid as per the Development Agreement signed between OSHB & the Company as per Clause 18.1. (a) of the Request For Proposal (Part II) document issued by OSHB.

E. [Name of the Bank] (the “Guarantor”) has agreed to give OSHB the above mentioned guarantee on the terms set out herein.

### Guarantee

1. We, [Name of Bank] (the “Guarantor”) with its registered office at [Address of the Bank], guarantee to pay OSHB upon first written demand and without any deduction any sum claimed by OSHB upto a maximum of Rs. .... only (Indian Rupees ..... Only) (the “Guaranteed Sum”) subject to the conditions set out below.

2. OSHB shall make a demand no greater than the sum equivalent to the obligation amount of the Company.

3. The copy of the demand by OSHB has been sent to the Company.

4. The Guarantor irrevocably promises to pay upon the receipt of a written demand from OSHB, which shall be final and conclusive as against the Guarantor requiring the Guarantor to make the payment to OSHB.

5. This guarantee is valid and effective from .....and shall remain in full

force and effect for .....months thereafter. This Guarantee shall be valid and effective upto [Date of validity of the Bank Guarantee] for enabling OSHB to lodge a claim for payment under the Guarantee till the date of expiry of the term of the Guarantee.

6. However, the Guarantee shall be released earlier by OSHB to the Company;

a. Upon payment of the total outstanding Quoted Bid Amount equivalent to the Guaranteed Sum by the Company to OSHB; or

7. The Guarantor agrees that its obligation to pay any demand made by OSHB before the expiry of this Guarantee will continue until the amount demanded has been paid in full. However, if OSHB does not make written demand within specified period, the Guarantor will be discharged from all its obligations at the expiry of the Guarantee.

8. The Guarantor agrees that it will not assign its obligations under this Guarantee without the prior written consent of OSHB. OSHB will not unreasonably withhold its consent if the proposed assignee is of at least equal financial standing to the Guarantor and the assignee assumes in writing the obligations of the Guarantor under this Guarantee at the same time or before the assignment.

9. This Guarantee binds the Guarantor, its successors and permitted assigns.

10. The Guarantor has power to issue this Guarantee and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under \_\_\_\_\_.

11. Our liability under this Bank Guarantee shall not exceed Rs. -----.

12. This Bank Guarantees shall be valid up to Dt.-----.

13. We are liable to pay the guaranteed amount or any part thereof under this Bank Guarantee only and only against the written claim or demand on or before Dt.-----.

Seal of the Guarantor:

Name of the Guarantor:

Signature:

Name:

Title:

Date:

<b>16 FORMATS FOR ASSESSING BIDDERS CAPABILITY</b>
--

**FORM 4A**

## Details of Applicant

1.
  - (a) Name
  - (b) Country of incorporation
  - (c) Address of the corporate headquarters and its branch office(s), if any, in India
  - (d) Date of incorporation and/or commencement of business
  
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project.
  
3. Details of individual (s) who will serve as the point of contact / communication within the Company:
  - (a) Name :
  - (b) Designation :
  - (c) Company :
  - (d) Address :
  - (e) Telephone Number :
  - (f) E-Mail Address :
  - (g) Fax Number :
  
4. Name, Designation, Address and Phone Numbers of Authorised Signatory of the Applicant:
  - (a) Name :
  - (b) Designation :
  - (c) Address :
  - (d) Phone No. :
  - (e) Fax No. :
  - (f) E-mail :
  
5. Organisation chart and details of key personnel in the organisation including in-house engineers, architects, etc

**FORM 4B**

Technical and Managerial Capability and Relevant Past Experience (“Technical Capability”)

To,  
The Housing Commissioner-cum-Secretary,  
Orissa State Housing Board (OSHB),  
Sachivalaya Marg,  
Bhubaneswar 751 001, Orissa, India.

Tel. No: +91 674 2393524, +91 674 2390141

Fax No: +91 674 2393952

Dear Sir,

Sub: Selection of Developer through E-auction process for development of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India - Technical Bid.

We meet the Technical and Managerial Capability and Relevant Past Experience (“Technical Capability”) requirements as per the RFP on account of the following project(s):

Development of Residential Real Estate

Project Name	Project Description	Area Developed (Sq. ft)	Project Cost (Rs mn)	Year of Completion

Development of Commercial Real Estate

Project Name	Project Description	Area Developed (Sq. ft)	Project Cost (Rs mn)	Year of Completion

Signature of Company Secretary  
(Please also affix company seal)

Date;

*Note: Please specify details of whether and how the above criteria are being met through Affiliates. The above response sheet should be signed and certified as true by the Company Secretary of the Applicant*

**FORM 4C**

Financial Capability of the Applicant  
(Equivalent Rs Lacs)

[This should be provided through the certificate of the Statutory Auditor/Chartered Accountant with membership number of the Applicant]

Dear Sir,

Sub: Selection of Developer for development through E-auction process of an Integrated Residential -cum-Commercial Complex at Bhubaneswar, Orissa, India - Technical Bid.

We certify that the Applicant has a net worth of Rs. ---- Lacs as per the latest audited balance sheet. This net worth has been calculated as per the instructions provided in the RFP.

For the above calculations, we have considered the following companies:

Name of Company	Relationship with Applicant	Net Worth of Company

*Signature and Seal of Statutory Auditor/Chartered Accountant with membership number*

Dated:

*Along with the above auditors certificate, in a separate sheet, please specify details of whether and how the above criteria is being met through Affiliates*

Instructions:

1. Net Worth = (Subscribed and Paid-up Equity Capital + Free Reserves) — (revaluation reserves + Miscellaneous expenditure not written off)
2. Please enclose the audited annual reports for last three years of each of the companies whose net worth has been used for meeting the net worth mentioned above.

## 17 FORMAT FOR POWER OF ATTORNEY FOR SIGNING OF APPLICATION

### Power of Attorney

Know all men by these presents, We.....(name and address of the registered office) do hereby constitute, appoint and authorise Mr / Ms.....(name and residential address) who is presently employed with us and holding the position of ..... as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the project envisaging Selection of Developer for development of an Integrated Residential - cum-Commercial Complex at Bhubaneswar, Orissa, India. ("The Project"), including signing and submission of all documents and providing information / responses to OSHB, representing us in all matters before OSHB, and generally dealing with OSHB in all matters in connection with our bid for the said Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us. Accordingly for all consequential acts done / performed , understanding arrived at , decisions taken and /or disputes finalised including financial aspect, we shall be held responsible for and all act(s) done by him irrespective of its consequences.

For \_\_\_\_\_

Accepted

(signature)

(Name, Title and Address of the Attorney)

Note:

(1) To be executed by all the members in case of a Consortium.

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.



<p style="text-align: center;"><b>18 FORMAT FOR POWER OF ATTORNEY FOR LEAD MEMBER(S) OF CONSORTIUM</b></p>
--

Power Of Attorney

WHEREAS, ORISSA STATE HOUSING BOARD(OSHB) HAS INVITED APPLICATIONS FROM INTERESTED PARTIES FOR THE DEVELOPMENT OF AN INTEGRATED RESIDENTIAL -CUM-COMMERCIAL COMPLEX AT BHUBANESWAR, ORISSA IN THE COUNTRY OF INDIA ("THE PROJECT").

Whereas, the members of the Consortium are interested in bidding for the Project and implementing the Project in accordance with the terms and conditions of the Request for Proposal Document (RFP document) and other connected documents in respect of the Project, and

Whereas, it is necessary under the RFP document for the members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project

NOW THIS POWER OF ATTORNEY WITNESSETH THAT;

We, M/s. \_\_\_\_\_, M/s \_\_\_\_\_ and M/s \_\_\_\_\_ (the respective names and addresses of the registered office) do hereby designate M/s \_\_\_\_\_ being one of the members of the Consortium, as the Lead Member of the Consortium, to do on behalf of the Consortium, all or any of the acts, deeds or things necessary or incidental to the Consortium's bid for the Project, including submission of application / proposal, participating in conferences, responding to queries, submission of information / documents and generally to represent the Consortium in all its dealings with OSHB, any other Government Agency or any person, in connection with the Project until culmination of the process of bidding and thereafter till the execution of relevant project documents as mandated by the RFP documents with OSHB.

We hereby agree to ratify all acts, deeds and things lawfully done by the Lead Member pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/Consortium. Accordingly for all consequential acts done / performed , understanding arrived at , decisions taken and /or disputes finalised including financial aspect, we shall be held responsible for and all act(s) done by him irrespective of its consequences.

Dated this the .....Day of .....2021

.....

(Executants)

(To be executed by all the members of the Consortium)

Note:

- (1) The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.

## 19 PRINCIPLES OF THE MEMORANDUM OF UNDERSTANDING TO BE EXECUTED BETWEEN THE MEMBERS OF THE CONSORTIUM

*(To be executed on appropriate value of Non-Judicial Stamp paper as per Stamp Act prevailing in the State of Orissa)*

In case of a Bidding Consortium, the principles based on which the Memorandum of Understanding (MoU) shall be executed between/among the Consortium Members, are stated below;

1. The MoU should clearly specify the roles and responsibilities of each of the Consortium members, along with their proposed equity contribution. It is expected that the individual members have role definitions not conflicting with those of the other Consortium Members.
2. The MoU should clearly designate one of the Consortium Member as the Lead Member. The Lead Member shall necessarily make the maximum equity contribution in the Project Company, and this equity contribution shall not be less than 26% of the total equity in the Project Company, which shall not be diluted for at least three years from the date of start of commercial operations.
3. The Consortium Member assessed for technical Capability shall necessarily make equity contribution in the Project Company, and this equity contribution shall not be less than 10% of the total equity and the Member so evaluated would have to hold at least 10% in the Project Company, which shall not be diluted till the completion of the construction period.
4. The Lead Member shall be responsible for;
  - a. Tying up finances for the Project:
    - i. ensuring the equity contribution by each of the Consortium Member, and in the event of a default, make good such contribution, subject to the condition that the Consortium should still be able to attain the minimum technical & financial criteria, as laid down in the RFP without considering the defaulting consortium member.
    - ii. undertaking primary responsibility for liasoning with the lending institutions and mobilising debt resources for the Project.
  - b. Ensuring the individual and collective commitment of each of the Consortium Members in honoring the Project Company's obligations. The Lead Consortium Member would be overall responsible for the execution of the Project. All Consortium

Members shall be jointly and severally liable for the same.

5. The MoU should be duly signed by each of the Consortium Members.
6. The MoU should be executed on an appropriate stamp paper.
7. The MoU should be specific to this Project.
8. The MoU should be valid for a minimum thirty six months from the last date for submission of the Request for Qualification. The validity period of the MoU should be extendible on the original terms, if required by OSHB.

Part-II

Draft Development Agreement

*Between*

*Odisha State Housing Board*

And

-----

For

Development of an Integrated Residential -cum-  
Commercial Complex over Ac 06.589 patch of  
land at Patrapada, Bhubaneswar

On Dtd -----

## DEVELOPMENT AGREEMENT

This Development Agreement is made on .....th day of .....2021 at  
Bhubaneswar. ("Agreement")

BETWEEN

ODISHA STATE HOUSING BOARD established under the Orissa State Housing Board Act, 1968 , having its office at Sachivalaya Marg, Bhubaneswar-751001 (hereinafter referred to as "OSHB", which expression shall include its successors and permitted assigns) of the one part;

AND

----- The Developer having its registered office at -----  
----- (hereinafter referred to as  
the "Developer" which expression shall, where context so admits, be deemed to include its  
successor or successors and permitted assign or assigns) of the other part.

WHEREAS -

- (A) OSHB entered into the lease deed bearing No 6303 & 2766 dated 9.06.2008 & 18.03.2008...respectively (Ac 05.039+Ac01.550=Ac 06.589). with Govt. of Orissa in Revenue and Disaster Management Department for leasing out the land described in Schedule '2 ' on the terms and conditions attached there-to (which forms part of this Development Agreement), to develop an integrated residential project over the said land, either directly or through public private partnership (PPP) basis by selecting the developer through E-auction of land.
- (B) OSHB invited proposals from prospective bidders for development of Integrated Residential -cum-Commercial Complex at Bhubaneswar on PPP basis through the competitive bidding route and selected the Developer, through E-auction basis , as the Preferred Bidder for the development of Project on PPP basis consequent upon and subsequent to directions of Hon'ble Supreme Court in W.P(C) No.(s) 940/2017( Bikram Chatarjee & others Vs. Union of India & others) , dated 14.10.2019 ;
- (C) OSHB vide its letter No.----- /OSHB dated -----, awarded the development of the Project to the Developer which has been duly accepted by the Developer;
- (D) OSHB is executing this Development Agreement subject to terms & conditions specified in clause 3.3 A & B and schedule 1(Development Milestone) of the Development Agreement
- (E) The agreement contains 52 numbered pages including the cover page.

NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:-

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement (including the recitals above and the Schedules and Exhibits hereto), except where the context otherwise requires, the following words and expressions shall have the following meanings, namely:-

1.1.1. "Agreement Date" means the date of execution of this Agreement;

1.1.2. "Applicable Law" means and includes all applicable statutes, enactments, Acts of state legislature or Parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Governmental Authority, Statutory Authority, Tribunal, Board, Court or recognised stock exchange, as may be applicable ;

1.1.3. "Approvals" means all approvals, permissions, authorisations, consents and notifications from any Governmental Authority, whether Central or State Government, Regulatory and/or departmental authority including, but not limited to, the approvals of the Department of Company Affairs, Foreign Investment Promotion Board, Secretariat for Industrial Assistance, Reserve Bank of India and any other authority, as may be applicable ;

1.1.4. "OSHB indemnified Party" shall have the meaning ascribed to it in Article 27;

1.1.5. "Built up Project Area" means that portion of the total Project area on which the Developer can build up in accordance with the provisions of Article 6;

1.1.6. "Business Day" means a day, except Saturdays and Sundays, on which banks are generally open for business in the city of Bhubaneswar, Orissa, India;

1.1.7. "Charges" means (a) all amounts payable by the Tenants to the Developer at any time and from time to time pursuant to any sub-lease granted by the Developer to such Tenant or (b) all amounts payable by the Tenants to the Developer at any time and from time to time for the Services rendered or made available by the Developer to such Tenant and/or (c) all amounts payable at any time and from time to time by any other Person who utilises the Services, to the Developer ;

1.1.8. "Commercial Operations Date" means the date on which the Occupancy Certificate is issued by the Competent Authority(s).

1.1.9. "Conditions Precedent" means the conditions set out in Article 22;

1.1.10. " Company Grace Period " is equal to 365 days;

1.1.11. "Contractor" means any Person appointed by the Developer for the provision of any services with respect to the construction and/or development of the Project and includes a Sub-Concessionaire;

1.1.12. "Development Milestone(s)" means the minimum parameters, standards and targets to be achieved by the Developer in the construction and development of the Project in accordance with sound engineering practices, and more specifically set forth in Schedule 1 ;

1.1.13. "Development Milestone Date(s)" means the date on or before which the Developer must achieve or satisfy the Development Milestones, which has been more specifically set forth in Schedule 1;



1.1.14. "Development Mix" shall have the meaning assigned to it in Article 6.1;

1.1.15. "Effective Date" Effective Date shall mean the Agreement Date;

1.1.16. "Engineer Default" means a default on the part of the Independent Engineer under the terms of the Engineering Contract;

1.1.17. "Expert" shall mean a person with recognized expertise of Internationally accepted standards in relation to the matter and whose selection and remuneration shall be jointly decided by the Arbitrators under Article 32. If the Parties fail to decide on an Expert, then the matter shall be referred to the office of Institution of Engineers located at New Delhi, India, which is the largest multi-disciplinary engineering professional society;

**1.1.18 "FAR" means Floor Area Ratio allowable in accordance with the prevailing (Planning and Building Standards) of the Competent Planning Authority.**

1.1.19. "Force Majeure" shall have the meaning ascribed to it in Article 28;

1.1.20. "GOO" means Government of Odisha;

1.1.21. "GOO Lease" i.e. Principal Lease shall have the meaning ascribed to it under Article 26.2 (g);

1.1.22. "Governmental Authority" means any government or political subdivision thereof; any department, agency or instrumentality of any government or political subdivision thereof; any court or arbitral tribunal;

1.1.23. "Independent Engineer" means the Person appointed by the Developer from amongst the panel of three Independent reputed and qualified Entities, in consultation with OSHB pursuant to Article 14, for the determination whether the Developer has successfully achieved the Development Milestones, as applicable ;

1.1.24. "Lease Deed" shall have the meaning ascribed to it in Article 18.1;

1.1.25. "Leased Land" shall have the meaning ascribed to it in Article 18.1 and schedule 2;

1.1.26. "Maintenance Standards" shall mean the development and maintenance standard set out in Schedule 3 ;

1.1.27. "Open Land or Open Area" means open space as defined in the relevant clause of the prevailing Bhubaneswar Development Authority (Planning and Building Standards) Regulations-2018, as amended from time to time and adopted by BMC and any further conditions, if any, specified by BMC.

1.1.28. "PAPs" means project affected persons who may have been displaced from the Demised Land;

1.1.29. Performance Security shall mean **5%** of Quoted Bid Amount in the form of Demand Draft or a Bank Guarantee from a Nationalised bank to be paid by the Developer before execution of the Development Agreement as defined in section 5.16.2 of Part I of the RFP.

1.1.30. "Person" means any natural person, firm, company, Governmental Authority, joint venture, partnership, association or other entity (whether or not having a separate legal personality) ;

1.1.31. "Progress Report" means the report to be submitted by the Developer to OSHB, in the format specified in the Schedule 4, substantially setting out in reasonable detail the progress made in achieving the Development Milestones in the last preceding Quarter to which such report pertains ;

1.1.32. "Project" means the development of the Integrated Residential cum Comercial Complex over Ac. 06.589 of land in Mouza Patrapada under Bhubaneswar Tahasil. Khurda , Orissa as described in detail in Schedule 2 and on the terms of this Agreement between the Developer and OSHB ;

1.1.33. "Project Area" means the Leased Land within which the Project has to be developed;

1.1.34. "Project Commencement Date" shall mean the date of obtaining registration from ORERA;

1.1.35. "Quarter" means a period of 3 (three) calendar months commencing on the first day of the month immediately after the Effective Date and each subsequent period of 3 (three) calendar months till the expiry of the Term ;

1.1.36. "Quoted Bid Amount" shall mean the auctioned amount quoted by the Bidder in the E-auction process;

1.1.37. "Regulations" means prevailing Bhubaneswar Development Authority/Bhubaneswar Municipal Corporation (Planning & Building Standards) Regulations/ORERA regulations , as amended from time to time;

1.1.38. "Rs" or "INR" means Indian Rupees being the lawful currency of the Republic of India;

1.1.39. "Security Interest" means any existing or future mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other encumbrances of any kind securing or conferring any priority of payment in respect of any obligation of any Person and includes without limitation any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security in each case under any Applicable Law ;

1.1.40. "Services" means provision of Infrastructure Services such as internal roads, street lighting, sewerage, drainage, power supply back up and distribution of water supply within the Project Area;

1.1.41. "SPV" means Special Purpose Vehicle . Where the Preferred Bidder is single entity , it may be required to form a appropriate special purpose vehicle incorporated under the Indian Companies Act to execute the agreement ( s) and implement the project.

1.1.42 "Sub-Lease Deed(s)" shall have the meaning ascribed to it in clause 17;

1.1.43. "Sub-Concessionaire" means any Person who has agreed to provide any Services under legally binding agreement(s) between the Developer and such Person and shall include sub- Sub-Concessionaires;

1.1.44. " Substitute Party " means any competent party chosen by the Company and agreed to by OSHB which may takeover the assets created or provided by the Company on terms and conditions specified in the Development Agreement which includes the Lender (s) providing credit facility to the Company , upon payment of compensation;

1.1.45 "Taxation" or "Tax" means all forms of taxation whether direct or indirect, GST and whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or other reference and statutory, governmental, state, provincial, local governmental or municipal impositions, duties, contributions, rates and levies (without limitation to social security contributions and any other payroll taxes), whenever and wherever imposed (whether imposed by way of a withholding or deduction for or on account of tax or otherwise) and in respect of any person and all penalties, charges, costs and interest relating to it ;

1.1.46. "Tenants" means those Persons who have entered into a Sub-Lease Deed with the Developer for use/occupation of a portion of the built up Project Area and shall include tenants of the subsequent sub-lessors under the deed executed between the sub-lessors and its sub sub-lessee ;

1.1.47. "Term" means a period of 90 (Ninety years) years from Dt.18.04.2004 i.e the date of execution of lease deed with Govt. of Odisha.

1.1.48. "Third Party Agreements" means all agreements entered into between the Developer and third Persons, including, but not limited, to the Sub-Lease Deed and other agreements with Contractors, sub-contractors, and vendors of any goods or services to the Developer.

1.2 In this Agreement unless the context requires otherwise:-

- (a) reference to the singular includes a reference to the plural and vice versa, and reference to any gender includes a reference to all other genders ;
- (b) reference to an individual shall include his legal representative, successor, legal heir, executor and administrator ;
- (c) reference to statutory provisions shall be construed as meaning and including references also to any amendment or re-enactment (whether before or after the Agreement Date) for the time being in force and to all statutory instruments or orders made pursuant to statutory provisions ;
- (d) references to any statute or regulation made using a commonly used abbreviation, shall be construed as a reference to the short title of the statute or full title of the regulation ;
- (e) references to any Article, Schedule, Annexure or Exhibit shall be deemed to be a reference to such Article, Schedule, Annexure or Exhibit of or to this Agreement ;
- (f) reference in a provision of this Agreement to any approval of any Party required under another provision of this Agreement shall be deemed to have expired or terminated if the second provision has expired or terminated ; and

- (g) the Article headings used in this Agreement are intended for convenience only and shall not be deemed to supersede or modify any provisions of the Agreement.

- 1.3 The Exhibits, Annexures and Schedules to this Agreement shall form an integral part of this Agreement including the RFP.

## 2. TERM

- 2.1 This Agreement shall be valid for a period of 90 (Ninety) years from Dt. 18.04.2004, if not extended as per Article 24 of this Agreement.

## 3. PROJECT SCOPE

- 3.1 OSHB proposes to develop an integrated Residential -cum-Commercial complex with modern amenities and facilities at Bhubaneswar. The Project is aimed towards meeting the growing need for quality housing space in Bhubaneswar. OSHB has identified a strategic area spread over an area of around Ac. 06.589 for the project. The Project site is located in Mouza Patrapada under Bhubaneswar Tahasil. Khurda Orissa .
- 3.2 The objective of this project is to provide quality residential along with associated complementary commercial facilities. With this over arching objective, the Project is expected to provide the following minimum facilities:
  - a. Residential Built-up Space (minimum  $2/3^{\text{rd}}$  of the built-up area);
  - b. Commercial Built-up Space (maximum  $1/3^{\text{rd}}$  of the built-up area) including a Shopping complex which can serve the daily requirements of the residents;

- c. EWS (Economically Weaker Section)/LIG(Low Income Group) - **EWS & LIG units will be taken up as per prevailing BDA Planning & Building Standards Regulation**
- d. MIG( Middle Income Group) and HIG (High Income Group) category of flats:  
The size, sale price and number of such flats will be decided by the Developer.
- e. Entertainment Centres, Food Courts, etc.
- f. Uninterrupted quality power supply, water supply, internal roads and such other services required for the Project;
- g. Landscaping, Garden, Parks, Water bodies, Community centers; and
- h. High quality round the clock facility management and maintenance services.

3.3 ( A) The various activities to be carried out by the Developer after execution of this Development Agreement shall be:-

- (a) Project conceptualisation, design, planning, processing and obtaining statutory permission , approval and clearances ;
- (b) Survey , subsoil exploration and investigation ;

(B) The various activities to be carried out by the Developer after execution of the Lease Deed shall be:-

- a) Raising finances for the Project as required;
- b) Development of the Project including services and amenities as may be required within the project area ;
- c) Development of necessary infrastructure such as internal roads, street lighting, sewerage, drainage, etc;
- d) Development of linkages with external infrastructure at the Project boundary required for the Project like electricity supply, water supply, waste water and solid waste disposal and rain water harvesting;
- e) Development of social amenities as may be required;

- f) Marketing the Project ;
- g) Operation, maintenance and management of the Project; and
- h) Any other activities that may be required for the successful development of the Project.

#### 4. GENERAL OBLIGATIONS OF THE DEVELOPER

- 4.1 The Developer shall obtain (or cause its agents, contractors and sub-contractors to obtain) all the permissions required to carry out the construction activity. The Developer shall comply with all applicable law including the rules and regulations laid down by statutory or other authorities with respect to development and sub-lease of units in the Project area;
- 4.2 The Developer shall achieve the Effective Date and will commence the Project within **sixty** days of obtaining all approvals;
- 4.3 The Developer shall comply with the Development Milestones;
- 4.4 The Developer shall develop and maintain the Project as per the standards specified in Schedule 3 of this Agreement or as may be agreed between the Parties;
- 4.5 The Developer shall submit quarterly reports comprising the process for meeting the Development Milestones, marketing, operation and maintenance of the Project to OSHB in the form as at Schedule-4 **or as per ORERA format** ;
- 4.6 The Developer may employ third parties (including agents, contractors and sub-contractors) for the construction phase but shall be fully and exclusively responsible for all acts, omissions, deeds and things of such persons. Such employment shall not absolve the Developer of any of its obligations and liabilities (express or implied) under the Agreement, it being further clarified that any payments or sums to be paid to such third parties or any compliance with any Applicable Law shall be the sole responsibility of the Developer. In no way, OSHB will be liable for any statutory liability under any Act including but not limited to the Employees Provident Fund Act, Employees State Insurance Act, Minimum Wages Act etc. in respect of the employees, agents, workers engaged by the Developer, it's Agents and Sub-lessees/Sub-concessionaires ;
- 4.7 The Developer shall be solely responsible for the development of the Project and for all costs and expenses incurred by it in connection therewith. The Developer and other third parties contracted or employed by them shall be solely responsible for directing and supervising the activities of all persons involved in the implementation of the Project;

- 4.8 The Developer will be responsible for internal infrastructure linkages required for the Project like road, electricity supply, water supply, waste water and solid waste disposal and storm water drainage. OSHB will facilitate for the provisions with respective Government department and agencies at no cost to itself and it shall be the responsibility of the Developer to fulfil any monetary or other compliances as may be required by such Government Department and Agencies ;
- 4.9 The Developer shall ensure that no damage is caused to any property belonging to OSHB in the execution of the construction activity;
- 4.10 The Developer shall allow the Independent Engineer and OSHB's nominated persons clear access to the Project site and all its facilities during the pre-construction, and construction period. Access to OSHB's nominated person shall be allowed by the Developer during post-construction operation period on written request and during reasonable hours;
- 4.11 The Developer shall be solely responsible for marketing the Built-up Project Area and shall bear all the costs associated with the marketing activity;
- 4.12 The Developer shall be solely responsible for the security of its assets in the Project area at its own cost;
- 4.13 The Developer shall be responsible for the security of the Project land from the Effective Date and shall ensure that there are no encroachments on the entire area allocated for the proposed complex;
- 4.14 The Developer shall be responsible for payment of all statutory taxes including GST, duties in respect of the Project land and the assets built over the same to the appropriate authority including OSHB from the Effective Date; and
- 4.15 The Developer shall be responsible for the operations, management and maintenance of the Project.

## 5. RIGHTS OF THE DEVELOPER

5.1 The Developer shall have the following rights under this agreement, namely:-

- (a) To plan and design the Project including the facilities and the amenities;
- (b) To build and develop the Project as per the approved development mix set out in Article-6 ;
- (c) To grant sub-leases in respect of portions of the Built-up Project area in terms of Article 17 of this Agreement;



- (d) To market the Built-up Project Area and appropriate the proceeds;
- (e) To operate, maintain and manage the Project;
- (f) To provide and maintain the Services within the Project Area and to levy, collect and appropriate the user charges;
- (g) To mortgage, hypothecate its right, title, interest in the land or the assets built-over it for securing financial assistance required for the development of the Project after execution of the Lease Deed as specified in clause 18.1 , Part II of RFP ; and
- (h) To engage Agencies or Facility providers for providing any of the services required for construction, operation, management and maintenance of the Project.

6. APPROVED DEVELOPMENT MIX

- 6.1 The Developer shall not use the Open land in the Project for construction of any building. The Developer shall be required to develop the Project area based on the following approved development mix ("Development Mix") :-

Sr. No.	Land Use	Area
1.	Total Project Area	Ac. 06.589
2.	Open Area	As per BDA/BMC norms
3.	Covered Area	As per BDA/BMC norms
4.	FAR on Total Project Area	As per BDA/BMC norms
6	Maximum Permissible Built-up Area	As per BDA/BMC norms
7	Built-up Residential Space	(minimum 2/3rd of the total built-up area)
8	Built-up Commercial Space	(maximum 1/3 <sup>rd</sup> of the total built-up area)

- 6.2 Non-adherence to the above mentioned Development Mix shall be deemed as an event of default.

6.3 Deleted

6.4 Deleted

6.5 Deleted

6.6 Deleted

## 7. CONSTRUCTION AND DEVELOPMENT OF THE PROJECT

7.1 The Developer shall construct and develop the Project and do all such acts, deeds and things as may be necessary and expedient for that purpose and the Developer shall -

- (a) Obtain or cause its agents, Contractors and sub-contractors to obtain all the approvals required to carry out the construction of the Project in accordance with Applicable Law. OSHB will facilitate in the process of getting such approvals;
- (b) either itself or through Contractors appointed in accordance with the terms of this Agreement, procure at its own risk all services necessary for the construction and development of the Project including electricity, water, materials and labour; and
- (c) provide the services and shall bear and pay the entire costs and expenses with regard to all such acts, deeds and things as stated in (a) and (b) above.

7.2 The Developer shall furnish to ORERA/OSHB and to the Independent Engineer the Progress Report within 15 (fifteen) Business Days after the expiry of each Quarter.

7.3 In the event of any delay in execution of the project as per development phasing/mile stone submitted to ORERA, any penalty if imposed by ORERA/ any court of law / any complaint from the allottees for such delay / deviation from approved plan of BDA/BMC/ any statutory authorities, the developer will be solely held responsible before the appropriate authority for such lapses.

8. MARKETING OF THE PROJECT

- 8.1 The Developer shall be solely responsible for the marketing of the Built-up Project Area to potential Tenants and shall make its best endeavours in this regard. The Developer shall undertake all marketing activities in this regard at its own costs and expenses. OSHB agrees to provide marketing support to the Developer on a best-effort basis, including participating in marketing road shows to be organised by and at the cost of the Developer.

9. OPERATION & MAINTENANCE OF THE PROJECT

- 9.1 The Developer shall operate and maintain the Project as per the maintenance standards defined in Schedule 3 of this Agreement and shall for that purpose do all such acts, deeds and things necessary and expedient including, without limitation, the following:-

- (a) obtaining or causing its agents, contractors and sub-contractors to obtain all the Approvals required for the operation and maintenance of the Project and the Services in accordance with Applicable Law;
- (b) provision and maintenance of the Services within the Project Area to the Tenants on terms and conditions to be mutually agreed between the Tenants and the Developer, and in accordance with the terms and conditions that may be agreed to between the Developer and such Sub-Concessionaires ;
- (c) provision and maintenance of the Services within the Project Area including ensuring security and safety of the constructions of the Project as a whole and ;
- (d) the determination, levying and timely collection of the Charges.

10. DEVELOPMENT MILESTONES

- 10.1 The Developer shall be responsible for achievement of the Development Milestone within the time frame stipulated in Schedule 1 of this Agreement;
- 10.2 The Developer shall necessarily have to develop a minimum of  $\frac{2}{3}$ <sup>rd</sup> of the total built-up space as residential space. The remaining  $\frac{1}{3}$ <sup>rd</sup> shall be permitted to be developed as either residential or commercial. The Developer will achieve this ratio at the end of the development. However, at no stages, the non-residential area will exceed the residential area.

11. INSURANCE COVERAGE

11.1 The Developer shall at its cost and expense, purchase and maintain such insurance as are necessary, including but not limited to the following:

11.1.1 Builders' all risk insurance;

11.1.2 Workmen's compensation insurance; and

11.1.3 Any other insurance that may be necessary to protect the Developer, its employees and its assets against loss, damage or destruction at replacement value including all Force Majeure events (as defined) those are insurable.

## 12. THIRD PARTY AGREEMENTS

12.1 The Developer shall ensure that the terms of any Third Party Agreements which it may enter into shall be in conformity with the terms and conditions of this Agreement and undertakes that in the event of any conflict or inconsistency between such Third Party Agreements on the one hand and this Agreement the provisions of the latter shall prevail. The Developer further undertakes that the terms and conditions as may, in the reasonable opinion of the Developer, be necessary to ensure that the Third Party is required to perform his part of the contract(s) in conformity with the Developer's obligations under this Agreement, shall be incorporated in the Third Party Agreements.

## 13. OSHB'S OBLIGATIONS

13.1 Transfer of land as outlined in Schedule 2 of this Agreement to the Developer within thirty days of the Developer paying OSHB 50% of Quoted Bid Amount in two equal instalments within 365 days of the agreement date , Bank Guarantee for outstanding 50% Quoted Bid Amount , Performance Security of **5%** of Quoted Bid Amount and execution of the Development Agreement.

OR

Transfer of land as outlined in Schedule 2 of this Agreement to the Developer within thirty days of the Developer paying OSHB 100% of Quoted Bid Amount in two instalments within 365 days of the agreement date as outlined in clause 18.1.

## 14. INDEPENDENT ENGINEER

- 14.1 Within 3 months of execution of Agreement the Developer shall submit a panel consisting of at least three independent, reputed, and qualified entities to OSHB for appointment as Independent Engineer. OSHB will select one entity, which will be appointed as Independent Engineer by the Developer. The fees, remuneration and all incidental expenses of the Independent Engineer shall be borne by the Developer;
- 14.2 The role of the Independent Engineer would be to oversee the implementation of the Project by the Developer, to determine whether the Development Milestone has been met, and whether deviations, if any, are material from the agreed Development Milestone and the approved plans, designs and drawings have been made. The Independent Engineer shall be required to inspect and submit **quarterly** reports to OSHB directly.
- 14.3 Information and access to facilities, designs, drawings, survey reports, samples etc., shall be provided to the Independent Engineer by the Developer as would be necessary for such determination; and
- 14.4 If OSHB has reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, OSHB may seek termination of the appointment of the Independent Engineer which will be immediately acted upon by the Developer and a new Independent Engineer shall be appointed in accordance with the provisions mentioned in preceding paragraph.

## 15. LEASE

- 15.1 The Developer shall pay following annual charges in respect of Leased Land to OSHB subject to revision by the concerned authority/GOO and shall be intimated to the Developer from time to time:

Sr. No.	Charges	Amount per annum
a.	Annual Ground Rent	As Applicable
b.	Cess @ 75% of Annual Ground Rent subject to modification made time to time	As Applicable
c.	Any other taxes , fees , premium if any levied by Govt. ( central and state), instrumentality of the Govt. / Statutory/ Local bodies and etc imposed / to be imposed time to time for the land and the construction thereon	As Applicable

- 15.2 The Developer shall pay directly to the concerned authorities all charges for the consumption of electricity, water etc. and shall also pay all other statutory charges in respect of assets, built over the Leased Land to the concerned Authorities
- 15.3 The Developer shall not use the property for any purpose other than the purpose specified under this Agreement.
- 15.4 The Developer will take possession of the property on "as it is" condition and no further demand for any development such as earth filling, raising the level etc. shall be entertained. Any other improvement or development is purely the responsibility of the Developer;
- 15.5 If the dues payable to OSHB by the Developer or any other statutory charges or other charges which are the responsibility of the Developer or any part thereof shall at any time remain arrears and unpaid for three calendar months after the date on which the same shall have become due whether the same shall have been lawfully demanded or not, it will be deemed as an Event of Default and appropriate actions as per Articles 33, 34 and 35 shall be followed;
- 15.6 All instalments and other dues payable by the Developer shall be recoverable as a public demand under the Orissa Public Demand Recovery Act, 1962;
- 15.7 OSHB reserves the right to the mineral wealth including minor minerals on, in or under the area covered by the lease and the Developer will have the surface rights over the land. The rights of the GOO and the OSHB to the public, roads and paths bounding the Leased Lands are in no way affected by the lease;
- 15.8 The Developer shall duly comply with the provisions of the Environment Protection Act, the rules made there under as also with any condition which may from time to time be imposed by the Orissa State Pollution Control Board as regards collection, treatment and disposal or discharge of effluents or waste or other wise how so ever and shall indemnify and keep indemnified OSHB against the consequence of any breach or non compliance of any such provisions or conditions as aforesaid;
- 15.9 The Developer shall not keep on the designated land any horses, cattle, poultry or other animals nor do or permit to do anything thereon which may be nuisance, annoyance or disturbance to OSHB occupiers or resident of other premises in the vicinity; and
- 15.10 All cost and expenses for preparation, execution and registration of this Agreement including stamp duty will be borne and paid by the Developer.

## 16. SUB-CONCESSION

16.1 The Developer may fulfil its obligation to construct and market the Project by granting sub-concessions to third parties;

16.2 All sub-concessions granted by the Developer to third parties and long term commercial agreements entered into by the Developer with third parties shall not be inconsistent with the terms and conditions of this Agreement, and shall terminate on termination of this Agreement;

16.3 The Developer shall:-

- (a) Ensure that the sub-concessions are granted on an arm's length basis;
- (b) Ensure that the assets created and/or constructed pursuant to the sub-concession vest in OSHB upon expiry/ termination of this Agreement;
- (c) Ensure that the sub-concessionaire perform their obligations in the same manner that the Developer is required to perform their obligations under this Agreement;
- (d) Deliver copies of all contracts with sub-concessionaires to OSHB within 30 days of execution;
- (e) Unless otherwise agreed to by OSHB, OSHB shall not be liable for any costs whatsoever in relation to such sub-concessions and long-term commercial agreements entered into by the Developer with third parties as a result of the expiry or termination of this Agreement; and
- (f) Be liable for all acts of the sub-concessionaries and to ensure that there is no change in the end-use by the sub-concessionaires.

## 17. SUB-LEASES

17.1 The Developer shall be entitled to grant sub-leases in respect of portions of the built up Project area in favour of Tenants in order to fulfil its obligations pursuant to this Agreement and to develop, operate and maintain the Project.

Provided that all such sub-leases shall be by way of Sub-Lease Deed.

Provided further that all such Sub-Lease Deeds shall be in conformity with the terms and conditions of this Agreement and shall include provisions to the effect that in the event of a conflict (direct or indirect) between the provisions of this Agreement in one hand and the Sub-Lease Deed on the other, the provisions of this Agreement (as the case may be) shall prevail and such Sub-Lease Deed shall stand modified to that extent.

- 17.2 The aforesaid sub-leases shall not be for a period longer than the Term of this Agreement.
- 17.3 The Developer agrees, undertakes and covenants with OSHB that it shall, with regard to the grant of sub-leases in respect of portions of built up Project area, grant sub-leases to Tenants in accordance with the respective Sub-Lease Deeds and this Agreement (to the extent applicable) .
- 17.4 The Developer shall ensure that the Sub-Lease Deeds executed by it in favour of the Tenants shall be duly stamped and registered and shall furnish to OSHB relevant details Sub-Lease Deeds within 30 (thirty) days of the execution of each such Sub-Lease Deed.
- 17.5 **The Developer will form a Resident Owners' Society and hand over the premises with common services for operation & maintenance of the same by the Resident Owners' Society.**

18. PAYMENT OF QUOTED BID AMOUNT

- 18.1 The total consideration in respect of Leased Land as per the Quoted Bid Amount is Rs -----/- (Indian Rupees -----). The payment schedule of the Quoted Bid Amount by the Developer to OSHB is agreed as follows:

An upfront payment of 25% of the Quoted Bid Amount (Installment I) is already made by the Developer to OSHB prior to execution of the Development Agreement.

The balance 75% of the Quoted Bid Amount is to be paid to OSHB on either of the following schedules. The Developer may choose one of the options (A) or (B)



( A) 25% of the Quoted Bid Amount i.e. Installment No. II is to be paid by the Developer to the OSHB within a period of 365 days to be counted from the date of execution of the Development Agreement. The Developer shall furnish bank guarantee from a Nationalized Bank for the balance 50% of the Quoted Bid Amount with interest accrued there upon on tentative calculation for a period of 2 ( two) years at the rate specified hereunder. The Lease Deed shall be executed by both the parties on compliance of the aforesaid condition and the unencumbered Project area will be transferred to the Developer. The Bank guarantee referred to above shall be valid for a period of 2 ( two) years on and from the date of execution of the Lease Deed. In case, the Developer fails to pay the Quoted Bid Amount with interest accrued thereon , directly to the account of OSHB within the period of 23 months from the date of execution of the Lease Deed, the OSHB shall encash the Bank guarantee towards premium due with interest accrued thereon which shall be at the cost and risk of the Developer.

N.B. 1. An interest of SBI MCLR rate (in percentage) + 2% per annum compounded mothly will be levied by OSHB on the outstanding Quoted Bid Amount from the date of execution of the Lease Deed referred to above. Payment received if any, from the Developer during the aforesaid period will be appropriated in the following order

- i. Outstanding Ground Rent, Cess;
- ii. Outstanding interest; and
- iii. Consideration of land.

N.B. 2. The Developer shall be entitled to and /or will be authorized to grant sub-lease right as specified in clause 17 of Part-II of RFP Development Agreement, after payment of the Quoted Bid Amount in full including interest accrued if any, thereon to OSHB and in case any sub-lease granted in violation of this condition, shall be deemed void and invalid and consequently it would be presumed as a Developer's Event of Default entailing termination of the Lease.

(B) The Developer may prefer payment of 75% of the Quoted Bid Amount lump sum within a period of 365 days to be counted from the date of execution of the Development Agreement and in such event , the Lease Deed with sub-lease right as referred to in clause -17 , Part II of RFP shall be executed with the Developer.

19. CONSULTANT FEES- N/A

20. FINANCING

20.1 The Developer shall be solely responsible for arranging all the funds for the Project, construction and development of the Project in accordance with the provisions of this Agreement;

20.2 The Developer may assign its rights, title or interest or create a Security Interest in respect of its rights under the Agreement or any part thereof in favour of Lenders. The Developer shall be entitled to create a Security interest on its rights, title and interest pursuant to this Agreement including but not limited to the Leased Land, its right to receive money from the Tenants or other persons.

21. RESTRICTIONS

Except as stated in Article 20.2 above, the Developer shall not assign its rights, title, interest or obligation or create a Security Interest with respect to its rights under the Agreement or any part thereof in favour of any Person without the prior written consent of OSHB.

22. CONDITIONS PRECEDENT

22.1 The following conditions would have to be met by the Developer on the Effective Date or such extended period as may be agreed by OSHB :-

- (a) Payment of upfront amount of 25% of Quoted Bid Amount to OSHB; and
- (b) Submission of Performance Security of **5%** of Quoted Bid Amount; and
- (c) Finalisation and Execution of Development Agreement;

23. PROJECT COMMENCEMENT TIME FRAME

23.1 The Developer shall complete the following activities within a period of One Hundred and Eighty (180) days from the Effective Date.

- (a) Finalisation of the plans, designs and drawings for the Project including that of the services and amenities; and

- (b) Applying for all requisite statutory and other approvals including that from the Ministry of Environment & Forest (MOEF), Government of India or Department of Forest & Environment, Government of Orissa /BDA/BMC/ORERA as the case may be, required for commencing the Project construction.
- 23.2 The project construction will commence within 30 days on receipt of all approvals including environmental clearance and ORERA registration, which is the Project Commencement Date.
- 24. PRE-EXPIRY PROCESS
  - 24.1 On the completion of 85 (Eighty Five) years from Dt. 18.04.2004, the parties shall enter into good faith negotiations to renew this Agreement. OSHB shall make best effort to renew the lease agreement with GOO. If the lease agreement with GOO is renewed OSHB shall also renew this Agreement with the Developer in accordance with the prevailing policy of the GOO.
  - 24.2 In the most unlikely event if the Agreement is not renewed, the Developer shall hand over to OSHB, free of cost, the peaceful possession of the leased land and transfer the buildings and other structures erected upon the Project land as on the date of the expiry of the term.
- 25. APPROVALS
  - 25.1 The Developer shall submit all applications and make efforts to obtain all approvals from Governmental Authorities and other persons for the purposes of the Project including approvals for (i) constructing and developing the Project and (ii) operating and maintaining the Project in accordance with the terms of this Agreement and Applicable Law;
  - 25.2 OSHB shall exercise best efforts in assisting the Developer to obtain approvals from the Government of Orissa departments and agencies, as may be applicable.
- 26. REPRESENTATIONS, WARRANTIES AND COVENANTS
  - 26.1 The Developer hereby represents warrants and covenants to OSHB for itself that- ("Developer Warranties"):

- (a) The Developer has been duly incorporated and organised, and is validly existing and in good standing, under Applicable Law. The Developer has the corporate power and authority to own and operate its assets and properties and to carry on its business as currently conducted and proposed to be conducted;
- (b) The copies of the charter documents of the Developer (having attached thereto copies of all such resolutions as are by law required to be attached thereto and all amendments made to date) that have been delivered to OSHB are true, accurate and complete. All legal and procedural requirements and other formalities concerning such charter documents have been duly and properly complied with in all material respects;
- (c) The Developer has the legal right, power and authority to execute, deliver and perform this Agreement. All action on the part of the Developer and all corporate action on the part of the board of directors of the Developer necessary for the authorisation, execution, delivery of and the performance of all obligations of the Developer has been taken;
- (d) No consent, approval, order or authorisation of, or registration, qualification, designation, declaration or filing with, any Governmental Authority or any other person is required in connection with the execution and delivery of this Agreement;
- (e) This Agreement is, and when executed be, the valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally. As of date, the Developer, is not subject to any bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally;
- (f) The execution and delivery by the Developer of this Agreement and the performance by the Developer of its respective obligations under this Agreement do not and will not-
  - (i) constitute a breach of or a default under any charter document of the Developer;
  - (ii) result in a breach of, or constitute a default under, any contract to which the Developer is a party or by which it is bound;

- (iii) result in a violation or breach of or default under any applicable law or regulation or of any order, judgement or decree of any Governmental Authority to which the Developer is a party or by which the Developer is bound;
- (g) No order has been made and no resolution has been passed for the winding up of the Developer or for a provisional liquidator to be appointed in respect of the Developer and no petition has been presented and no meeting has been convened for the purpose of winding up the Developer. No receiver has been appointed in respect of the Developer or all or any of its assets. The Developer is not insolvent or unable to pay its debts as they fall due.

26.2 OSHB represents and warrants to the Developer for itself that ("OSHB Warranties"):

- (a) It is a statutory corporation of GoO established under the Orissa State Housing Board Act, 1968;
- (b) It has obtained the required approvals from the GOO and its Board to assign developmental rights for the development of the Project. It has the full power, authority and legal right to own assets and carry on its business. It is not in receivership or liquidation and has taken no steps to enter into liquidation, and no petition has been presented for the winding-up of OSHB. There are no grounds on which a petition or application could be based for the winding-up or appointment of a receiver of OSHB; and
- (c) The execution, delivery and performance of this Agreement by OSHB will not-
  - (i) violate any provision of the organisational documents of OSHB;
  - (ii) conflict with or result in any material breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both constitute) a default under, any agreement to which OSHB is a party or by which OSHB is bound;
  - (iii) violate any court order, judgement, injunction, award, decree or writ against, or binding upon, OSHB or upon its securities, properties or business; and
  - (iv) violate any law or regulation of India.
- (d) It has a clear and marketable title to the Project Area free of encumbrance;

- (e) That the lease land is not subject to any mortgage, lien, charge or similar or other encumbrance.
- (f) Deleted
- (g) OSHB is in sole and absolute possession of the Leased Land and has valid title and right to the Leased Land pursuant to lease deed executed between the GOO and OSHB dated 2004 and is authorized under the GOO Lease to Lease the Lease Land to the Developer and enjoys the uninterrupted, quiet, peaceful, physical vacant and legal possession of the Leased Land without any interference Whatsoever;
- (h) There exist no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Leased land under the GOO Lease or otherwise. OSHB shall give the Developer immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term;
- (i) OSHB does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature, that may be become lien against the Leased Land;
- (j) OSHB is in compliance with all applicable environmental laws in relation to the Leased Land such as would impact the Development of the Demised Land as per this Agreement;
- (k) There exists no claims for the rehabilitation and or relocation of the PAPs and that the Developer shall not be responsible for the rehabilitation and or relocation of the PAPs and nor shall it be liable to pay any cost to OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer in this regard.

## 27. INDEMNITY

- 27.1 The Developer shall indemnify, defend and hold OSHB harmless, against any and all proceedings, actions and third party claims arising out of a breach by Developer of any of its obligations under this Agreement except to the extent that any such claim has arisen due to breach by OSHB of any of its obligations under this Agreement or a Force Majeure Event which is a Political Event.

27.2 OSHB will indemnify , defend and hold harmless the Developer against any and all proceedings , actions , third party claims for loss, damage and expense of whatever kind and nature arising out of breach by OSHB, its officers , servants and agents of any obligations of OSHB under this Agreement except to the extent that any such claim has arisen due to breach by the Developer of any of its obligations under this Agreement .

27.3 Any payment made under this Agreement pursuant to an indemnity or claim for breach of any provision of this Agreement shall be net of applicable Taxes.

## 28. FORCE MAJEURE

28.1 Force Majeure would include civil disorders, riots, war, cyclone, floods, storms, lightning, earthquakes, washouts, high water, fire and other Acts of God;

28.2 The following procedure shall be adopted upon the occurrence of a Force Majeure event:

(a) The affected party shall give notice to the other party of any event constituting Force Majeure as soon as is reasonably practicable, but not later than thirty (30) days after the date on which the affected party knew or should have reasonably known of the commencement of the event constituting Force Majeure. Notwithstanding the above, if the event constituting Force Majeure results in a breakdown of communications rendering it not reasonably practicable to give notice within the time limit specified herein, then the affected party shall give such notice as soon as it becomes reasonably practicable after the reinstatement of communications, but not later than seven (7) days after such reinstatement;

(b) Notice shall, inter-alia, include full particulars of-

- (i) the nature of such Force Majeure event;
- (ii) the date and time effective when the Party materially adversely affected by the Force Majeure event, was so affected;
- (iii) the material adverse effect of such Force Majeure event on the affected party;
- (iv) the measures which the Party affected by the Force Majeure event has taken, or proposes to take, to alleviate the impact of those Force Majeure events or mitigate the damage;

- (v) an estimate of the period of time that the affected party shall be unable to perform the affected obligations / continue to be materially adversely affected by the Force Majeure event; and
  - (vi) any other relevant information.
- (c) Failure by the affected party to give notice to the other party within the time period specified above shall not prevent the affected party from giving such notice at a later time, provided however that in such case the affected party shall not be eligible for the remedies for any failure or delay in complying with its obligations under or pursuant to this Agreement until the notice has been given and provided that a Force Majeure event shall not absolve the Developer from the obligation of payments in respect of liabilities incurred prior to the occurrence of the Force Majeure event.

### 28.3 Reporting Requirements

- (a) For so long as the party affected by the Force Majeure event continues to claim to be affected by a Force Majeure event, it shall provide the other party with regular (and not less than fortnightly) written reports containing -
  - (i) the information as sought above; and
  - (ii) such other information as the other party may reasonably request.
- (b) The affected party shall also make available to the other party reasonable facilities for obtaining further information about the event or circumstance alleged to constitute Force Majeure, including facilities for site inspection.

### 28.4 Remedies for Force Majeure

The affected party must at all times since the occurrence of the Force Majeure event comply with the obligations of mitigation as provided above and shall continue to comply, for which the affected party shall be entitled to the following relief:

- (a) The obligations of the affected party to the extent they are affected by the Force Majeure shall be suspended for the period of the Force Majeure;
- (b) The time period for the performance of obligations of the affected party to the extent they are affected by the Force Majeure shall be extended on a day for day basis for the period of Force Majeure; and



- (c) The term of this Agreement shall be extended on a day for day basis for the period of the Force Majeure.

## 29. EVENTS OF DEFAULT

### 29.1 Developer's Events of Default

The following events shall be construed as events of default on the part of Developer ("Developer Default Event"):-

- (a) The Developer fails to meet the Development Milestones and the period for remedy has expired without such failure having been remedied;
- (b) Non-adherence to the Development Mix as mentioned in Article 6;
- (c) Non payment of dues to OSHB as per Articles 15.2 and 18 by the due date;
- (d) The Developer commits any material breach, or is otherwise in violation of any of its obligations listed under Article-4 of this Agreement ;
- (e) The Developer abandons the Project for a period of 60 consecutive days;
- (f) Any bank guarantee or performance security is not renewed, replaced or provided in accordance with this Agreement or becomes inoperative or ceases to remain valid or in force;
- (g) The Developer repudiates, or otherwise evidences an intention not to be bound by this Agreement;
- (h) An order is made or a resolution is passed for the liquidation, bankruptcy, dissolution or appointment of a receiver of the Developer which is not, if capable of being so, discharged or, as the case may be, revoked within 90 days thereafter;
- (i) As a result of a default by the Developer under any arrangement or agreement with its Lenders, such Lenders enforce or otherwise take steps to enforce any Security Interest on any of the assets of the Developer (including the lease assigned) other than substitution of the Developer with another Developer; and
- (j) Any assets or shares of the Developer are expropriated, confiscated, compulsorily acquired or nationalised by any government, authority, entity or agency due to an act or omission of the Developer or its shareholders.
- (k) Deleted
- (l) Non allotment of EWS and LIG flats as per the guideline specifically mentioned in Article 3.2 (c) of this Development Agreement.

- 29.2 If any of the aforesaid are caused due to default of OSHB under this Agreement or due to the occurrence of the Force Majeure, the Developer shall not be treated to be Defaulter.

### 29.3 OSHB Events of Default

The following events shall be construed as events of default on the part of OSHB ("OSHB Default Event"):-

- (a) OSHB fails to transfer unencumbered possession of the Leased Land to the Developer;
- (b) OSHB repudiates or otherwise evidences an intention not to be bound by this Agreement.
- (c) OSHB committing a breach of any of its representations or warranties under this Agreement ;
- (d) OSHB committing a breach of any of its obligations under the Agreement ; and
- (e) OSHB committing a breach of any of its obligations under the GOO Lease.

29.4 If any of the aforesaid are caused due to default of the Developer under this Agreement or due to the occurrence of Force Majeure, OSHB shall not be treated to be defaulter.

### 30. NOTICES

30.1 Unless otherwise stated, all notices, approvals, instructions and other communications for the purposes of this Agreement shall be given in writing and may be given by facsimile, by personal delivery or by sending the same by prepaid registered mail addressed to the Party concerned at its address stated in the title of this Agreement or the fax numbers set out below and/or any other address subsequently notified to the other Parties for the purposes of this Article and shall be deemed to be effective (in the case of registered mail) 10 (ten) calendar days after posting, (in the case of facsimile) two Business Days after receipt of a transmission report confirming despatch or (in the case of personal delivery) at the time of delivery:

- (a) If to OSHB:

Address: Odisha State Housing Board  
Sachivalaya Marg, Bhubaneswar – 751 001

Tel. No: +91 674 2393524, +91 674 2390141  
Fax No: +91 674 2393952

Attention: The Housing Commissioner-cum-Secretary.

(b) If to the Developer:

Address:

30.2 Such notices and other communication duly given shall be deemed to be effective if given by personal delivery, upon such delivery; or if sent by facsimile upon the next business day after sending thereof, or if sent by certified or registered mail, upon delivery or the twelfth (12) business day following the date of dispatch thereof, whichever is earlier. Any change in the address of any Party shall be given in the same manner provided for in this section.

### 31. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of India.

### 32. DISPUTE RESOLUTION

#### 32.1 Negotiations

The Parties will attempt in good faith to resolve any dispute, difference, conflict or claim arising out of or in relation to this Agreement or the performance of the Agreement (a "Dispute") through negotiations between a senior authorised representatives of each of the Parties with authority to settle the relevant dispute. If the dispute is not been settled through negotiation within 14 days from the date on which either Party has served written notice on the other of the dispute (the "Notice") then the remaining provisions of this Article shall apply;

#### 32.2 Arbitration

##### (a) Procedure

Subject to the provisions of Clause 32.1, any Dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996.

on the request being made by either of the parties, The Housing Commissioner-cum-Secretary, OSHB, will place the matter before the next Board meeting of OSHB and the Board shall refer the name of three (3) proposed arbitrators unconnected with the affairs of both parties and the Developer shall have the option to choose any one of them as arbitrator . The arbitrator shall commence the proceeding and conclude the same in accordance with Arbitration and Conciliation Act, 1996.

- (b) In case any dispute arising out of Construction of Works and are of technical matters, the same shall be referred to the Independent Engineer who shall dispose of the dispute summarily within 15 days and such decision shall be final and binding to the parties.
- (c) For all purposes the principal Civil Court, Bhubaneswar shall have jurisdiction only in exclusion to any jurisdiction specified under any other Act, Rule or instructions in force and/ or to be brought in force.
- (d) In case any other dispute not covered under the arbitration clause shall lie before the Civil Court, Bhubaneswar only in exclusion of any other jurisdiction irrespective of cause of action / part of cause of action arises if any within the jurisdiction of any other Civil Court./ Tribunal/ Forum
- (e) **Place of Arbitration**  
The place of arbitration shall be at Bhubaneswar but by agreement of the Parties, the arbitration hearings, if required, may be held elsewhere in India.
- (f) **English Language**  
The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings. The Award shall be a speaking order.
- (g) **Performance during Arbitration**  
Pending the submission of and/or decision on a dispute and until the arbitration award is published, the Parties shall continue to perform their respective obligations under this Agreement without prejudice to a final adjustment in accordance with such award.
- (h) **Costs**  
During Arbitration the party shall bear their own respective costs which shall be subject to arbitration award.

### 33. TERMINATION OF AGREEMENT

- 33.1 Termination by OSHB: OSHB shall be entitled to terminate this agreement in any or all of the events of default of the Developer;
- 33.2 Termination by Developer: The Developer shall be entitled to terminate this agreement in any or all of the events of default of OSHB;

33.3 The following procedure shall be adopted for terminating the agreement:

- (a) Issue of Notice of Intention to Terminate: On the happening of any events of default as set out in Article 29, the non-defaulting party may initiate termination of this agreement by delivering a notice to the defaulting party stating its intention to terminate this agreement. The notice must specify the defaults committed by the defaulting party. The non-defaulting party shall also send a copy of the notice of intention to terminate to the lenders, if any;
- (b) Consultation Period: Following the issue of the notice of intention to terminate, the parties shall consult for a period of 30 days or for such further period as the parties may mutually agree ("the Consultation Period") to determine the steps that are proposed to be taken to rectify or remedy the cause of the issue of the notice. During this period, both parties shall continue to perform their respective obligations;
- (c) Withdrawal of Notice: If the defaulting party rectifies or remedies the default within the consultation period to the satisfaction of the non-defaulting party or suitable steps are taken towards rectification or if the event of default ceases to exist, the notice shall be withdrawn;
- (d) Termination Notice: Upon expiry of the consultation period, if the event of default still exists, the non-defaulting party may terminate this agreement by giving a written notice ("Termination Notice") to the defaulting party with copies to the lenders, if any. The termination notice shall expire at the end of 90 days from the Consultation Period ("Termination Date").  
During the period of termination notice, both parties continue to perform their respective obligations under this agreement;
- (e) Replacement Notice by the Developer:  
On or before expiry of 30 days from the date of issue of termination notice the Developer may choose a suitable substitute party who on principle shall agree to abide by the terms and conditions of the Development Agreement and Lease Deed and such other terms and conditions are fixed to be specified by OSHB after consulting the substitute developer. The OSHB may be requested with a 45 days replacement notice to assess the suitability of substituted party and to take final decision in the matter and to communicate the decision. In the event the OSHB agrees to accept the substituted party, may require the parties to enter into the agreement on approval of the same by OSHB terms and conditions fixed , if any, in order to ensure completion of the project. The decision of the Orissa State Housing Board in this regard shall be final and binding.

#### 34. CONSEQUENCES AND PROCEDURE AFTER TERMINATION

- 34.1 The Developer shall remove all construction equipment and other movable assets in the Project premises at their own cost within 30 days from the date of issue of Termination Notice;
- 34.2 If OSHB agrees to substitute the Developer by another party ("Substitute Party") as per clause 33.3(g), it shall do so within a period of 150 days from the date of issue of Intention to Terminate . The Substitute Party shall takeover the assets created or provided by the Developer, other than the construction equipment and movable assets, upon payment of compensation;
- 34.3 In case the Developer abandons or fails to execute the work and /or leaves the work half way and in such contingency failed to find out a substitute party within the stipulated time the OSHB shall endeavour to find out suitable party to be chosen through public advertisement at the cost and risk of the Developer and in such event any structure if any found to be replaced/ removed shall also be at the cost and risk of the Developer which shall be recovered in addition to forfeiture of the amount specified in the Development Agreement.
- 34.4 OSHB, the Substitute Party and the Developer will have the following rights and obligations in the event of termination:-
- (a) The Substitute Party shall pay the amount of compensation as per Article 35 within a period of 120 days from the date of selection or a mutually agreed date between the Substituted Party and Developer;
  - (b) The Developer shall hand over and put OSHB and the Substitute Party in peaceful possession of the Project premises and also transfer all its rights, titles and interests in all contracts/ agreements/ licenses/ permits/ insurance policies, etc;
  - (c) Subject to Article 33, the Developer shall terminate all contracts and sub-contracts that they have entered with other parties; and
  - (d) Transfer fees and charges, if applicable and other incidental expenses incurred at the time of termination shall be borne as follows:

Head of Charge	Party to bear the cost
Transfer fees or stamp duties, notary fees, etc	Defaulting party
Fees to third party experts for any required inspection and certification	Defaulting party
Internal costs and expenses of each party	To be borne by each party respectively

35. AMOUNT DUE TO BE PAID CONSEQUENT UPON TERMINATION

- 35.1 Termination due to default by OSHB, before transfer of land: If this agreement is terminated by the Developer due to OSHB's event of default before transfer of Leased Land, the Developer shall be refunded the Quoted Bid Amount paid by the Developer to OSHB in lieu of the land till date , without any interest and the Performance Security shall be returned to the Developer ;
- 35.2 Termination due to default by the Developer, before transfer of land: If the Agreement is terminated by OSHB due to the Developer's default before transfer of Leased Land , no compensation will be paid by OSHB and the Performance Security will be forfeited to the account of OSHB . The Quoted Bid Amount paid by the Developer to OSHB in lieu of the Leased Land till date , will be returned to the Developer without any interest within 30 days of realisation of the Performance Security.
- 35.3 Termination due to default by Developer, after transfer of land: If the Agreement is terminated by OSHB due to the Developer's default after transfer of Leased Land , the Quoted Bid Amount inclusive of the subsisting bank guarantee ( in case non-payment of the total premium amount paid by the Developer to OSHB) paid by the Developer to OSHB in lieu of the leased land and the Performance Security will be forfeited to the account of OSHB and the Leased Land shall be deemed vested to OSHB free from all encumbrances . The Company shall have no claim whatsoever against OSHB in respect of the amount forfeited and / or for any compensation and damage if any claimed.
- 35.4 OSHB shall ensure that payment of termination compensation shall be a contractual obligation of the Substitute Party at the time of entering into arrangements with the Substitute Party for replacement of the Developer. OSHB shall however not be liable for any default on part of the Substitute Party towards payment of Termination Compensation to the Developer.

36. MISCELLANEOUS

- 36.1 Schedule 1 (one) to 5 (five) of this document forms part of the Development Agreement. Schedule 5 (five) is the lease document which is subject to addition/alteration/modification and/or deletion at the discretion of the Board.
- 36.2 The conditions of the Principal Lease and the draft indenture of the Lease deed to be executed between the parties , form part of this documents and for all purpose ( s) parties to this Agreement shall be bound by the same and any condition of this Development Agreement contrary to the lease deed and / or the Principal lease deed , shall stand modified to the extent specified in the Lease Deed and the Principal Lease Deed respectively.
- 36.3 No Partnership  
Nothing contained in this Agreement shall constitute or be deemed to constitute a partnership between the Parties, and no Party shall hold himself out as an agent for the other Party, except with the express prior written consent of the other Party.

36.4 Independent Rights

Each of the rights of the Parties hereto under this Agreement are independent, cumulative and without prejudice to all other rights available to them, and the exercise or non-exercise of any such rights shall not prejudice or constitute a waiver of any other right of the Party, whether under this Agreement or otherwise.

36.5 Counterparts

This Agreement may be executed in any number of originals or counterparts, each in the like form and all of which when taken together shall constitute one and the same document, and any Party may execute this Agreement by signing any one or more of such originals or counterparts.

36.6 Variation

The provisions of this Agreement may be varied to provide for any change as might, in the reasonable opinion of the Parties, be necessary for the effective implementation of the Project.

Provided that no such variation shall be binding on any Party unless such variation is in writing and signed by each Party.

36.7 No Assignment

Subject to the provisions of this Agreement, this Agreement is personal to the Parties and shall not be capable of assignment, except with the prior written consent of the other Party.

36.8 Waiver

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same of any other provisions hereof and no waiver shall be effective unless made in writing and signed by an authorised representative of the waiving Party.

36.9 Severability

If any provision of this Agreement is invalid, unenforceable or prohibited by law, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative and shall not be part of the consideration moving from either Party hereto to the other, and the remainder of this Agreement shall be valid, binding and of like effect as though such provision was not included herein.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the date first above written:



Signed and delivered for and on behalf of

Signed and delivered for and on behalf of

Orissa State Housing Board

---

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Name:

Name:

Title: The Housing Commissioner-cum-Secretary

Title:

Witness:

Witness:

SCHEDULE 1  
DEVELOPMENT MILESTONES  
[See Definitions: "Development Milestone(s)" (Article 1.1.12), (3.3 A&B)]

The Developer should achieve the following milestones:

Sr. No	Description of Milestone	Time for Achieving the Milestone
PHASE 1		
Milestone 1	Finalization of the Engineering Documents, Designs & drawings for the entire project in consultation with OSHB	Within 180 days from the Effective Date.
Milestone 2	Application to the different statutory authorities for all the project approvals	Within 180 days from the Effective Date.
PHASE 2		
Milestone 3	Submission of Plan of Completion	Within 09 months from the Effective Date
Milestone 4	Submission of report from Independent Engineer that Developer has successfully achieved the Development Milestones as stated in Plan of Completion	Within 18 months from the Effective Date
Milestone 5	Submission of report from Independent Engineer that Developer has successfully achieved the Development Milestones as stated in Plan of Completion	Within 30 months from the Effective Date
Milestone 6	Development / Construction of required of Built-up Space and occupancy(residential + commercial space).	As per ORERA/BDA/BMC approvals.

SCHEDULE 2  
LEASED LAND  
[See Definitions: "Leased Land"]

Area measuring Ac.06.589 in Mouza: Patrapada. P.S Khandagiri in the New Capital, Bhubaneswar, Dist: Khurda, Odisha under the jurisdiction of District Sub-Registrar, Bhubaneswar.

Khata No.	Revenue Plot No.	Area
778	441/2729	Ac.05.039
778 (Anabadi)	441/2677	Ac. 01.550
Total		Ac. 06.589

Bounded by :-

North - Plot No. 437  
South - Village Boundary  
East - Road  
West - Plot No. 441 & 442

SCHEDULE 3  
DEVELOPMENT AND MAINTENANCE STANDARDS  
[See Definitions: "Maintenance Standards"(Article 1.1.26)]

Broad Specifications of the Project Components

1. THE COMPLEX SHOULD BE SUCH THAT IT ENSURES-
  - (a) Elegance meets efficiency- impressive façade, landscaped gardens, adequate circulation space ;
  - (b) Gracious spaces, increased floor-to-floor height, large column-free space and ample parking areas;
  - (c) Round-the-clock services;
  - (d) Assured quality power, diesel Generator backup, server room, Air-conditioning, Air Handling Units and all common services and reasonable communication facilities.
2. An illustrative list giving desirable features is as follows-
  - (a) Built Up space ;
  - (b) Reinforced Cement Concrete (RCC) framed structure or glass & steel structures ;
  - (c) Dedicated Electric Substation backed by diesel Generator ;
  - (d) Building Automation Systems;
  - (e) Adequate nos. of high-speed elevators ;
  - (f) Comprehensive Fire Protection System comprising of Hydrant, Automatic Sprinkler and Fire Alarm System ; and
  - (g) Rain water harvesting.
3. Infrastructure
  - (a) Dedicated 132/33 KV sub-station;
  - (b) Diesel Generation back up in all multi-tenanted building for 100% back up;
  - (c) Whole of Complex networked through underground power cables; and
  - (d) 24 hours maintenance services.
4. Ambience
  - (a) Landscaped gardens & Parks

The entire development should confirm to the requirements of latest National Building Code and as per approval of Orissa State Housing Board (OSHB.).

The following minimum maintenance standard has to be maintained:-

- (1) The quality of drinking water should confirm to the requirements of Manual on Water Supply & Treatment published by Central Public Health Engineering & Environment Organisation (C.P.H.E.E.O.)
- (2) Efforts should be made to achieve Zero based discharge. However, in case effluent is to be discharged beyond the periphery of the allotted land, the same should be treated as per requirements of Manual of Sewerage & Sewage Treatment published by Central Public Health Engineering & Environment Organisation (C.P.H.E.E.O.) and as per guidelines of Central Pollution Control Board (C.P.C.B.).
- (3) Emission and noise limit of Diesel Generators should be maintained within the parameters prescribed by Central Pollution Control Board.
- (4) Fire fighting and fire alarm & detection system should be maintained as per requirements of Part 4 of latest edition of National Building Code relating to Fire and Life safety.
- (5) Disposal of solid waste should be as per guidelines of Central Public Health Engineering & Environment Organisation and Central Pollution Control Board.
- (6) Illumination level of the office space, commercial space and all other places should be maintained as per latest edition of National Building Code Part-8, relating to Building Services.
- (7) Air conditioning, heating and lightening protection system should be maintained as per guidelines of latest National Building Code Part-8 relating to Building Services.
- (8) Parking area and land scaped area is to be properly maintained as per approval of Orissa State Housing Board.
- (9) Internal roads, drains should be maintained as per the plans approved by Orissa State Housing Board.
- (10) Air pollution and noise pollution standard in the entire campus should be maintained as per National Ambient Air Quality Standard prescribed by Central Pollution Control Board.
- (11) Discharge of rainwater beyond the periphery of the allotted land should be restricted by properly maintaining the recharge wells as per guidelines of Central Ground Water Board.
- (12) Lifts should be maintained as per requirements of National Building Code.
- (13) Security system should be foolproof and maintained round the clock.
- (14) Reliable broadband connectivity should be available as per the demand.
- (15) The provision of all service/facilities and maintenance of all facilities will be as per the relevant National Standards, as applicable from time to time.

\* \* \*

SCHEDULE 4  
FORM OF PROGRESS REPORT  
[To be decided by Independent Engineer in consultation with OSHB and Developer]

SCHEDULE 5  
DRAFT FORMAT OF LEASE OF LAND FOR DEVELOPMENT OF RESIDENTIAL AND  
COMMERCIAL USE ZONE PURPOSE IN NEW CAPITAL AREA AT BHUBANESWAR

( Note : Condition specified in this draft format are subject to correction, variation and modification in case of contingencies if any required by OSHB )

THIS INDENTURE ("Indenture") is made and executed on this the . . . . . day of . .  
.....

BETWEEN

Orissa State Housing Board, established under the Orissa State Housing Board Act, 1968, having its office at Sachivalaya Marg, Bhubaneswar, Orissa (hereinafter referred to as "OSHB" which expression shall, where the context so admits be deemed to include its successors-in-interest and permitted assigns) of the FIRST PART

AND

....., a Developer having its registered office at  
.....(hereinafter referred to as the "Developer" which expression shall, where context so admits be deemed to include its successors in interest and assigns) of the OTHER PART

'OSHB" and the "Developer" are, where the context demands, individually referred to as "Party" and collectively as "Parties".

WHEREAS :

- A. The Revenue and Disaster Management Department, Government of Orissa (hereinafter referred to as the "Principal Lessor" has executed a registered Lease Deed (details of the Lease Deed) in favour of OSHB (hereinafter referred to as the "Principal Lease") with respect to 06.589 Acres of land more fully described in Schedule-I annexed thereto and also attached herewith and marked as Schedule-I (hereinafter referred to as the "Demised Land"). A copy of the Principal Lease is annexed to this Indenture as Annexure-A.

- B. It has been acknowledged by the Principal Lessor under the Principal Lease that the Demised Land would be transferred to the Developer for development thereof as Residential Use Zone on the terms contained thereunder and the Developer in turn is entitled to construct and develop and transfer their Lease hold rights for the specified and demarcated portions of the construction (hereinafter referred to as the "Developed Units") raised on the Demised Land to sub-lessees (which term shall include their sub sub-lessees and persons similarly deriving rights from such sub sub-leases and so forth hereinafter referred to as the "Sub-Lessees" and the Developer or its Sub-Lessees shall in turn be entitled to execute further sub-lease deeds (hereinafter referred to as the "Sub-Lease") in favour of such sub-Lessees.
- C. Any Sub-Lease executed by the Developer or the Sub-Lessee shall be in conformity with the Principal Lease and this Indenture.
- D. OSHB and the Developer have also entered into a Development Agreement (hereinafter referred to as the "Development Agreement"), which Development Agreement shall bind the Parties hereto with respect to all the matters dealt with therein.
- E. Through this Indenture, OSHB wishes to lease the Demised Land to the Developer on the terms and conditions agreed between the Parties set out below.

NOW, THEREFORE, THIS INDENTURE WITNESSETH AS UNDER :

01. That in consideration of the sum of Rs.....Crore (Indian Rupees ..... only) and signing of the Development Agreement between the Parties and of the rent hereinafter reserved and of the covenants on the part of the Parties hereinafter contained, OSHB hereby demises the Demise Land to the Developer for the development, construction of buildings and structures for the activities permissible in Residential Use Zone (as described in Clause-5 (iii) hereinafter) for a period of 90 [Ninety ] years from Dt. 18.04.2004/until expiry of the Development Agreement/Principal Lease, whichever is earlier ("Term").
2. That the Developer and its Sub-Lesses shall be entitled to execute the Sub-Lease in favour of further Sub-Lessees in respect of the Developed Units as also provided under the Development Agreement.
03. That the Developer and the Sub-Lessees are permitted to create mortgage or charge or lien on the Demised Land for borrowing funds from any financial institutions or corporate bodies.
04. OSHB represents and warrants to the Developer that:



- (a) It has obtained the required approvals from the Government of Orissa and at the meeting of OSHB, to assign developmental rights for the development of the Demised Land;
  - (b) It has a clear and marketable title to the Demised Land free of encumbrances;
  - (c) That the Demised Land is not subject to any mortgage, lien, charge or similar or other encumbrances;
  - (d) There exist no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Demised Land under the Principal Lease or otherwise. OSHB shall give the Developer immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term (as Defined in Clause 1 hereinafter);
  - (e) OSHB does not have any liability for any taxes or any interest or penalty in respect thereof, of any nature, that may become a lien against the Demised Land;
  - (f) OSHB is in compliance with all applicable environmental laws in relation to the Leased Land such as would impact the Development of the Demised Land as per the said Development agreement;
  - (g) There exists no claims for the rehabilitation and/or relocation of the PAPs and that the Developer shall not be responsible for the rehabilitation and/or relocation of the PAPs and not shall it be liable to pay any cost to OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer to this regard.
5. Both Parties represent and warrant to each other for itself that execution of this Indenture will not:
- (a) violate any provision of its organisational documents;
  - (b) conflict with or result in any material breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both constitute) a default under, any agreement to which it is a party or by which it is bound;
  - (c) violate any court order, judgement, injunction, award, decree or writ against, or binding upon it or upon its securities, properties or business, and

- (d) violate any law or regulation of India.

6. The Developer covenants with OSHB as follows:

- (i) That it shall execute the Sub-Lease in conformity with the terms of the Principal Lease and of this Indenture and in the event of any conflict between such Sub-Lease and the Principal Lease or this Indenture, the offending terms of such Sub-Lease shall stand modified to that extent ;
- (ii) That, the Developer or its agents shall during the Term hereof pay to OSHB the annual rent of Rs. . . . . .on the days and in the manner fixed by OSHB for this purpose from time to time. The Developer agrees that, it shall be liable to pay the rent herein reserved, as revised from time to time as per the Government Policy from the date of such revision ;
- (iii) That the Developer shall hold and use the Demised Land only for activities permissible in Residential Use Zone;
- (iv) That the Developer or its agents of the Sub-Lessees shall during the said Term pay all rates, taxes and charges of every description now payable or hereafter to become payable in respect of the Demised Land or buildings to be erected there upon whether the same be payable by the land lord or tenant ;
- (v) The Developer will ensure that any construction on the Demised Land is undertaken as per the plan approved by the competent authority. A copy of the said approved plan will be submitted by the Developer to OSHB, for information;
- (vi) That the Developer shall not erect or build or permit to be erected or built on the Demised Land any building other than that specified in a plan approved by the competent authority nor make an addition to any existing building or structures at any time except with the written approval of such competent authority ;
- (vii) That the Developer shall conform to all rules, regulations and by-laws of the Bhubaneswar Municipal Corporation, Bhubaneswar or such other local authority for the area as may hereafter be constituted relating to roads, buildings, public health, safety, convenience and sanitation which may for the time being be enforced ;

- (viii) That no act, shall be done or caused to be done on the Demised Land or building which is likely to be or become a nuisance or a disparagement, annoyance or inconvenience to OSHB or to the other lessees in the neighbourhood ;
- (ix) That all mines, mineral products, buried treasure, coal, petroleum, oil and quarries whatsoever, under the said land shall be the property of Government of Orissa;
- (x) That all sums of money due to OSHB on account of rent under these presents, shall be recoverable by OSHB in addition to any other remedy open to it as a public demand under the Orissa Public Demand Recovery Act, 1962 (Orissa Act, IV of 1963). In the event of the Developer not paying any instalment of the rent on or before the date fixed for the purpose, it shall in addition to the arrears pay interest as may be fixed by the Government of Orissa from time to time.
- (xi) That the Developer shall keep intact the boundaries of the Demised Land and shall ensure inspection when required by OSHB, subject to 7 (seven) days advance written notice;
- (xii) That the Developer shall not, without the consent in writing of OSHB, use or permit the use of the Demised Land for any purpose other than that for which it is leased.
- (xiii) Any contingencies which is not covered and /or specified in this indenture , but , however covered under the conditions of the "Principal lease deed" shall be dealt with in accordance with such conditions of the Principal lease deed and for the aforesaid purpose , the conditions of the Principal lease deed ( annexure A ) shall be deemed as part and parcel of this indenture and the parties in this indenture so also the sub lessees created under this indenture shall be bound by the same .

7. OSHB hereby covenants with the Developer as follows:-

- (i) That the Demised Land is free of all encumbrances and that the Developer/Sub-Lessees paying the rent hereby reserved and perform all the covenants herein contained, shall hold and enjoy the Demised Land during the term hereof without any unlawful interruption by OSHB, the Principal Lessor, or any other person whatsoever;

- (ii) That, if the Principal Lessor at any time, before the expiry of the Term desires to resume the Demised Land or any part thereof for any "Public Purpose" (however, the term "Public Purpose" shall only be applicable for circumstances where the said resumption or re-entry is necessary for ensuring national security or in cases of National Emergency and shall be mandated by the Designated Constitutional Authority) as stipulated in the Principal Lease, the /Developer shall vacate the Demised Land or the part of the Demised Land as required for the above mentioned public purpose within three months from the notice in writing given by OSHB and the Developer as well as all other affected parties (including Sub-Lessees and/or other lawful occupants holders of interest for the time being, who shall be using part of the Demised Land or any building or structure or improvements on the Demised Land at that point of time when the notice for re-entry is served) shall be entitled for compensation at prevailing market price and payable in accordance with the principles laid down under the Land Acquisition Act, 1894. The Developer (including Sub-Lessees and/or other lawful occupants holders of interest for the time being) shall also be entitled to compensation on account of the loss of use and occupation of the holding of the Demised Land or part of it and structure on the Land which may be fixed at such amount which may be considered equitable according to the circumstances of each case;
- (iii) That prior to the expiry of the Term of this Indenture, the Parties shall enter into good faith negotiations to renew this Lease granted hereunder. OSHB shall make best effort to renew the Term of this Indenture with the Developer. OSHB shall make best effort to renew the Principal Lease with Government of Orissa. If the Principal Lease is renewed, OSHB shall renew this Agreement with the Developer in accordance with the prevailing policy of the Government of Orissa ;

In the most unlikely event that Lease granted hereunder is not renewed the Developer shall hand over to OSHB , free of cost, the peaceful possession of the Demised Land and transfer the buildings and other structures erected upon the Demised Land as of the date of the expiry of the Term ;

- (iv) That it is in sole and absolute possession of the Demised Land and has a clear and marketable title to the demised land and is in compliance with all applicable laws in relation to the demised land;

- (v) That there exists no claim, actions, litigations, arbitrations, land acquisition proceedings, garnishes or other proceedings relating to the Demised Land. OSHB shall give the Developer and the Sub-Lessees immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term of this Indenture ;
  - (vi) There exists no claims for the rehabilitation and/or relocation of the PAPs and that the Developer shall not be responsible for the rehabilitation and/or relocation of the PAPs and nor shall it be liable to pay any cost to OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer in this regard ;
  - (vii) OSHB will indemnify, defend and hold harmless the Developer against any and all proceedings , actions , third party claims for loss, damage and expense of whatever kind and nature arising out of breach by OSHB, its officers , servants and agents of any obligations of OSHB under this Agreement except to the extent that any such claim has arisen due to breach by the Developer of any of its obligations under this Agreement .
8. That the expression "Developer" or the "Sub-Lessees" hereinbefore used shall include its sub-lessee(s) and its subsequent sub-lessee(s), heirs, executors, administrators and agents and assigns.
9. All registration fees and other costs and expenses payable for the execution and registration of this Indenture shall be borne and paid by the Developer.
10. Interpretation : That the Development Agreement and the conditions of the Principal Lease Deed forms part of the deed entered into with the Developer and for all purpose (s) such conditions shall be deemed part of the lease deed and in case any contingency of any incoherency between and among the conditions of the Principal Lease Deed executed with the Government and with that of the present indenture the conditions of the Principal Lease Deed shall prevail and accordingly any conflict between the Lease Deed and the Development Agreement arises , both the conditions should be read harmoniously with reference to the objectives of the Project.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the date first above written;

Signed and delivered for an on behalf of  
Orissa State Housing Board

\_\_\_\_\_  
Name:

Title:

Witness:

1.

2.

Signed and delivered for and on behalf  
of .....

\_\_\_\_\_  
Name :

Title:

Witness:

1.

2.

SCHEDULE - I  
[Particulars of the Land hereby demised]

Area measuring Ac.06.589 in Mouza: Patrapada. P.S Khandagiri in the New Capital, Bhubaneswar, Dist: Khurda, Odisha under the jurisdiction of District Sub-Registrar, Bhubaneswar.

Khata No	Revenue Plot No	Area
778	441/2729	Ac. 05.039
778( Anabadi)	441/2677	Ac. 01.550
	Total	Ac.06.589

Bounded by :-

North - Plot No. 437  
South - Village Boundary  
East - Road  
West - Plot No. 441 & 442

OSHB

DEVELOPER

Bounded by :-

North - Plot No. 437  
South - Village Boundary  
East - Road  
West - Plot No. 441 & 442

OSHB

DEVELOPER

