



**Government of  
Maharashtra**

TENDER for Selection of Partners for warehouses Implementation through Public Private  
Partnership (PPP) Basis

## **TENDER NOTICE**

For

**Selection of Partners for Hiring / Construction / Development and  
Maintenance of the warehouses through Public Private  
Partnership (PPP) Basis**

Tender Notification No.: No 9/DSO/A.K.Godam/w.s.252/2019  
Dated 30 August 2019

Issued By

Collector, Nagpur.

For : Food civil supply and consumer protection department,  
Mantralaya, Mumbai

## *Table of Contents*

Disclaimer

1 Glossary

2 Invitation for Proposal

3 Introduction and Background

4 Pre-Qualification Criteria

5 Instructions to Bidder

6 Scope of Work

7 Service Level Agreement

8 Annexure I : Formats & Check-list to be used for the Proposal Submission

9 Annexures II : Schedules

10 Annexure III : Commercial Proposal Formats

11 Annexure IV : Draft Contract Agreement

## **Disclaimer**

Collector, Nagpur has prepared this document for Food civil supply and consumer protection department of Government of Maharashtra to give interested parties information on the project. While Collector, Nagpur has taken due care in the preparation of information contained herein and believes it to be accurate, neither Collector, Nagpur nor any of its authorities or agencies nor any of their respective officers, employees, agents or advisors gives any warranty or make any representations, express or implied, as to the completeness or accuracy of the information contained in this document or any information which may be provided in connection therewith.

The information is indicative in nature. Interested parties are required to make their own inquiries and respondents will be required to confirm in writing that they have done so and they do not rely on the information provided in the tender document in submitting their response. The information is provided on the basis that it is non - binding on Collector, Nagpur or any of its authorities or agencies or any of their respective officers, employees, agents or advisors.

Collector, Nagpur reserves the right to not to proceed with the project, to alter the timelines reflected in this document or to change the process or procedure to be applied for selection of warehouse partners. It also reserves the right to decline to discuss the Project further with any party expressing interest. No reimbursement of cost of any type incurred for submission of proposal whatsoever will be paid to persons, or entities, expressing interest in the project.

# 1 Glossary

BOM	Bill Of Material
BSF	Bid Security Form
DIT	Directorate of Information Technology
EMD	Earnest Money Deposit
FRS	Functional Requirements Specifications
GoI	Government of India
GoM	Government of Maharashtra
ISO	International Organization for Standardization
LoI	Letter of Intent
PBG	Performance Bank Guarantee
PQ	Pre-Qualification
SLA	Service Level Agreement
SI	System Integrator (i.e. the successful bidder)
FIFO	First In First Out
DEC	District Evaluation Committee
TEC	Tender Evaluation Committee
FCSCP	Collector, Nagpur, For Food civil supply and consumer protection department of Government of Maharashtra

## 2 Invitation for Proposal

### 2.1.1 Tender Notice

This tender Document is being published by the FCSCP department, for the Project “ **Warehouse Construction Policy declared by G.R. No.SANKIRN-4416/C.R.1179/NAPU-16 B, Dated 06.03.2019 Implementation.**” Bidder agencies are advised to study this tender document carefully before submitting their proposals in response to the tender Notice. Submission of a proposal in response to this notice shall be deemed to have been done after careful study and examination of this document with full understanding of its terms, conditions and implications.

**This tender document is not transferable.**

### 2.1.2 Important Dates / Information

1. Project Name Selection of SI for warehouse construction policy implementation
2. tender reference No and Date
3. Tender Fee Tender Publish Date : **30 /08 /2019**  
INR **10,000**
4. Earnest Money Deposit INR **5,00,000**
5. Bid Validity Period 120 Days from the Date of Opening the Bid
6. Performance Bank Guarantee Per location **15 %** of the Agreement Value
7. Performance Security Validity Period 4 months (120 days) after expiration of all the Contractual Obligations
8. Last date for submission of written queries for clarifications **6 /09 /2019**
9. Pre – Bid Meeting **9 /09 /2019 Time 3.pm at Collector Office Nagpur**
10. Last date (deadline) for submission **19 / 09 /2019 upto 3.pm**
11. Submission Type **Open Tender, through e - Tendering system**
12. Contact Person for queries **District Supply Officer, Nagpur.**
13. Address **Collector Office, Civil Lines, Nagpur – 440 001.**
14. e-Tendering Support Contact **0712 - 2561106**

**Collector,Nagpur**

## 3 Introduction and Background

### 3.1.1 About FCSCP DEPARTMENT

Food civil supply and consumer protection department of Government of Maharashtra is responsible for allocating food grains at controlled rates to beneficiaries covered under National Food Security Act, 2013. To implement NFSA smoothly government should have adequate godowns.

In view of above, Food civil supply and consumer protection department of Government of Maharashtra has decided **Warehouse Construction Policy by G.R. No.SANKIRN-4416/C.R.1179/NAPU-16 B, Dated 06.03.2019** to develop warehouses on Public Private Partnership (PPP) basis and to use these warehouses for storage of commodities. The partners can provide a continued or improved level of warehouse facilities and services at lesser costs. The Food civil supply and consumer protection department of Government of Maharashtra has decided to use PPP model for warehousing with following conditions:

- Food civil supply and consumer protection department of Government of Maharashtra will take readily available warehouses or warehouses constructed as per result of selection through PPP model on rented basis in district of Nagpur.
- Warehouse should be built and maintained using modern and scientific methods.
- Warehouse should be maintained by the warehouse provider.
- For partnership the private individuals, co-operative societies, private companies, public sector companies, etc. can participate.

In consideration of above mentioned limitations, Food civil supply and consumer protection department of Government of Maharashtra envisages engaging the private persons / co-operative societies / company/ Joint venture in development/construction and maintenance of warehouses for Food civil supply and consumer protection department of Government of Maharashtra on PPP mode for augmenting the scientific storage capacity in the form of covered warehouses.

The objectives that Food civil supply and consumer protection department of Government of Maharashtra wishes to achieve through the project are to:

- **Increase scientific storage capacity, improve storage practices and consequently reduce storage losses.**
- Remove the burden of funding.
- A way of developing local private sector capabilities through joint ventures with large firms, as well as sub-contracting opportunities for local people/firms in areas such as land usage, civil works, maintenance services.
- Extracting long-term value-for-money through appropriate risk transfer to the private sector over the life of the project - from design/ construction to maintenance.

## 4 Land Qualification Documents

### 4.1.1 Land Qualification Documents

With regards to the Project Location for which the bidder is submitting the Bid, all types of bidders need to submit the following documents within three months from receipt of LoI.

1. Details of the identified land including site layout map, size of the land parcel TILR ( Taluka Inspector Land Record), connectivity and proximity of the land parcel to the administrative building in the Taluka headquarter /gram panchayat.
2. “ Master Plan & Building plan” should be prepared by COA (Council of Architect), having experience in Godowns. Bidders need to submit land technical specification along with map.
3. Rough sketch of the land.
4. Record of rights of the identified land and title
5. 7/12 Extract & NA Permission
6. In case bidder is owner or joint owner of the land identified as project location, Registered sale deed and

any

other documentary evidence of the bidder's ownership rights to and possession of the identified land free from all encumbrances and encroachments.

7. In case bidder is lessee of the land identified as project location, Registered lease deed and any other documentary evidence of the bidder's leasehold rights to and possession of the identified land free from all encumbrances and encroachments.

8. Bidders shall submit the search report for last 30 years from their own expense.

- If the land identified by the bidder at the Project Location which meets the specifications set out at Annexures II Schedule I ( Section 9.1.1 Land Specification) and is not accessible by road, shall also submit the following proofs as part of the Qualification Proposal:
- Details of the land required for construction or, as the case may be, expansion of the access road, including location, proximity of the land to the land parcel identified for developing the warehouse and any approvals, permits, no-objection certificates or letters or rights of way obtained by the Bidder in relation to construction of the access road over such land.
- If applicable, copy of registered sale deed and any other documentary evidence of the Bidder's ownership rights to and possession of the land required for construction of the access road, in the event that the Bidder has ownership rights to such land
- If applicable, copy of registered lease deed and any other documentary evidence of the Bidder's leasehold rights over and possession of the land required for construction of the access road, in the event that the Bidder has leasehold rights over such land
- If applicable, copy of an agreement to lease executed with the owner of the land required for construction of the access land, substantially in the relevant format set out at in Section 8.1.6 (Lease Agreement) of this TENDER.

In addition to the above mentioned documents, additional documents needs to be submitted for specific types are provided below.

<b>Bidder Type</b>	<b>Additional documents to be submitted</b>
If the Bidder is the owner of the land identified as Project Location	None
If the Bidder is the joint owner of the land identified by the Bidder as the Project Location	An Undertaking from all co-owners or Joint owners of the land substantially in the format set out in Annexure I of this tender
If the Bidder is the lessee of the land identified by the Bidder as the Project Location (applies in the case where the Bidder already has an old agreement)	An undertaking from the owner / lessor of the land substantially in the format set out at Annexure I of this tender.
If the Bidder executes an agreement to lease with the owner of the land identified at the project location (applies in the case where the Bidder is entering into a new agreement for this project	Lease Agreement as mentioned in the Section of Annexure I of this tender.

## **Instructions to Bidder**

The Collector, invites the reputed Firms to submit their financial offers for the project of **tender for selection of partners for warehouses Implementation through Public Private Partnership (PPP)** in accordance with conditions and manner prescribed in this **tender** document.

### **5.1.1 Cost of tender**

The Cost of Tender document INR 10,000 to be submitted in the form of Demand Draft/Online Fees transfer.

### **5.1.2 Completeness of the tender**

Bidders are advised to study all instructions, forms, terms, requirements and other information in the tender documents carefully. Submission of bid shall be deemed to have been done after careful study and examination of the tender document with full understanding of its implications. The response to this tender should be full and complete in all respects. Failure to furnish all information required by the tender documents or submission of a proposal not substantially responsive to the tender documents in every respect will be at the bidder's risk and may result in rejection of its Proposal.

The purpose of this tender is to provide interested parties with information that may be useful to them in making their financial offers pursuant to this tender (the "Bid"). This tender includes statements, which reflect various assumptions and assessments arrived at by the FCSCP department in relation to the project. Such assumptions, assessments and statements do not purport to contain all the information that each bidder may require. This tender may not be appropriate for all persons, and it is not possible for the FCSCP department, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this tender

The assumptions, assessments, statements and information contained in this tender, may not be complete, accurate, adequate or correct. Each bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this tender and obtain independent advice from appropriate sources. FCSCP department also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this tender.

FCSCP department may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this tender.

The issue of this tender does not imply that FCSCP department is bound to select a bidder or to appoint the Successful Bidder, as the case may be, for providing digitization services; and FCSCP department reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

related to the bid process- FCSCP department will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. All materials submitted by the Bidder shall become the property of the FCSCP department and may be returned at its sole discretion.

### **5.1.3 Proposal Preparation Cost**

The bidder is responsible for all costs incurred in connection with participation in this process, including, but not limited to, costs incurred in conduct of informative and other diligence activities, participation in meetings/discussions/presentations, preparation of proposal, in providing any additional information required by FCSCP department to facilitate the evaluation process, and in negotiating a definitive Contract or all such activities related to the bid process. FCSCP department will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. All materials submitted by the Bidder shall become the property of the FCSCP DEPARTMENT and may be returned at its sole discretion.



#### 5.1.4 Pre-Bid Meeting

FCSCP department will host a Pre-Bid Meeting for queries (if any) by the prospective bidders. The date, time and place of the meeting are given in **Section 2.1.2**. The representatives of the bidders may attend the pre-bid meeting at their own cost. The purpose of the pre-bid meeting is to provide a forum to the bidders to clarify their doubts / seek clarification or additional information, necessary for them to submit their bid.

All enquiries from the bidders relating to this tender must be submitted to the department.

The queries should necessarily be submitted in the following format:

Sr	Tender document reference & volume Section No. Page No)	Content of tender requiring clarification	Clarification sought
1			
2			

Queries submitted post the above mentioned deadline or which do not adhere to the above mentioned format may not be responded to. All the responses to the queries (clarifications / corrigendum) shall be made available on e-Tender Site (The date, time of receiving pre-bid queries are given in **Section 21.2**)

#### 5.1.5 Amendment of tender Document

- At any time till 7 days before the deadline for submission of bids, the FCSCP department, may, for any reason,
  - whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the tender Document by an amendment.
- The bidders are advised to visit the tender website on regular basis for checking necessary updates. FCSCP DEPARTMENT also reserves the rights to amend the dates mentioned in this TENDER for bid process.
- In order to afford prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the FCSCP department may, at its discretion, extend the last date for the receipt of Bids.

#### 5.1.6 FCSCP departments rights to terminate the Process

FCSCP **departments** may terminate the tender process at any time and without assigning any reason. FCSCP **departments** makes no commitments, express or implied, that this process will result in a business transaction with anyone. This TENDER does not constitute an offer by FCSCP department. The bidder's participation in this process may result in FCSCP department selecting the bidder to engage in further discussions and negotiations toward execution of a contract. The commencement of such negotiations does not, however, signify a commitment by the FCSCP department to execute a contract or to continue negotiations. FCSCP department may terminate negotiations at any time without assigning any reason.

### 5.1.7 Earnest Money Deposit (EMD) and its amount

- Bidders shall submit, along with their Bids, EMD of INR 5,00,000, specified in **section 2.2** in the form of *Bank Guarantee* valid for 120 days from date of opening of bid
- In case bid is submitted without EMD as mentioned above then the Department reserves the right to reject the bid without providing opportunity for any further correspondence to the bidder concerned.
- EMD need to be submitted physically by specified date and time in section 2.2
- Unsuccessful Bidder's EMD will be discharged/ returned within 120 days after Signing of the Contract with the Selected Vendor.
- Successful bidder's EMD will be refunded after submission of Security Deposit.
- The EMD may be forfeited:
  - If a Bidder withdraws their bid or increases their quoted prices during the period of bid validity or its extended period, if any; or
  - In the case of a successful bidder, if the Bidder fails to sign the Contract or to furnish Performance Bank Guarantee within specified time in accordance with the format given in the tender
  - During the bid process, if a Bidder indulges in any such deliberate act as would jeopardize or unnecessarily delay the process of bid evaluation and finalization.
  - During the bid process, if any information found wrong / manipulated / hidden in the bid.
  - The decision of FCSCP DEPARTMENT regarding forfeiture of the EMD and rejection of bid shall be final & shall not be questioned under any circumstances.

### 5.1.8 Submissions of Bids

- Complete bidding process will be online (e-tendering) in three folder system. All the notification & details terms and conditions regarding, this tender notice hereafter will be published online on website <<https://mahatenders.gov.in/>>
- Bidding documents can be seen and downloaded from the website <<https://mahatenders.gov.in/>> The bid can be submitted in electronic format on the website within the deadline as specified in **section 2.1.2** of the tender.
- Bids must be accompanied with scanned copies of Demand Draft (Cost of Tender Document) in favour of collector, **Nagpur**, on nationalized bank or Scheduled Bank except Co-operative Banks, payable at **Nagpur**. Bid shall be treated as invalid if scan copies are not submitted online along with the bid.
- The bidders are required to submit Original Demand Drafts of payment towards Cost of Tender Document at least one working day (either by hand delivery or by post) before opening of Technical Bids. The Physical form D.D. submitted shall be the same as scanned copy submitted along with the bid, if found mismatch, the bid may get rejected.
- Commercial bids will be opened online on website <<https://mahatenders.gov.in/>>
- Bidder should submit original copies of scanned copies for verification during Pre-qualification bids opening.
- Tenderer should upload the commercial bid format after filling rates in it in Commercial folder.
- Time and date of opening of financial bids will be informed by email to technically qualified bidder.
- The guidelines to download the tender documents and online submission of bids and procedure of tender opening can be downloaded from website <<https://mahatenders.gov.in/>>
- Bidders should have valid class II / III Digital Signature Certificate (DSC) obtained from any certifying

- The concerned Collector, reserves the right to accept or reject any or all the tenders without assigning any reason

### 5.1.9 Language of Bids

- The Bids uploaded by the Bidder and all correspondence and documents relating to the bids exchanged by the Bidder and FCSCP department, shall be written in English language, provided that any printed literature furnished by the Bidder in another language shall be accompanied by an English translation in which case, for purposes of interpretation of the bid, the English translation shall govern.
- If any supporting documents submitted are in any language other than English, translation of the same in English language is to be duly attested by the bidder.

### 5.1.10 Bid Submission Format

The entire proposal shall be strictly as per the format specified in this tender notice. Bids with deviation from this format shall be liable for rejection.

### 5.1.11 Documents Comprising of Bids

Following table is provided as the guideline for submitting various important documents along with the bid.

01 Commercial Proposal Folder	1. Commercial Proposal Cover Letter as per section 10.1
	2. Commercial Bid as per section 10.2

Bidders shall furnish the required information on their financial proposals in the enclosed format only. Any deviations in format may make the tender liable for rejection.

### 5.1.12 Evaluation Process

- Collector shall appoint a Tender Evaluation Committee (TEC) to scrutinize and evaluate the commercial Bids received. The TEC will examine the Bids to determine whether they are complete and responsive and whether the Bid format conforms to the tender requirements. FCSCP department may waive any informality or nonconformity in a Bid which does not constitute a material deviation according to FCSCP department.
- There should be no mention of bid prices in any part of the Bid other than the Commercial Bids.
- EOI qualified bidders shall only submit commercial bids in closed locations. Bidders other than qualified bidders in EOI shall furnish the pre-qualification criteria and commercial bids.

### 5.1.13 Evaluation of Commercial Bids

- The commercial Bids of only those Bidders, who qualified in the EOI stage, shall be considered and will be evaluated as per the evaluation criteria in this clause defined in GR.
- The TEC may require written clarifications from the Bidders to clarify ambiguities and uncertainties arising out of the evaluation of the Bid documents.
- Only commercial shall be evaluated to qualified EOI bidders in Closed Bid scenario.
- FCSCP department reserve rights to negotiate on commercial if bidder bids exceed current market rate on rental.

#### 5.1.14 Opening and evaluation of Commercial Bid

- FCSCP department will open the Commercial Bids of only pre-qualified Bidders, in the presence of the nodal officer/ designated representatives of the Bidder who choose to attend, at the time, date and place, as decided and communicated by FCSCP department.
- The Commercial Bids will be evaluated by FCSCP department for completeness and accuracy. Bidders has to quote rental per Metric Ton Basis for each warehouse. If there is a discrepancy between words and figures, the amount in words will prevail. Base rate of rental value has been fixed as Rs.7.40/-per month per quintal The maximum rental will be Rs. 1500/MT/Year.
- The amount stated in the proposal form, adjusted in accordance with the above mentioned procedure, shall be considered as binding, unless it causes the overall proposal price to rise, in which case the proposal price shall govern.
- If the bidder does not accept the correction of errors, its bid will be rejected and the bid security may be forfeited.

#### 5.1.15 Award Criteria

The method of winning bid selection shall be L1. The qualified bidder with the valid L1 rates shall be selected. ( L1 rate is the lowest rate discovered among financial bids submitted by the qualified bidders). In case of rejection of L1 by District Evaluation Committee due to invalid land documents, non-feasible locations for warehouse, L2 shall be called to match L1 rate & so on till FCSCP department gets the valid L1.

#### 5.1.16 FCSCP DEPARTMENTS' Rights to Accept / Reject any or all Proposals

FCSCP department reserves the right to accept or reject any proposal, and to annul the bidding process and reject all Bid sat any time prior to award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected bidder or bidders of the grounds for FCSCP department's action.

#### 5.1.17 Notifications of awards and Signing of Contract

- L1 bidder shall submit the land documents, location proximity & district level search report within 90 days from the Evaluation committee shall conduct visit to verify the documents & information shared by L1 bidders. Evaluation committee shall prepare Scrutiny report and submit the same to FCSCP department. FCSCP department shall call for an agreement post receipt of positive report by evaluation committee
- The notification of award will constitute the formation of the Contract. Upon the Bidder's executing the contract with FCSCP department, it will promptly notify each unsuccessful bidder and return their EMDs.
- At the time FCSCP DEPARTMENT notifies the successful Bidder that its bid has been accepted, FCSCP DEPARTMENT will send the Bidders the Performa for Contract, incorporating all clauses/agreements between the parties. Within 7days of receipt of the Contract, the successful Bidder shall sign and date the Contract and return it to FCSCP DEPARTMENT. Draft Format of the **contract** is given in the **Annexure IV**.

#### 5.1.18 Performance Bank Guarantee

- The Vendor shall at his own expense, deposit with department, within seven (07) working days of the Notification of award of the contract or prior to signing of the contract, whichever is earlier, an unconditional and irrevocable Performance Bank Guarantee (PBG) from a Nationalized or Scheduled Bank other than co-operative Banks as per the format given in this tender, payable on demand, for the due performance and fulfilment of the contract by the bidder.

- This Performance Bank Guarantee will be for an amount equivalent to **15 %** of contract value. Bidders. All charges whatsoever such as premium, commission, etc. with respect to the Performance Bank Guarantee shall be borne by the bidder.
- The performance bank guarantee shall be valid till the end of 120 days after the expiration of contract period or completion of the project whichever is later and should be in the format prescribed in this tender.
- The Performance Bank Guarantee may be discharged/ returned by department upon being satisfied that there has been due performance of the obligations of the Bidder under the contract. However, no interest shall be payable on the Performance Bank Guarantee.
- In the event of the Bidder being unable to service the contract for whatever reason, department would evoke the PBG. Notwithstanding and without prejudice to any rights whatsoever of department under the Contract in the matter, the proceeds of the PBG shall be payable to department as compensation for any loss resulting from the Bidder's failure to complete its obligations under the Contract. Department shall notify the Bidder in writing of the exercise of its right to receive such compensation within 14 days, indicating the contractual obligation(s) for which the Bidder is in default.
- Department shall also be entitled to make recoveries from the Bidder's bills, performance bank guarantee, or from any other amount due to him, the equivalent value of any payment made to him due to inadvertence, error, collusion, misconstruction or misstatement.

#### **5.1.19 Failure to agree with the Terms & Conditions of the tender / Contract**

- Failure of the Vendor to agree with the Terms & Conditions of the tender /Contract shall constitute sufficient grounds for the annulment of the award of contract, in which event the contract may be awarded to the ext most responsive bidder.

#### **5.1.20 Terms and Conditions of the Tender**

- Bidder is required to refer to the draft Contract Agreement, attached as Annexure in this tender, for all the terms and conditions (including project timelines) to be adhered by the successful bidder during Project Implementation and Post implementation period. Please note that one needs to read the Contract Agreement as a whole document; and the Annexure mentioned there-in may not correspond to the tender

## 6 Scope of Work

### 6.1.1 Detailed Scope of work

The following sections detail out the scope of work to be performed by the selected vendor. It may be noted that while this tender has attempted to provide extensive guidelines, it shall be the responsibility of the selected vendor to provide for any additional construction, human resources or processes that may be required to extend the agreed upon services as per the service level agreement between both parties.

The indicative scope of work for this tender is specified below. FCSCP department reserves the right to modify this scope during the tender stage, in the interest of project and larger competition by the eligible bidders.

### 6.1.2 Land Availability

- The shortlisted agency for each Project Location will be required to provide the land required for developing the Warehouse at such Project Location for which it is awarded the Storage Agreement pursuant to the Bid Process, at its own cost and risk.
- **Dispute Free:** The proposed land where the warehouse is to be constructed shall have clear title unencumbered and free from any dispute, failing which FCSCP department reserves the right not to take over the warehouse on rent.
- **Compliance with Specification:** The land procured for the Warehouse at a Project Location must meet the specifications set out at Schedule I : Land Specification For every project location that a Bidder submits a Bid for, the size of the land parcel identified by the Bidder should be as below.

Storage Capacity in MT	Land Area( In Square Meters)
1080 MT	4000

### Specification for Typical Warehouse Construction to be built on engineering specifications-

- The Roof to be constructed as per proflex sheet roofing system as per CGI and CPWD's specification & Guideline
- Ideal construction of flooring & roofing as per R.C.C
- Ideal construction of plinth, beam, tie beam & columns as per R.C.C
- Bidder shall provide turbo ventilators, rolling shutters
- Standard painting with double oil bound distemper two coats
- The construction of flooring should be done in standard cement punning

If bidders are already having constructed warehouses then existing set up should qualify land specification Criteria & should have constructed on minimum warehouse construction specification as mentioned in **Annexure II - Schedule III** . Bidder shall produce all related documents. DEC committee shall conduct physical verification of the same.

Any innovative solution or typical construction shall ensure the following below during the period of agreement -

- Solution should not be prone to earthquake, fires and natural disasters
- Any repair work or technology upgradation scope remain with bidders in any case.
- Construction of any technology or innovative solutions should be completed within timeline of 12 months.
- Fire free solution or fire protecting solution
- Portable solution should not be moved without permission of FCSCP department. Only in emergency situation bidders can shift warehouse after informing concern authority from FCSCP department.

### 6.1.3 Hiring / Construction / Development of Warehouses

The successful bidder shall provide the below mentioned services with regards to the warehouse.

- **Construct and maintain warehouse:** The selected bidder for each project location will be required to construct and maintain the warehouse / godown at such project location, at its own cost and risk. In case the selected bidder has an existing warehouse, the bidder may suitably modify the same in compliance to the warehouse specifications specified in the tender document. FCSCP department will not bear any design, construction, operation costs or any other form of risk for the project.
- **Approvals:** All the necessary permissions, approvals and licenses from the concerned local bodies, State and Central government departments / authorities for the purpose of this project (including but not limited to Development, Operation and Maintenance of warehouse) needs to be obtained by the successful agency on its own and at its cost.
- **Ancillaries:** All the necessary ancillaries like laying of roads, construction of office building, compound wall for the site, drains, toilets, supply of electricity, water etc., are to be provided by the successful agency in the warehouses complex.
- **Design:** Warehouses to be developed should be structurally sound on account of engineering considerations and functionally suitable to store the agricultural produces. The technical specifications for the construction **area of warehouses are in Schedule III : Warehouse Construction Specifications and the detailed design of the warehouse** will be shared with the successful agencies.
- **Completion:** For each project location, the successful bidder will have to achieve completion date of the warehouse within 12 months from the date of signing of the Storage Agreement.
- **Fire Safety:** The bidder shall **provide / make** necessary arrangements (such as adequate fire extinguisher And sand filled bucket for) for fire safety sufficient to ensure safety of warehouses and material stored within warehouse in case of fire. The bidders shall ensure provision of landline telephone or Mobile in case of emergency information. Bidder shall ensure availability of list contact numbers for emergency, fires and ambulance near by the telephone. FCSCP department shall inspect the visit to register warehouses.

- **Consumables:** The bidder shall ensure the data management by facilitating warehouse management system, providing paper rolls for generation of receipt, internet facility for computer system, arrangement of pen drives in case of patch update or any data download or upload required by Food, Civil Supply and Consumer Protection department officers.
- **CCTV:** Bidder should install CCTV cameras to monitor the warehouse. The areas where CCTV needs to be installed are (i) Main Gate, (ii) Corners of Fencing Parameter, and (iii) Corners of warehouse. The audiovisual feed from the cameras should be connected to local server for feed recording. Feeds shall be recorded up to 45 days. FCSCP department shall have rights of monitoring or inspection of viewing recordings at any point of time. The bidder will be responsible for payment incurred for provision of Network to install CCTVs. The responsibility of installation and maintenance of CCTV will remain with the bidders during contract period.
- **Internet Facility :** The bidder shall provide adequate and high quality internet facility to the warehouse which would be used for CCTV, Warehouse Management Software and Biometric system. The bidder should provide sufficient uplink and downlink bandwidth (4 Mbps) to ensure smooth viewing at the central location.
- **Electrical Connections and Illumination :** The bidder shall install sufficient electric points and lights within premises of warehouse and purchase center for adequate illumination and visibility at night.
- **Seating Arrangement :** The bidder shall provide basic seating arrangement (table, chair, fans, etc.) for resources working for warehouse management.
- **Security Manpower :** The bidder shall provide a cabin for security guard with basic facility of lights, fans and CCTV viewing. The security guard provided by the bidder should be available on 24x7 basis in shifts of 8 hours each.
- **Fencing:** The bidder shall provide a fencing wall around premises of warehouse and purchasing center. Fencing wall should have sufficient gates for Goods-In & Goods-Out.
- **Drainage:** The bidder shall provide the warehouse premises with well-designed drainage system as per the site requirements.



#### 6.1.4 Operation and Maintenance of warehouses

- **Ownership of warehouse** : The successful bidder shall own and maintain the warehouse at the Project location for which it is awarded the contract at all times during the term of the contract. Upon expiry or termination of the contract, such warehouse will continue to be owned and operated by the Successful bidder and it will have no obligation to transfer the warehouse to FCSCP department or to make the Guaranteed Tonnage available for FCSCP department.
- **Compliance to specifications at all times** : In case the warehouse or any part thereof becomes Unsuitable for storage, FCSCP department shall notify the same to the successful bidder and the successful bidder shall carry out the necessary repairs, within 15 days of issuance of such notice, at his cost to make the premises suitable for storage. No rent is payable in respect of the warehouse or such part thereof which was rendered unsuitable for the associated period. In case the successful bidder delays or fails to carry out the repairs as above, FCSCP department will be at liberty to undertake the work and the expenses will be deducted from the rent payable and/or security deposit. If the warehouse is rendered permanently unsuitable for storage, FCSCP department reserves the right to terminate the contract and exit the contract without any liability / compensation and the FCSCP department will only be responsible for settlement of pending dues for the duration the warehouse was available for usage and suitable as per the specifications provided in the document.
- **Exclusive Usage** : The successful bidder will provide the entire warehouse on rent and cannot lease or use the warehouse for any other means. In case of violations by the successful bidder, FCSCP department reserve the rights to terminate the contract.
- **Pest Control** : The successful bidder shall be responsible for insect, pest and rodent pest management. FCSCP department shall inspect the site through its designated officers every fortnightly.
- **Cleanliness** : The successful bidder shall be responsible for maintaining cleanliness of warehouse. The cleanliness should not be restricted to removing of dead insects, dust, storage fungi, waste material and dead stocks.
- **Insurance** : The successful bidder shall obtain comprehensive insurance of warehouse ( including material stored within it ) with a leading insurance company at its own cost. The successful bidder should ensure that insurance is approved by **Insurance Regulatory and Development Authority (IRDA) Authorised company / institution etc** and is in force at all times during the contract. The bidder shall submit insurance copy to respective Collector (**FCSCP department**) immediately upon issuance of such policy but not later than storage of commodities in warehouse by FCSCP department. The bidder shall insure warehouse commodities stock in the name of FCSCP department. In case of any damage occurred during contract period, FCSCP department will have rights to claim from Insurance Company.

- **Utilisation of vacate storage :** During contract period FCSCP Department/Respective Collector shall reserves all rights to utilise vacate storage space with the consent of food & Civil Supply Department.
- **Damage or Shortage of commodities during storage period:** The successful bidder shall be liable for any shortage/damage/losses incurred during storage period.
- **Warehouse Inventory Management :** The bidder shall provide warehouse inventory management System to FCSCP department so as to know the current stock. Dashboard should be available with FCSCP DEPARTMENT at any point of time.

#### 6.1.5 Revenue model for successful bidder - Renting of the warehouses

- **Guaranteed Tonnage :** For each project location, the successful bidder will be required to make the Guaranteed Tonnage exclusively available for FCSCP department at all times from the operations date until the expiry or termination of the concerned contract.
- **Rental:** From the operations date until the expiry or termination of the concerned contract, the successful bidder of each project location will earn the storage rental as quoted by the successful bidder in its financial proposal in the TENDER.
- **All-inclusive rate :** In the TENDER, the bidders will be required to submit financial proposals on per metric tonne (MT) per month basis. This rent shall be all inclusive of ancillaries, services and other amenities (office building, roads, office buildings, water, electricity supply, etc.). In addition to this rent, no separate rent will be paid for FCSCP DEPARTMENT.
- **Payment :** FCSCP department shall pay back to back rental payment (without interest) from food and civil Supply department. Bidder shall submit invoice on quarterly basis.

#### 6.1.6 Project Locations (Warehouse locations)

- Warehouse project location in Taluka – Kuhi, Dist. Nagpur. Please refer Annexure II- Schedule II for list of closed
- Only qualified bidders in closed Bid scenario are allowed for bidding in commercial proposal.
- Qualified bidder in EOI stage shall only bid for given location where they have submitted proposal in EOI stage. Commercial on any other location shall be considered as invalid if found any.

### 6.1.7 Project Duration

- The successful bidder shall own, operate and maintain the warehouse at the project location for which it is awarded the contract at all times in the contract duration. Upon expiry or termination of the contract, Bidder will have no obligation to transfer the warehouse to FCSCP department or make the guaranteed storage available for FCSCP department

Initially the contract will be for a period of **15** years and it will be extended as per requirement. Within 15 calendar days of the effective date of the contract, selected vendor will be required to :

- The detailed construction plan should be internally reviewed for completeness and correctness by selected vendor and subsequently delivered to FCSCP department for its review and acceptance. The mutually agreed construction plan will form the basis for regular project monitoring.
- Selected vendor should revise the construction plan to incorporate changes due to requirement delay in approvals, etc., if any, and submit the revised construction plan to FCSCP department.
- Selected vendor should hold quarterly review meetings with FCSCP department providing detailed report on the progress of the construction (project progress report) clearly highlighting the activities completed in the reporting period, activities planned for the next reporting period, deviations from the planned dates, issues / concerns affecting the project progress, impact on the overall project timelines, project related risks with their mitigation plans.
- Selected vendor should monitor the quality of the solution being developed in line with the construction quality plan. Selected vendor's project manager should periodically review the performance of the project against defined quality goals and take necessary actions for any deviations.

### 6.1.8 Maintenance of the proposed Solution

The selected vendor shall be required to provide maintenance of warehouse services for Solution including, but not limited to, performance issues, implementing any construction change requests, addressing the incidents.

## 7 Service Level Agreement

The purpose of this Service Level Agreement (hereinafter referred to as SLA) is to clearly define the levels of service which shall be provided by the selected vendor to FCSCP department for the duration of this contract.

The benefits of this SLA are to :

- Trigger a process that applies to be FCSCP department and the selected vendor management attention to some aspect of performance when that aspect drops below an agreed upon threshold, or target.
- Makes explicit the expectations that FCSCP department has for performance.
- Helps FCSCP department control the levels and performance of selected vendor services. The selected vendor and FCSCP department shall maintain a regular contact to monitor the performance of the services being provided by the selected vendor and the effectiveness of this SLA. This Service Level Agreement is between the selected vendor and FCSCP department.
  1. Agreement shall be revoked in case of dissatisfactory replies are received from bidders in case of shifting, closing of warehouses without formal approval from FCSCP department. Verbal confirmation with competent authority is valid only in case of fire or natural disaster cases. Competent authority may take this decision based on inspection report received from field.
  2. FCSCP department shall notify the bidders in advance in case of commodities to be reserved into warehouses. Bidder shall be responsible to take proper inventory whenever there is loading and unloading of the commodities.
  3. FCSCP Department shall perform monthly/Quarterly inspection of warehouses. Designated Inspection officer shall prepare Inspection report based on current scenario and condition of warehouses. If there is serious concern highlighted by Inspecting officers regarding warehouse linkage, warehouse conditions, fumigations, rodent etc then bidder has to take corrective measures within 15 days of submission of Inspection report. FCSCP department/ Respective Collector may withhold payment of bidders on third consecutive receipt of negative remarks. Competent authority shall release the payment once reported issue is resolved from bidders.
  4. Bidder shall construct warehouse within 12 months from the date of agreement. If bidder fails to deliver the warehouse within time then FCSCP department shall have rights to forfeit security deposit.
  5. Bidder shall report inventory status weekly basis to regional office and FCSCP department HQ. Report form at shall be shared with bidders before commencement of warehouse.
  6. Bidder shall ensure mentioned capacity all the time during engagement period. Any shortfall in capacity during engagement period will not be acceptable by MSTDC. In such case penalty shall be imposed on bidders. Competent authority may decide the value of penalty. FCSCP DEPARTMENT may deduct penalty amount from monthly rent.
  7. Consecutive damage / loss for more than 1 % permissible limit shall invoke penalty of 1.5% of the damaged commodity.

**Commencement of SLA :** The SLA shall commence from commencement of warehouse period itself for adherence to the Execution and implementation plan. The penalty will be deducted from the next payment milestone during the agreement period.

### **7.1.1 Issue and Escalation Management Procedures**

Issue Management process provides for an appropriate management structure towards orderly consideration and resolution of business and operational issues in the event of a quick consensus not reached between FCSCP department and Selected vendor. Implementing such a process at the commencement of services shall significantly improve the probability of successful issue resolution. It is expected that this pre-defined process will only be used on an exception basis if issues are not resolved at operational levels.

### **7.1.2 Issue Management Procedures**

Either FCSCP department or Selected vendor may raise an issue by documenting the business or operational problem, which presents a reasonably objective summary of both points of view and identifies specific points of disagreement with possible solutions.

- The FCSCP department and the selected bidder will determine which committee or executive level should logically be involved in resolution. A chain of management escalation is defined for the same.
- A meeting or conference call will be conducted to resolve the issue in a timely manner. The documented issues will be distributed to the participants at least 24 hours prior to the discussion if the issue is not urgent requiring immediate attention.
- The FCSCP department and the selected vendor shall develop an interim solution, if required, and subsequently the permanent solution for the problem at hand. The Selected vendor will then communicate the resolution to all interested parties.
- In case the issue is still unresolved, the arbitration procedures described in the Contract will be applicable.

### **7.1.3 Responsibilities of the Parties**

Selected vendor is responsible for executing this contract and delivering the services, while maintaining the specified performance targets in view of preservation of commodities and safety of warehouse.

Additionally the Selected vendor is responsible for :

- Reporting problems to FCSCP department as soon as possible.
- Assisting FCSCP department in management of the SLA.
- Providing early warning of any organizational, functional or operational changes that might affect selected vendor's ability to deliver the services.
- Assisting FCSCP department to address and resolve issues from time to time.

Selected vendor shall take immediate action to identify problems and follow up with appropriate action to fix them as quickly as possible.

#### **7.1.4 FCSCP DEPARTMENT**

FCSCP department is responsible for :

- Reporting defects and problems to the Selected vendor as soon as possible.
- Assisting Selected bidder in management of the SLA.
- Providing early warning of any organizational, functional or operational changes that might affect Selected vendor's ability to deliver the services
- Assisting Selected bidder to address and resolve issues from time to time Selected bidder shall take immediate action to identify problems and follow up with appropriate action to fix them as quickly as possible.

#### **7.1.5 Management Escalation Procedures & Contact Map**

The purpose of this escalation process is to provide a quick and orderly method of notifying both parties that an issue is not being successfully resolved at the lowest possible management level. Implementing this procedure would mean that FCSCP department and Selected vendor management are communicating at the appropriate levels.

#### **7.1.6 Escalation Procedure**

Escalation should take place on an exception basis and only if successful issue resolution cannot be achieved in a reasonable time frame.

- Either FCSCP department or Selected bidder can initiate the procedure.
- The “ moving party ” should promptly notify the other party that management escalation will be initiated.
- Management escalation will be defined as shown in the contact map below.
- Escalation will be one level at a time and concurrently.

## **8 Annexure I: Formats & Check-list to be used for the Proposal Submission**

### **8.1.1 Checklist**

Envelope I: Doc1- Tender Fee & EMD paid receipt. Doc 2-Covering Letter (Please refer Form I), Doc3- Bidders Particular.

Envelope II: Commercial Proposal Covering Letter (Refer 10.1.1) & Commercial Bid (Refer 10..1.2)

### **8.1.2 Form-I: Bid Submission Cover Letter**

Date: DD/ MM / YYYY

To

The collector,

-----

**Sub : Tender notice for “Development/Construction, operations and maintenance of warehouses on Public-Private Partnership (PPP)”**

**Ref : Tender No: -----**

Dear Sir,

With reference to your tender Documents dated ..... we, having examined the TENDER Documents and understood its contents, hereby submit our response with a TENDER for **“Development / construction and maintenance of warehouses on Public-Private Partnership (PPP)”**.

We attach hereto our responses to commercial proposal as required by the tender

We confirm that the information contained in these responses or any part thereof, including the exhibits, and other documents and instruments delivered or to be delivered to FCSCP department, is true, accurate, verifiable and complete. This response includes all information necessary to ensure that the statements therein do not in whole or in part mislead the department in its short-listing process.

We fully understand and agree to comply that on verification, if any of the information provided here is found to be misleading at any stage of the selection process, we are liable to be dismissed from the selection process.

We agree for unconditional acceptance of all the terms and conditions set out in the tender document and also agree to abide by this tender response.

We agree that you are not bound to accept any tender response you may receive. We also agree that you reserve the right in absolute sense to reject all or any of the products/ services specified in the tender response and proposals.

I / We declare that we or our Associates are not submitting a response and proposal for the same Project Location.

It is hereby confirmed that I / We are entitled to act on behalf of our company / corporation / firm/ organization and empowered to sign this document as well as such other documents, which may be required in this connection.

---

Signature of Authorized Signatory ( with official seal )

Name :

Designation :

Address :

Telephone & Fax :

E-mail address :



### 8.1.3 Form – III : Bidder's Particulars

Sr. No	Description	Details (to be filled by the responder to the TENDER-including the consortium partners separately)
1.	Name of the Bidder (Firm / Individual / Society / Joint Venture)	
2.	Role in tender	Bidder / Prime Bidder / Non-Prime Bidder
3.	Official address	
4.	Phone No. and Fax No.	
5.	Corporate Headquarters Address	
6.	Mobile No.	
7.	Web Site Address & e mail ID	
8.	Details of Firm's Incorporation / Registration (Please enclose copy of the registration document)	
9.	Name of Registration Authority	
10.	Registration Number and Year of Registration	
11.	GST Registration No	
12.	Permanent Account Number (PAN)	

#Please submit the relevant proofs for all the details mentioned above along with your Bid response.

Contact Details of officials for future correspondence regarding the bid process:

<b>Details</b>	<b>Authorized Signatory</b>	<b>Secondary Contact</b>
Name		
Title		
Company Address		
Phone		
Mobile		
Fax		
E-mail		

### 8.1.4 Format – II : Consortium Agreement

( To be printed on Rs. 400/- Stamp Paper )

This Consortium Agreement (hereinafter the "Agreement") entered into this \_\_\_\_\_ day of \_\_\_\_\_ Two Thousand and Sixteen (“**Date of Signing**”)

BETWEEN

1. \_\_\_\_\_ through Authorised Signatory  
\_\_\_\_\_ having their principal place of business at  
\_\_\_\_\_ in India for and on behalf of  
\_\_\_\_\_ (hereinafter called " the Bidder") of the **ONE PART**;

AND

2. \_\_\_\_\_ through Authorised Signatory  
\_\_\_\_\_ having their principal place of business at  
\_\_\_\_\_ in India for and on behalf of  
\_\_\_\_\_ (hereinafter called "the Bidder") of the **SECOND PART**;

AND

3. \_\_\_\_\_ through Authorised Signatory  
\_\_\_\_\_ having their principal place of business at  
\_\_\_\_\_ in India for and on behalf of  
\_\_\_\_\_ (hereinafter called "the Bidder") of the **THIRD PART**;

RECITALS

- A. FCSCP department , has issued tender notice vide notification No. ----- (here in after the “ TENDER ”), inviting proposal for Development, Implementation & Maintenance of warehouses for FCSCP department (hereinafter the “ Project” );
- C. As specified in clause ----- of the tender Document, the Bidder has formed a consortium and Hereby enters into this Agreement and the Parties have agreed to the participate as members of the Consortium subject to said terms and conditions of this Agreement.

The members of the Agreement shall each be referred to as the “Party” and together as the “Parties”

**NOW THEREFORE**, in consideration of the mutual covenants of the Parties, the sufficiency whereof is hereby acknowledged and other good valuable consideration, the Parties agree as follows:

#### 1. Definitions and Interpretation

##### 1.1 Definitions

Capitalized terms used in this Agreement shall have their respective defined meanings, and/or shall have the meaning specified in the Contract and the tender Document and subsequently signed Contract between FCSCP department and Bidder, unless the context expressly or by necessary implication otherwise requires.

“**Contract**” shall mean the Contract entered into by the Bidder and FCSCP department.

##### 1.2 Interpretation

- (a) For the purpose of this Agreement, where the context so admits, (i) the singular shall be deemed to include the plural and vice-versa, and (ii) masculine gender shall be deemed to include the feminine gender and vice-versa.

- (b) References to a “person” if any shall, where the context so admits, include references to natural persons, partnership firms, companies, bodies corporate and associations, whether incorporated or not or any other organization or entity including any governmental or political subdivision, ministry, department or agency thereof;
- (c) The headings and sub-headings are inserted for convenience only and shall not affect the construction and interpretation of this Agreement.
- (d) References to the word “include” and “including” shall be construed without limitation.
- (e) any reference to day shall mean a reference to a calendar day;

## **2. Purpose of Consortium Agreement**

The purpose of this Agreement is to specify the responsibilities of the Parties towards the FCSCP department, supplement the provisions of the Contract and the tender Document concerning the Project and to set out further rights and obligations of the Parties supplementing but not conflicting with those present in the Contract and the TENDERD document.

## **3. Duration**

This Agreement shall come into force as of the Date of Signing and shall continue in full force and effect until the complete discharge of all obligations, concerning the carrying out of the Project, which have been taken on by the Parties under the Contract, TENDER Document and under this Agreement.

### **4. Coordinator**

- 4.1 The Parties hereby understand and agree that there shall be a “Lead Partner” who shall be the point of contact for the purpose of the Project. It is hereby agreed by the Parties that for the purpose of the Agreement M/s. \_\_\_\_\_ has been appointed as Lead Partner. The Lead Partner shall be specifically authorised by the Parties to make representations and declarations on their behalf. However, it is clarified that every member of the consortium shall be equally responsible and jointly and severally liable for the successful completion of the entire Project.
- 4.2 For the purpose of this Agreement, the TENDER Document and the Contract, the Lead Partner shall be The single point of contact for the FCSCP department, shall have the overall responsibility of the management of the Project and shall have single point responsibility for ensuring that all members of the consortium are complying with the terms and conditions set out in the Contract and the tender Document.
- 4.3 All instructions/communications from FCSCP department to the Lead Partner shall be deemed to have been duly provided to all the members of the consortium.
- 4.4 For the avoidance of doubt it is hereby clarified that all the Parties of the consortium shall be individually, jointly & severely responsible for the obligations under the tender Document, Contract and this Agreement, irrespective of the specific roles/responsibilities undertaken by them.

### **5. Rights and Obligations**

- 5.1 For delivery of all services as per the agreement with FCSCP department, Lead Partner shall be Primarily accountable and responsible.
- 5.2 The Lead Partner shall be responsible for the transmission of any documents and information connected with the Project to the Parties concerned.
- 5.3 It is hereby clarified that representations and declarations made by the Lead Partner shall be legally binding on all the Parties of the Agreement.
- 5.4 Each Party shall use reasonable efforts to perform and fulfill, promptly, actively and on time, all of its obligations under the TENDER Document, Contract and this Agreement.
- 5.5 All commercial activities with FCSCP DEPARTMENT will be conducted by the Lead Partner.

## **1. Responsibilities towards each other**

1.1 Roles and responsibilities of individual consortium partners are as follows:

- Partner I ( Prime Bidder)
- Partner II
- Partner III

**1.2 (a) Each Party undertakes :-**

- (i) to promptly notify each of the Parties about any significant delay in fulfillment of milestones in relation to the Project;
  - (ii) to inform other Parties of relevant communications it receives from third parties in relation to the Project.
- (b) Each Party shall use reasonable efforts to ensure the accuracy of any information or materials it supplies hereunder or under the Contract and promptly to correct any error that came to its knowledge.
- (c) Each Party shall act in good faith. When a Party believes that for carrying out the Project or use of knowledge from the Project it might require access rights to another Party's pre-existing know-how or to another Party's knowledge and material which is not from the Project, it shall obtain written permission from the Party prior to the use of such material.
- (d) Each Party shall abide with the terms of confidentiality as described in TENDER Document and shall also abide with all the clauses of the TENDER Document.
- (e) Each Party shall share and disclose information including confidential information and documents as may be necessary for the Project. The Parties hereby understand and agree that the information shall be used solely for the purpose of the Project and not for its own use or for any third party benefit.

**2. Liabilities**

**2.1 Liability towards each other**

The Parties hereby understand and agree that all the Parties shall be jointly and severally liable for any default with regard to the Scope of Work as per the TENDER Document.

**2.2 Indemnification of a Party to other**

Each Party shall indemnify each of the other Parties, in respect of liability resulting from acts or omissions of itself.

**2.3 Liability towards Third Parties**

Subject to such other undertakings and warranties as are provided for in this Agreement and the Contract, each Party shall be solely liable for any loss, damage or injury to third parties resulting from its carrying out its parts of the Project and from its use of knowledge and/or know how.

**3. Assignment**

No Party shall, without the prior written consent of the FCSCP department and of the other Parties, assign or otherwise transfer partially or totally any of its rights and obligations under Agreement.

**9. Representation and Warranties**

**9.1 The Parties hereby represents and warrants that: -**

- (a) They are duly organised and validly existing under the laws of India and have full power and authority to enter into this Agreement and to perform its obligations under this Agreement. The execution and validity of this Agreement and the consummation of the transactions contemplated by this Agreement have been duly authorised by all necessary action on the part of the Parties;
- (b) This Agreement constitutes a valid and binding obligation of the Parties, enforceable against them in accordance with the terms hereof, and the execution, delivery and performance of this Agreement and all instruments or agreements required hereunder do not contravene, violate or constitute a default of or require any consent or notice under any provision of any agreement or other instrument to which the Bidder is a party or by which the Bidder are or may be bound.

- (c) Each of the representations and warranties shall be construed as a separate representation, warranty, covenant or undertaking, as the case may be, and shall not be limited by the terms of any other representation or warranty or by any other term of this Agreement.
- (d) The Parties have read, understood and agree with the terms of this Agreement and the TENDER Document.

**10. Miscellaneous**

- (a) This Agreement shall be specifically enforceable at the instance of any of the Parties.
- (b) Notices, demands or other communication required or permitted to be given or made under this Agreement shall be in writing in the English language and delivered personally or sent by prepaid post with recorded delivery addressed to the intended recipient at its address set forth below:

If to the Party of the First Part  
[Add name]  
[Add address]  
Attention:[add name of the person]

If to the Party of the Second Part  
[Add name]  
[Add address]  
Attention:[add name of the person]

- (c) Any such notice, demand or communication shall, unless the contrary is proved, be deemed to have been duly served at the time of delivery in the case of service by delivery in person or by registered post.
- (d) Each Party shall bear its own legal, accounting, professional and advisory fees, commissions and other costs and expenses incurred by it in connection with this Agreement and the transactions contemplated herein.
- (e) This Agreement supersedes all prior discussions and agreements (whether oral or written, including all correspondence) if any, between the Parties with respect to the subject matter of this Agreement. In the event of any conflict between the terms of this Agreement and the Contract and the contract Document, the terms of the Tender Document shall prevail.
- (f) Any provision of this Agreement, which is invalid or unenforceable, shall be ineffective to the extent of such invalidity or unenforceability, without affecting in any way the remaining provisions hereof.
- (g) This Agreement shall be governed and interpreted by, and construed in accordance with the substantive laws of India, without giving effect to the principles of conflict of laws **thereunder**.

- (h) (i) Any and all disputes or differences between the Parties arising out of or in connection with this Agreement or its performance shall, so far as it is possible, be settled amicably through consultation between the Parties.
- (ii) If after 30 (thirty) days of consultation, the Parties have failed to reach an amicable settlement, on any or all disputes or differences arising out of or in connection with this Agreement or its performance, such disputes or differences shall be submitted to final and binding arbitration. The arbitration panel shall consist of three arbitrators : one nominated by \_\_\_\_\_ [add name of Party of the First Part], one nominated by \_\_\_\_\_ [add name of Party of the Second part] and the third nominated jointly by both the parties. The arbitration shall be ----- **District, Maharashtra, India**. The language to be used in the arbitration proceedings shall be English. The award of the arbitration proceedings will be final and binding on both Parties to the Agreement.
- (i) This Agreement shall be Governed by the laws of India.

**IN WITNESS WHEREOF**, the Parties have entered into this Agreement the day and year first above written.

**[add name of the party of the First Part]**

Authorised Signatory

Name:

Designation:

In the presence of :

Name:

Address:

**[add name of the party of the Second Part]**

Authorised Signatory

Name:

Designation:

In presence of:

Name:

Address:

**[add name of the party of the Third Part]**

Authorised Signatory

Name:

Designation:

In presence of:

Name:

Address:

### 8.1.6 Format-III: Agreement to Lease

**(To be executed on stamp paper)**

**THIS AGREEMENT TO LEASE (Agreement)** is entered into on [●] at [●]

#### **BETWEEN**

**(1) [Insert name of the lessor (s)]**, an [individual]/ [insert name of the legal entity] [incorporated/registered] under the [insert name of the relevant statute under which the Bidder has been incorporated or registered, as the case may be], [residing at [●]/with its [registered/principal] office at ●]] (hereinafter referred to as the **Lessor**, which shall include its successors and permitted assignees)<sup>2</sup>

#### **AND**

**(2) [Insert name of the lessee]**, an [individual]/ [insert name of the legal entity] [incorporated/registered] under the [insert name of the relevant statute under which the Bidder has been incorporated or registered, as the case may be], [residing at [●]/with its [registered/principal] office at [●]] (hereinafter referred to as the **Bidder**, which shall include its successors and permitted assignees).

#### **BACKGROUND**

- A. the Lessor [is/are] the owner(s) of land admeasuring [●] acres (the **Site**), situated at [insert location] in [insert name of district] Maharashtra.
- B. The Bidder intends to submit a Bid to develop a warehouse [on/adjacent to] the Site in response to the Request for Proposal (TENDER) dated [insert date] issued by the **FCSCP DEPARTMENT**.
- C. The Lessor(s) has/have agreed to transfer leasehold rights over and possession of the Site to the Bidder if the Bidder wins the relevant bid and the parties have agreed to execute this Agreement to record the terms on which such leasehold rights and possession shall be transferred.

**NOW, THEREFORE**, the parties, with the intent to be legally bound, hereby agree as follows:

1. The parties agree and undertake that if the Bidder wins the relevant bid:
  - a. Then the Lessor(s) shall lease the Site to the Bidder, free from all encumbrances, [to develop the warehouse / Godown at the Site/construct an access road to the warehouse/godown to be developed by the Bidder], subject to the payment of the rent pursuant to the lease deed; and
  - b. The parties shall execute, sign and register the lease deed(s) and other relevant documents and do all other things necessary to lease the Site and hand over vacant and peaceful possession of the Site to the Bidder or its nominee within 120days from the date that the Letter of Award (**LOA**) is issued to the Bidder by FCSCP DEPARTMENT
  - c. The lease period shall be for an initial term of [15] years. The parties may mutually agree to extend as per requirement on the same terms and conditions as contained in the lease deed (s);
  - d. The [annual/monthly] rent payable shall be Rs. [●] (Rupees [●] only).
  - e. Any taxes payable, including applicable stamp duty, registration fee etc., for the execution and registration of the lease deed(s) shall be borne by Bidder and
  - f. The Bidder shall use the Site only for the purposes of construction, operation and maintenance of the [warehouse /godown /access road].
2. Each party agrees that the execution and delivery of this Agreement by such party shall constitute valid and binding obligation of such party, enforceable against such party and each party waives its rights, if any, under law to challenge the binding nature of this Agreement on any grounds whatsoever.

3. The Lessor(s) represents and undertakes that:
  - a. [he / she/ it/ they ] [ has / have] a clear, valid and marketable title to the Site, free from any encumbrances, charge or mortgage, and [has/have] the right to grant leasehold rights over the Site to the Bidder;
  - b. there are no threatened or actual disputes or litigation in relation to the Site;
  - c. All claims and dues due to any government authority in relation to the Site have been satisfied in full and there are no such claims or dues in existence;
  - d. [He/she/it/they] shall not prevent or obstruct the Bidder in carrying out construction and operations of the [warehouse / access road] at the Site [and providing warehousing and other ancillary services to FCSCP DEPARTMENT]; and
  - e. [He/ she / it / they] shall have no rights to the rice or other essential commodities stored at the warehouse, even if the Bidder fails to pay the rent in accordance with the lease deed(s) or for any other reason whatsoever.]
  
4. This Agreement shall be effective from the date it is signed by both parties and shall remain in force and effect until the execution of the lease deed(s) for the Site by the parties, unless terminated earlier by mutual agreement between the parties.

Notwithstanding anything contained in this Agreement, the parties agree that this Agreement Shall automatically terminate if the Bidder does not win the relevant bid.

5. The parties agree that if the Bidder wins the relevant bid and the Lessor does not execute the lease deed, damages shall not be an adequate remedy for breach of the Lessor(s) obligations under this Agreement and the Bidder shall be entitled to enforce specific performance of the Lessor's(s)' obligations under this Agreement.
  
6. -----District, Maharashtra India shall have exclusive jurisdiction over all disputes arising out of or in connection with this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused these presents to be executed by its Authorized representatives as of the date first written above.

**For Lessor(s)**

By .....

Name: [ ]

Designation: [ ]

**For Bidder**

By .....

Name: [ ]

Designation: [ ]



### 8.1.7 Format – IV : Undertaking to be provided by Joint Owners of Land

(To be executed on stamp paper of appropriate value)

Date: [insert date], 2018

To,  
collector,  
-----

Dear Sir,

#### **Sub: Undertaking Regarding Land for Development of warehouse at [insert Project Location]**

I [insert name] and [insert name of Bidder](the **Bidder**) are the joint owners of land admeasuring [ ] acres (the **Site**) situated at [insert location] in [insert name of Taluka ] [insert name of district] district of Maharashtra (the **Project Location**).

I understand that the Bidder intends to submit a proposal for development, operation and maintenance of a warehouse on the Site at the Project Location in response to the Request for Proposal (TENDER) dated [insert date] (the **TENDER**) issued by the **FCSCP DEPARTMENT**.

for selection of partners to develop, operate and maintain the warehouses in the State of Maharashtra.

I hereby confirm and undertake that if the Bidder is declared as the Selected Bidder for the Project Location:

1. I have no objections to the Site being utilized by the Bidder for the development, Operation and maintenance of the warehouse ;
2. I shall not obstruct, hinder or otherwise prevent access of the Bidder, FCSCP DEPARTMENT and its agents and consultants to the Site;
3. I shall not allow any encroachment on the Site;
4. I shall not exercise any lien or other statutory rights or make any claims against the commodities stored by FCSCP DEPARTMENT in the warehouse; and
5. I shall be bound by the same obligations subject to the same restrictions as the Bidder under the Storage Agreement, to be entered into between the Bidder and FCSCP DEPARTMENT for the development of the warehouse at the Project Location, with respect to the disposal of the Site and assets constructed thereon.

I agree and acknowledge that this undertaking shall be construed and interpreted in accordance with the laws of India and the Courts at Nasik shall have exclusive jurisdiction over any disputes arising in connection with this Undertaking.

Dated this [●] day of [●], 2019

[Insert name of Joint Owner]

[Signature]

## 9 Annexures II: Schedules

### 9.1.1 Schedule I: Land Specification

For project location that a Bidder submits a Bid for, the size of the land parcel identified by the Bidder should be as below.

Storage Capacity in MT	Land Area( In Square Meters)
1080 MT	4000

#### **Common Land Specification requirements for all bidders-**

- The land should have valid NA (Non-Agricultural) permission or Bidder shall produce Agricultural to NA before Work Order
- The land parcel identified for the development of warehouses at a Project Location shall be:
  - Free from all encumbrances, disputes and encroachments.
  - Accessible by an all-weather road with a minimum width of **12** meters
  - Situated within range of **15 KMs** of the administrative building i.e *gram panchyat, Village from project location* as mentioned in project Locations.
- Warehouse should be constructed as per Bureau of India Standard, CGI and CWC specification in line with food grain storage
- Bidder shall build sufficient stacks and compartment to store according to proposed storage capacity if needed

#### **Land Specification for Typical Warehouse Construction to be built on engineering specifications-**

- The Roof to be constructed as per self-supported roofing system as per CGI and CPWD's specification & guideline.
- Ideal construction of flooring & roofing as per R.C.C
- Ideal construction of plinth, beam, tie beam & columns as per R.C.C
- Bidder shall provide turbo ventilators, rolling shutters
- Standard painting with double oil bound distemper two coats
- The construction of flooring should be done in standard cement punning

If bidders are already having constructed warehouse then existing set up should qualify land specification criteria & should have constructed on minimum warehouse construction specification as mentioned in Schedule III . Bidder shall produce all related documents. DEC committee shall conduct physical verification of the same.

#### **Note:**

**Bidders need to provide details of Land Specification in case of existing warehouse at TENDER stage. District Evaluation Committee (DEC) shall conduct technical scrutiny during field visit.**

### 9.1.2 Schedule II: Closed Project Locations

**Note: Only qualified bidders are eligible to submit commercial on below listed project locations. Other bidders are not eligible to bid for closed locations.**

Proposed Project / Warehouse location	Tonnage Storage Capacity in Metric Ton (MT)
Kuhi , Dist Nagpur.	1080

### 9.1.3 Schedule III : Warehouse Construction Specifications

**For Storage Capacity: 1080 MT (Typical Construction)**

Description	Details ( if any)
Warehouse / Godown	804 Sq Mtrs (Built Up Area)
Godown Height	0.90 m from plinth/floor level
Plinth Level	0.90 m from road level
Verandah Truss Height	5.60 mtr from plinth/floor
Compound Wall	2.40 Mtrs High boundary
Number of rolling shutters	04
Size of rolling shutters (Clear opening)	1.80 m to 2.40 ht
Bottom Ventilators ( Long walls)	0.60 mtr 0.60 mtr (12 nos)
Top Ventilators ( Both long walls and one in each panel)	1.50m * 0.60 m ( 20 nos)
Ancillaries	Electrification, fire hydrant, security cabin, water facility, parking space, office cabin etc

Boundary Wall Gate	5.00m wide
Continuous platform front side of the Godown	1.80 mtr width
Water Tank*	1000 Ltrs
Other construction parameters like plinth, As per Engineering specification & beam, platform, roofing, flooring, super CWC,CGI guideline of construction of the structure & finishing etc	warehouses
Loading & Unloading Logic	FIFO (First In First Out)
Entry & Exit	There must not be single entry and exit for loading and unloading of commodities. If both the entry and exit are in same wall then concept of U shape storage is mandatory in line with FIFO concept.

**( In line with Engineering Specification for construction of warehouses . Aforesaid mentioned specification refers to minimum requirement. Bidders can however construct bigger size as per their capacity)**

Any existing set up / innovative approach ( for construction stage ) having better solutions or Design will be considered. In case of innovative warehouse design/ solutions/ innovative material proposed by the partners, the specification with respect to warehouse construction depicted above for typical construction of warehouses shall be relaxed. However the proposed solution should ensure to protect commodities, maintain warehouses, long period of storage in more scientific manner i.e Low or zero Moisture temperature, protection from Mould, insects and rodents etc.

## 10 Annexure III: Commercial Proposal Formats

### 10.1.1 Commercial Proposal Cover Letter

Date: dd/mm/yyyy

To

Collector,

-----.

**Sub** : Selection of Partners for Hiring / Construction/Development and Maintenance of the warehouses through Public Private Partnership (PPP) Basis

**Ref** : Tender No: <No> Dated <DD/MM/YYYY>

Dear Sir,

We, the undersigned Bidders, having read and examined in detail all the bidding documents in respect of "Selection of Partners for Hiring / Construction/Development, Operation and Maintenance of the warehouses through Public Private Partnership (PPP) Basis" do hereby propose to provide services as specified in the TENDER referred above.

#### 1. PRICE AND VALIDITY

- All the prices mentioned in our Tender are in accordance with the terms as specified in the Tender documents. All the prices and other terms and conditions of this Tender are valid for a period of 90 calendar days from the date of opening of the Tenders.
- We hereby confirm that our Tender prices include all taxes. Taxes are quoted separately under relevant sections, as specified in the TENDER formats.
- We have studied the clause relating to Indian Income Tax and hereby declare that if any income tax, surcharge on Income Tax, Professional and any other corporate Tax in altered under the law, we shall pay the same.

#### 2. UNIT RATES

We have indicated in the relevant schedules enclosed, the unit rates for the purpose of on account of payment as well as for price adjustment in case of any increase to / decrease from the scope of work under the contract.

**3. DEVIATIONS**

We declare that all the services shall be performed strictly in accordance with the TENDER documents and there are no deviations except for those mentioned in Pre-Qualification Envelope, irrespective of whatever has been stated to the contrary anywhere else in our bid. Further we agree that additional conditions, if any, found in our bid documents, other than those stated in the deviation schedule in Pre-Qualification Envelope, shall not be given effect to.

**4. QUALIFYING DATA**

We confirm having submitted the information as required by you in your Instruction to Bidders. In case you require any other further information/documentary proof in this regard before evaluation of our Tender, we agree to furnish the same in time to your satisfaction.

**5. BID PRICE**

We declare that our Bid Price is for the entire scope of the work as specified in the TENDER document. These prices are indicated in the subsequent sub-sections of this Section.

**6. CONTRACT PERFORMANCE GUARANTEE BOND**

We hereby declare that in case the contract is awarded to us, we shall submit the contract Performance Bank Guarantee in the form prescribed in the TENDER.

We hereby declare that our Tender is made in good faith, without collusion or fraud and the information contained in the Tender is true and correct to the best of our knowledge and belief.

We understand that our Tender is binding on us and that you are not bound to accept a Tender you receive. We confirm that no Technical deviations are attached herewith this commercial offer.

Thanking you,

Yours faithfully,

(Signature of the Authorised Signatory)

Name

Designation

Seal.

Date:

Place:

Business Address:

### 10.1.2 Commercial Bid formats

Bidder has to quote per Metric Ton per location. L1 shall be decide w.r.t lowest quote received per location.

#### Bidder'sName:

<b>Proposed Project / Warehouse location</b>	<b>District</b>	<b>Tonnage Storage Capacity in Metric Ton (MT)</b>	<b>Rate in INR (Per MT)(Per year)</b>
Kuhi	Nagpur.	1080	

Signature & Seal

Date:

#### General Instructions:

1. Bidder should provide all prices as per the prescribed format under this Annexure. Bidder should not leave any field blank. In case the field is not applicable, Bidder must indicate "0" (Zero) in all such fields.
2. All the prices (even for taxes) are to be entered in Indian Rupees ONLY (%age values are not allowed)
3. FCSCP DEPARTMENT reserves the right to ask the Bidder to submit proof of payment against any of the taxes,duties, levies indicated.
4. FCSCP DEPARTMENT shall take into account all Taxes, Duties & Levies for the purpose of Evaluation
- 5. The Bidder needs to account for all Out of Pocket expenses due to Boarding, Lodging and other related items.**
6. For the purpose of evaluation of Commercial Bids, FCSCP DEPARTMENT shall make appropriate assumptions to arrive at a common bid price for all the Bidders. This however shall have no co-relation with the Contract value or actual payment to be made to the Bidder.
7. Commercial quote is exclusive of all applicable taxes.

## 11 Annexure IV: Draft Contract Agreement

-----  
On a (minimum) Rs. 400/- Non Judicial Stamp Paper  
-----

This Contract Agreement, hereinafter referred to as “CA” is made at ---on this \_\_\_ day of \_\_\_\_\_ 2019 at [office address]

BETWEEN

Governer of the State of Maharashtra exercising executive powers of the Government of Maharashtra through The collector----- having office at-----, (here in after referred to as FCSCP Department which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors-in office and assigns) of the First Part (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors-in office and assigns) of the First Part

AND

M/s \_\_\_\_\_, a company registered under The Companies Act, 1956 having its registered office at \_\_\_\_\_ and place of business at \_\_\_\_\_, hereinafter referred to as “SI” (which term or expression, unless excluded by or repugnant to the subject or context, shall mean and include its successors and permitted assigns) of the Second Part

Each individually a “Party” hereto and collectively the “Parties”

And Whereas, FCSCP DEPARTMENT intends to ----- and published the tender to seek services of a reputed IT firm for Warehouse implementation and post implementation support at FCSCP DEPARTMENT

And whereas M/s. ----- has submitted its proposal to Design, develop, test, implement, operate and maintain the Project “<Project Name>

And whereas FCSCP DEPARTMENT and M/s. ----- have decided to enter into this Agreement on the terms and conditions stipulated hereinafter.

NOW, THEREFORE, in consideration of the premises covenants and promises contained herein and other good and valuable considerations, the receipt and adequacy of which is hereby acknowledged, the parties intending to be bound legally, IT IS HEREBY AGREED between the Parties as follows:



### 11.1.1 Definitions, Interpretations and Other Terms

- a) **Bid** means the tender process conducted by FCSCP DEPARTMENT and the technical and commercial proposals submitted by the successful bidder, along with the subsequent clarifications and undertakings, if any;
- b) **Confidential Information** means all information including FCSCP DEPARTMENT Data (whether in written, oral, electronic or other format) which relates to the technical, financial, business affairs, customers, suppliers, products, developments, operations, processes, data, trade secrets, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party in the course of or in connection with this CA (including without limitation such information received during negotiations, location visits and meetings in connection with this CA);
- c) **Deliverable** means all the activities related to the setting up and operations of the infrastructure, documents, construction and development of warehouse, foundation wall as defined in the TENDER.
- d) **Effective Date** means the date on which this CA is executed;
- e) **CA** means this Contract Agreement, together with the recitals and all schedules and the contents, requirements, specifications and standards of the TENDER (as may be amended, supplemented or modified in accordance with the provisions hereof) and the Bid. **In the event of a conflict between this CA and the Schedules, the terms of the CA shall prevail; with overriding effect;**
- f) **Performance Security** means the irrevocable and unconditional Bank Guarantee provided by the SI from a Nationalized Bank/Scheduled Bank other than Co-operative Bank in favor of the Managing Director, FCSCP DEPARTMENT, for an amount equivalent to 15% of the total contract value i.e. Rs.....(Rupees.....only);
- g) **Proprietary Information** means processes, methodologies and technical and business information, including drawings, designs, formulae, flow charts, data and computer programs already owned/licensed by either Party or granted by third parties to a Party hereto prior/ subsequent to the execution of this MSA;
- h) **Required Consents** means the written consents, clearances and licenses, rights and other authorizations as may be required to be obtained by the SI, for all tasks/activities/constructions/equipment and warehouse constructions technology for this project; from all the concerned departments/agencies, etc. as the case may be.
- i) **TENDER** means the Request for Proposal released vide Bid Document no. <<>> dated <<>>, and include All clarifications/ addendums, explanations and amendments issued by the department in respect thereof;
- j) **Service Level(s)** means the performance standards, which will apply, to the services delivered through the construction of warehouse by the SI.
- k) **Service Level Requirement(s)** means the timelines and the quality levels to be adhered to by the SI for delivering various services under the contract;

- l) **Services** means the content and services delivered and to be delivered to the customers or the department's offices by the SI, and includes but not limited to the services specified in the TENDER document or as may be specified and incorporated in the subsequent Agreement/s under Contract Agreement.
- m) **Users** means FCSCP DEPARTMENT staff / officials;

### 11.1.2 Interpretations

- a) References to any statute or statutory provision include a reference to that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated and to all statutory instruments made pursuant to it;
- b) Words denoting the singular shall include the plural and vice-versa and words denoting persons shall include firms and corporations and vice versa;
- c) Unless otherwise expressly stated, the words "herein", "hereof", "hereunder" and similar words refer to this CA as a whole and not to any particular Article, Schedule. The term Articles, refers to Articles of this CA. The words "include" and "including" shall not be construed as terms of limitation. The words "day" and "month" mean "calendar day" and "calendar month" unless otherwise stated. The words "writing" and "written" mean "in documented form", whether electronic or hard copy, unless otherwise stated;
- d) The headings and use of bold type in this CA are for convenience only and shall not affect the interpretation of any provision of this CA;
- e) The Schedules to this CA form an integral part of this CA and will be in full force and effect as **though** they were expressly set out in the body of this CA;
- f) Reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to such agreement, deed, instrument, license or other document as the same may be amended, varied, supplemented, modified or suspended at the time of such reference;
- g) Any word or expression used in this CA shall, unless defined or construed in this CA, bear its ordinary English language meaning;
- h) The damages payable by a Party to the other Party as set forth in this CA, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and liquidated damages likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalties;
- i) This CA shall operate as a legally binding agreement specifying the master terms, which apply to the Parties under this agreement and to the provision of the services by the SI;
- j) The department may nominate a technically competent agency/individual(s) for conducting acceptance testing and certification of the various requisite infrastructure to ensure a smooth, trouble free and efficient functioning of the Scheme or carry out these tasks itself;
- k) The agency/individual nominated by the department can engage professional organizations for conducting specific tests on the constructions, storage and security and all other aspects;

- l) The agency/individual will establish appropriate processes for notifying the SI of any deviations from the norms, standards or guidelines at the earliest instance after taking cognizance of the same to enable the SI to take corrective action;
- m) Such an involvement of and guidance by the agency/person will not, however, absolve the SI of the fundamental responsibility of designing, developing, installing, testing and commissioning the application & the infrastructure for efficient and effective delivery of services as contemplated under this TENDER.
- n) The documents forming this Agreement are to be taken as mutually explanatory of one another. The following order shall govern the priority of documents constituting this Agreement, in the event of a conflict between various documents, the documents shall have priority in the following order:
  - i) This Agreement;
  - ii) Scope of Services for the SI
  - iii) Detail Commercial proposal of the SI accepted by FCSCP DEPARTMENT
  - iv) Clarification & Corrigendum Documents published by FCSCP DEPARTMENT subsequent to the TENDER for this work
  - v) LoI will be issued by the FCSCP DEPARTMENT to the successful bidder
  - vi) Successful bidder's "Pre-qualification Proposal" and "Commercial Proposal" submitted in response to the TENDER & EOI.

#### **11.1.3 Term of the Contract Agreement**

- The term of this CA shall be a period of 15 years from the date of execution of this Agreement. In the event of implementation period as per requirement & in line with GR will be extended FCSCP DEPARTMENT. reserves the right to extend the term of the Agreement by corresponding period to allow validity of contract for 10 Years from the date of signing the contract
- FCSCP DEPARTMENT also reserves the right to extend the contract at its sole discretion for duration as per requirement ,beyond the initial 15 years period.

#### **11.1.4 Fees**

The rental shall be exclusive of GST, duties, fees, levies, charges, and commissions as applicable under the relevant Laws of India. Should there be a change in applicable taxes, the actual taxes on the date of billing would prevail.

#### **11.1.5 Work Completion Timelines and Payment Terms**

Construction of warehouses should complete within 12 months. Managing Director-FCSCP DEPARTMENT shall decides on any extension on completion of warehouse if required in genuine case.

##### **Payment Terms**

FCSCP DEPARTMENT shall pay back to back rental payment (without interest) to bidder. Bidder shall be paid quarterly rent on submission of applicable invoice to FCSCP DEPARTMENT.

#### **11.1.6 Commercial Terms:**

FCSCP DEPARTMENT will release the payment on submission of invoice subject to the condition that invoice and all supporting documents produced are in order / applicable.

### 11.1.7 Service Level Agreements

The purpose of this Service Level Requirements/Agreement (hereinafter referred to as SLR/SLA) is to clearly define the levels of service which shall be provided by the SI to the department for the duration of this contract period of the Project. Timelines specified in the above section (Work Completion Timelines & Payment Terms) shall form the Service Levels for delivery of Services specified there-in.

### 11.1.8 Security and safety

- a) The SI will comply with the directions issued from time to time by FCSCP DEPARTMENT and the standards related to the security and safety in so far as it applies to the provision of the Services.
- b) SI shall also comply with BIS and CWC standard policies in force from time to time as applicable.
- c) SI shall promptly report in writing to FCSCP DEPARTMENT any act or omission which they are aware that could have an adverse effect on the proper conduct of safety and security of warehouse.

### 11.1.9 Indemnity

The SI agrees to indemnify and hold harmless FCSCP DEPARTMENT, its officers, employees and agents (each a "Indemnified Party") promptly upon demand at any time and from time to time, from and against any and all losses, claims, damages, liabilities, costs (including reasonable attorney's fees and disbursements) and expenses (collectively, "Losses") to which the Indemnified Party may become subject, in so far as such losses directly arise out of, in any way relate to, or result from

- (i) Any mis-statement or any breach of any representation or warranty made by the SI or
- (ii) The failure by the SI to fulfill any covenant or condition contained in this Agreement, including without limitation the breach of any terms and conditions of this Agreement by any employee or agent of the SI. Against all losses or damages arising from claims by third Parties that any Deliverable (or the access, use or other rights thereto), created by SI pursuant to this Agreement, or any equipment, constructions, information, methods of operation or other intellectual property created by SI or sub-contractors pursuant to this Agreement, or the SLAs (I) infringes a copyright, trade mark, trade design enforceable in India, (II) infringes a patent issued in India, or (III) constitutes misappropriation or unlawful disclosure or use of another Party's trade secrets under the laws of India (collectively, "Infringement Claims"); provided, however, that this will not apply to any Deliverable (or the access, use or other rights thereto) created by (A) "Implementation of Project by itself or through other persons other than SI or its sub-contractors; (B) Third Parties (i.e., other than SI or sub-contractors) at the direction of FCSCP DEPARTMENT, or
- (iii) any compensation / claim or proceeding by any third party against FCSCP DEPARTMENT arising out of any act, deed or omission by the SI or
- (iv) claim filed by a workman or employee engaged by the SI for carrying out work related to this Agreement. For the avoidance of doubt, indemnification of Losses pursuant to this section shall be made in an amount or amounts sufficient to restore each of the Indemnified Party to the financial position it would have been had the losses not occurred.

Any payment made under this Agreement to an indemnity or claim for breach of any provision of this Agreement shall include applicable taxes.

### 11.1.10 Third Party Claims

- a. Subject to Sub-clause (b) below, the SI (the "Indemnified Party") from and against all losses, claims litigation and damages on account of bodily injury, death or damage to tangible personal property arising in favour or any person, corporation or other entity (including the Indemnified Party) attributable to the Indemnifying Party's performance or non-performance under this Agreement or the SLAs.
- b. The indemnities set out in Sub-clause (a) above shall be subject to the following conditions:
  - i) the Indemnified Party, as promptly as practicable, informs the Indemnifying Party in writing of the claim or proceedings and provides all relevant evidence, documentary or otherwise;
  - ii) the Indemnified Party shall, at the cost and expenses of the Indemnifying Party, give the Indemnifying Party all reasonable assistance in the defense of such claim including reasonable access to all relevant information, documentation and personnel. The indemnifying party shall bear cost and expenses and fees of the Attorney on behalf of the Indemnified Party in the litigation, claim.
  - iii) if the Indemnifying Party does not assume full control over the defense of a claim as provided in this Article, the Indemnifying Party may participate in such defense at its sole cost and expense, and the Indemnified Party will have the right to defend the claim in such manner as it may deem appropriate, and the cost and expense of the Indemnified Party will be borne and paid by the Indemnifying Party.
  - iv) the Indemnified Party shall not prejudice, pay or accept any proceedings or claim, or compromise any proceedings or claim, without the written consent of the Indemnifying Party;
  - v) SI hereby indemnify & hold indemnified FCSCP department harmless from & against any & all damages, losses, liabilities, expenses including legal fees & cost of litigation in connection with any action, claim, suit, proceedings as if result of claim made by the third party directly or indirectly arising out of or in connection with this agreement.
  - vi) all settlements of claims subject to indemnification under this Article will: (a) be entered into only with the consent of the Indemnified Party, which consent will not be unreasonably withheld & include an unconditional release to the Indemnified Party from the claimant for all liability in respect of such claim; & (b) include any appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement;
  - viii) the Indemnified Party shall take steps that the Indemnifying Party may reasonably require to mitigate or reduce its loss as a result of such a claim or proceedings; &
  - ix) in the event that the Indemnifying Party is obligated to indemnify an Indemnified Party pursuant to this Article, the Indemnifying Party will, upon payment of such indemnity in full, be subrogated to all rights & defenses of the Indemnified Party with respect to the claims to which such indemnification relates;
  - x) in the event that the Indemnifying Party is obligated to indemnify the Indemnified Party pursuant to this Article, the Indemnified Party will be entitled to invoke the Performance Bank Guarantee, if such indemnity is not paid, either in full or in part, & on the invocation of the Performance Bank Guarantee, the Indemnifying Party shall be subrogated to all rights & defenses of the Indemnified Party with respect to the claims to which such indemnification relates.

#### **11.1.11 Publicity**

Any publicity by the SI in which the name of FCSCP department is to be used should be done with the explicit written permission of the Managing Director, FCSCP department.

#### **11.1.12 Warranties**

- a. The SI warrants and represents to FCSCP department that:
  - i. It has full capacity and authority and all necessary approvals to enter into and to perform its obligations under this Agreement;
  - ii. This Agreement is executed by a duly authorized representative of the SI;
  - iii. It shall discharge its obligations under this Agreement with due skill, care and diligence so as to comply with the service level agreement.
  
- b. In the case of the SLAs, the SI warrants and represents to FCSCP department, that:
  - i. the SI has full capacity and authority and all necessary approvals to enter into and perform its obligations under the SLAs and to provide the Services;
  - ii. the SLAs shall be executed by a duly authorized representative of the SI;
  - iii. the Services will be provided and rendered by appropriately qualified, trained and experienced personnel as mentioned in the TENDER;
  - iv. SI has and will have all necessary licenses, approvals, consents of third Parties free from any encumbrances and all necessary technology, equipment and constructions to enable it to provide the Services;
  - v. the Services will be supplied in conformity with all laws, enactments, orders and regulations applicable from time to time;
  - vi. SI will warrant that the goods supplied under the contract are new, of the most recent higher version /models and incorporate all recent improvements in design and materials unless provided otherwise in the contract.
  - vii. The SI shall ensure defect free operation of the entire solution and shall replace any such components, equipment's, which are found defective and during the entire contract period. No additional costs shall be paid separately for the renovation and upgradation of warehouse by SI
  
- c. Notwithstanding what has been stated elsewhere in this Agreement and the Schedules attached herein, in the event the SI is unable to meet the obligations pursuant to the implementation of the Project, Operations and Maintenance Services and any related scope of work as stated in this Agreement and the Schedules attached herein, FCSCP DEPARTMENT will have the option to invoke the Performance Guarantee after serving a written notice of thirty (30) days on the SI.

#### **11.1.13 Force Majeure**

The SI shall not be liable for forfeiture of its Performance Guarantee, imposition of liquidated damages or termination for default, if and to the extent that its delay in performance or other failure to perform its obligations under the contract is the result of an event of Force Majeure. For the purposes of this Clause, "Force Majeure" means an event beyond the "reasonable" control of the SI, not involving the SI's fault or negligence and not foreseeable. Such events may include Acts of God & acts of Government of India in their sovereign capacity.

For the SI to take benefit of this clause it is a condition precedent that the SI must promptly notify FCSCP DEPARTMENT, in writing of such conditions and the cause thereof within 5 calendar days of the Force Majeure event arising. FCSCP DEPARTMENT, or the consultant / committee appointed by FCSCP department shall study the submission of the SI and inform

whether the situation can be qualified one of Force Majeure. Unless otherwise directed by FCSCP department in writing, the SI shall continue to perform its obligations under the resultant Agreement as far as it is reasonably practical, and shall seek all reasonable alternative means for performance of services not prevented by the existence of a Force Majeure event.

In the event of delay in performance attributable to the presence of a force majeure event, the time for Performance shall be extended by a period(s) equivalent to the duration of such delay. If the duration of delay continues beyond a period of 30 days, FCSCP DEPARTMENT and the SI shall hold consultations with each other in an endeavour to find a solution to the problem.

Notwithstanding anything to the contrary mentioned above, the decision of FCSCP DEPARTMENT shall be final and binding on the SI.

#### **11.1.14 Resolution of Disputes**

FCSCP DEPARTMENT and the SI shall make every effort to resolve amicably, by direct informal negotiation, any disagreement or dispute arising between them under or in connection with the Agreement. If after 30 days from the commencement of such informal negotiations, FCSCP DEPARTMENT and the SI are unable to resolve amicably such dispute, the matter shall be referred to two Arbitrators: one Arbitrator to be nominated by FCSCP DEPARTMENT and the other one to be nominated by the SI. In the case of the said Arbitrators not agreeing, then the matter will be referred to an umpire to be appointed by the Arbitrators in writing before proceeding with the reference. The award of the Arbitrators, and in the event of their not agreeing, the award of the Umpire appointed by them shall be final and binding on the parties. **Proceedings under this clause shall be subject to applicable law of the Arbitration and Reconciliation Act, 1996 and the venue of such arbitration shall be Nashik.** Cost of arbitration shall be borne by each party proportionately. However, expenses incurred by each party in connection with the preparation, presentation shall be borne by the party itself. The provisions of this clause shall survive termination of this Agreement.

#### **11.1.15 Risk Purchase Clause**

In the event SI fails to execute the project as stipulated in the CA, or as per the directions given by FCSCP DEPARTMENT from time to time, FCSCP DEPARTMENT reserves the right to procure similar services from the next eligible bidder or from alternate sources at the risk, cost and responsibility of the SI. Before taking such a decision, FCSCP DEPARTMENT shall serve a notice period of 1 month to the SI. SI's liability in such case would not be higher than 50% of the contract value.

#### **11.1.16 Limitation of Liability towards FCSCP DEPARTMENT**

The SI's liability under the resultant Agreement shall be determined as per the Law in force for the time being. The SI shall be liable to FCSCP DEPARTMENT for loss or damage occurred or caused or likely to occur on account of any act of omission on the part of the SI and its employees, including loss caused to FCSCP DEPARTMENT on account of defect in goods or deficiency in services on the part of SI or his agents or any person / persons claiming through or under said SI. However, such liability of SI shall not exceed the total value of the Agreement.

### 11.1.17 Conflict of Interest

The SI shall disclose to FCSCP DEPARTMENT in writing, all actual and potential conflicts of interest that exist, arise or may arise (either for the SI or its Team) in the course of performing the Services as soon as it becomes aware of such a conflict. SI shall hold FCSCP DEPARTMENT's interest paramount, without any consideration for future work, and strictly avoid conflict of interest with other assignments.

### 11.1.18 Fraud and Corruption

FCSCP DEPARTMENT requires that SI must observe the highest standards of ethics during the execution of the contract. In pursuance of this policy, FCSCP DEPARTMENT defines, for the purpose of this provision, the terms set forth as follows:

- a. "Corrupt practice" means the offering, giving, receiving or soliciting of anything of value to influence the action of FCSCP DEPARTMENT in contract executions.
- b. "Fraudulent practice" means a mis-presentation of facts, in order to influence a procurement process or the execution of a contract, to FCSCP DEPARTMENT, and includes collusive practice among bidders (prior to or after Proposal submission) designed to establish Proposal prices at artificially high or non-competitive levels and to deprive FCSCP DEPARTMENT of the benefits of free and open competition.
- c. "Unfair trade practices" means supply of services different from what is ordered on, or change in the Scope of Work which is given by FCSCP DEPARTMENT in Volume II.
- d. "Coercive Practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the execution of contract.

If it is noticed that the SI has indulged into the Corrupt / Fraudulent / Unfair / Coercive practices, it will be a Sufficient ground for FCSCP DEPARTMENT for termination of the contract and initiate black-listing of the vendor.

### 11.1.19 Exit Management

#### (i) Exit Management Purpose

This clause sets out the provisions, which will apply during Exit Management period. The Parties shall ensure that their respective associated entities carry out their respective obligations set out in this Exit Management Clause.

The exit management period starts, in case of expiry of contract, at least 3 months prior to the date when the contract comes to an end or in case of termination of contract, on the date when the notice of termination is sent to the SI. The exit management period ends on the date agreed upon by FCSCP DEPARTMENT or Three months after the beginning of the exit management period, whichever is earlier.

#### (ii) Confidential Information, Security and Data

(iii) SI will promptly on the commencement of the exit management period, supply to FCSCP DEPARTMENT or its nominated

agencies the following:

- a) Information relating to the current services rendered and performance data relating to the performance of the services; Documentation relating to the Project, Project's Intellectual Property Rights; any other data and confidential information related to the Project;
- b) Project data as is reasonably required for purposes of the Project or for transitioning of the services to its Replacing Successful Bidder in a readily available format.



- c) All other information (including but not limited to documents, records and agreements) relating to the services reasonably necessary to enable FCSCP DEPARTMENT and its nominated agencies, or its Replacing Vendor to carry out due diligence in order to transition the provision of the Services to FCSCP DEPARTMENT or its nominated agencies, or its Replacing Vendor (as the case may be).

**(iii) Exit Management Plan**

Successful Bidder shall provide FCSCP DEPARTMENT with a recommended "Exit Management Plan" within 90 days of

signing of the contract, which shall deal with at least the following aspects of exit management in relation to the SLA as a whole and in relation to the Project Implementation, the Operation and Management SLA and Scope of work definition.

- a) A detailed program of the transfer process that could be used in conjunction with a Replacement Vendor including details of the means to be used to ensure continuing provision of the services throughout the transfer process or until the cessation of the services and of the management structure to be used during the transfer;
- b) Plans for the communication with such of the Successful Bidder, staff, suppliers, customers and any related third party as are necessary to avoid any material detrimental impact on Project's operations as a result of undertaking the transfer;
- c) Exit Management Plan shall be presented by the SI to and approved by FCSCP DEPARTMENT or its nominated agencies.
- d) The terms of payment as stated in the Terms of Payment Schedule include the costs of the SI complying with its obligations under this Schedule.
- e) During the exit management period, the SI shall use its best efforts to deliver the services.
- f) Payments during the Exit Management period shall be made in accordance with the Terms of Payment Schedule.

**11.1.20 Termination of contract**

FCSCP DEPARTMENT may, without prejudice to any other remedy under this Contract and applicable law, reserves the right to terminate the for breach of contract by providing a written notice of 30 days stating the reason for default to the SI and as it deems fit, terminate the contract either in whole or in part:

- If the SI fails to deliver any or all of the project requirements / operationalization / go-live of project within the time frame specified in the contract; or
- If the SI fails to perform any other obligation(s) under the contract.

Prior to providing a notice of termination to the SI, FCSCP DEPARTMENT shall provide the SI with a written notice of 30 days instructing the SI to cure any breach / default of the Contract, if FCSCP DEPARTMENT is of the view that the breach may be rectified.

On failure of the SI to rectify such breach within 30 days, FCSCP DEPARTMENT may terminate the contract by providing a written notice of 30 days to the SI, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to FCSCP DEPARTMENT. In such event the SI shall be liable for penalty/liquidated damages imposed by FCSCP DEPARTMENT.

In the event of termination of this contract for any reason whatsoever, FCSCP DEPARTMENT is entitled to impose any such obligations and conditions and issue any clarifications as may be necessary to ensure

an efficient transition and effective continuity of the services which the SI shall be obliged to comply with and take all available steps to minimize the loss resulting from that termination/ breach, and further allow and provide all such assistance to FCSCP DEPARTMENT and/ or succeeding vendor, as may be required, to take over the obligations of the SI in relation to the execution/ continued execution of the requirements of this contract.

#### **11.1.21 Miscellaneous**

##### **a) Confidentiality**

“Confidential Information” means all information including Project information (whether in written, oral, electronic or other format) which relates to the technical, financial and operational affairs, business rules, citizen information, design rights, know-how and personnel of each Party and its affiliates which is disclosed to or otherwise learned by the other Party or its subcontractors (whether a Party to the contract or to the SLA) in the course of or in connection with the contract (including without limitation such information received during negotiations, location visits and meetings in connection with the contract or to the SLA) or pursuant to the contract to be signed subsequently.

Except with the prior written permission of FCSCP DEPARTMENT, the SI and its Personnel shall not disclose such confidential information to any person or entity not expected to know such information by default of being associated with the project, nor shall the SI and its Personnel make public there commendations formulated in the course of, or as a result of the Project.

The SI recognizes that during the term of this Agreement, sensitive data will be procured & made available to it, its Sub contractors & agents & others working for or under the SI. Disclosure or usage of the data by any such recipient may constitute a breach of law applicable causing harm not only to the Department whose data is used but also to its stakeholders. SI needs to demonstrate utmost care, sensitivity & strict confidentiality. Any breach of this Article will result in FCSCP DEPARTMENT & its nominees receiving a right to seek injunctive relief & damages, from the SI.

The restrictions of this Article shall not apply to confidential Information that:

- i. is or becomes generally available to the public through no breach of this Article by the Recipient; &
- ii. was in the recipient's possession free of any obligation of confidence prior to the time of receipt of it by the Recipient hereunder; &
- iii. is developed by the Recipient independently of any of discloser's Confidential Information; &
- iv. is rightfully obtained by the Recipient from third Parties authorized at that time to make such disclosure without restriction; &
- v. is identified in writing by the Disclose as no longer proprietary or confidential; or
- vi. is required to be disclosed by law, regulation or Court Order, provided that the recipient gives prompt written notice to the Disclose of such legal & regulatory requirement to disclose so as to allow the Disclosure reasonable opportunity to contest such disclosure.

To the extent that such disclosure is required for the purposes of this Agreement, either Party may disclose Confidential Information to:

- i. its employees, agents & independent contractors & to any of its affiliates & their respective independent contractors or employees; &
- ii. its professional advisors & auditors, who require access for the purposes of this Agreement, whom the relevant Party has informed of its obligations under this Article & in respect of whom the relevant Party has informed of its obligations under this Article has used commercially reasonable efforts to ensure that they are contractually obliged to keep such Confidential Information confidential on terms substantially the same as set forth in this Article. Either Party may also disclose confidential Information or any entity with the other Party's prior written consent.

The provisions of this Article shall survive the expiration or any earlier termination of this Agreement.

**b) Standards of Performance**

The SI shall provide the services and carry out their obligations under the Contract with due diligence, efficiency and professionalism/ethics in accordance with generally accepted professional standards and practices. The SI shall always act in respect of any matter relating to this contract. The SI shall abide by all the provisions / Acts / Rules / Regulations, Standing orders, etc. of construction as prevalent in the country. The SI shall also conform to the standards laid down by Government of Maharashtra or Government of India from time to time.

**c) Sub Contracts**

The SI shall take prior approval from FCSCP DEPARTMENT for sub-contracting any work, if not already specified

in the proposal and approved by FCSCP DEPARTMENT. Such sub-contracting shall not relieve the SI from any

liability or obligation under the Contract. The SI shall solely be responsible for the work carried out by

subcontracting under the contract.

**d) Care to be taken while working at FCSCP DEPARTMENT Office**

SI should follow instructions issued by concerned Competent Authority from time to time for carrying out work at designated places. SI should ensure that there is no damage caused to any private or public property. In case such damage is caused, SI shall immediately bring it to the notice of concerned organization and FCSCP DEPARTMENT in writing and pay necessary charges towards fixing of the damage.

SI shall ensure that its employees/representatives don't breach privacy of any citizen or establishment during the course of execution or maintenance of the project.

**e) Compliance with Labour regulations**

The SI shall pay fair and reasonable wages to the workmen employed, for the contract undertaken and comply with the provisions set forth under the Minimum wages Act and the Contract Labour Act 1970. The salary of the manpower working on FCSCP DEPARTMENT project should be paid using ECS / NEFT / RTGS. A record of the payments made in this regard should be maintained by the SI. Upon request, record shall be produced to the appropriate authority in State Government and/or Judicial Body. If complaints are received by Government of Maharashtra (or any appropriate authority) appropriate action (Liquidation of Security Deposit, Blacklisting, etc.) may be initiated as deemed necessary against the SI.

**f) Independent Contractor**

Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture or employment relationship between the Parties to this Agreement. Except as expressly stated in this Agreement nothing in this Agreement shall be deemed to constitute any Party as the agent of any other Party or authorizes either Party (i) to incur any expenses on behalf of the other Party, (ii) to enter into any engagement or make any representation or warranty on behalf of the other Party, (iii) to pledge the credit of or otherwise bind or oblige the other Party, or (iv) to commit the other Party in any manner whatsoever in each case without obtaining the other Party's prior written consent.

**g) Waiver**

A waiver of any provision or breach of this Agreement must be in writing and signed by an authorized official of the Party executing the same. No such waiver shall be construed to affect or imply a subsequent waiver of the same provision or subsequent breach of this Agreement.

**h) Notices**

Any notice or other document, which may be given by either Party under this Agreement, shall be given in writing in person or by pre-paid recorded delivery post.

In relation to a notice given under this Agreement, any such notice or other document shall be addressed to the other Party's principal or registered office address as set out below

Collector:

-----

-----

Tel: -----

Fax: -----

SI:

-----

-----

Tel: -----

Fax: -----

Any notice or other document shall be deemed to have been given to the other Party when delivered (if delivered in person) if delivered between the hours of -----am and -----pm at the address of the other Party set forth above or on the next working day thereafter if delivered outside such hours, and 7 calendar days from the date of posting (if by letter).

**i) Personnel/ Employees**

- i. Personnel/employees assigned by SI to perform the services shall be employees of SI and/or its sub-contractors, & under no circumstances will such personnel be considered as employees of FCSCP DEPARTMENT. SI shall have the sole responsibility for supervision & control of its personnel & for payment of such personnel's / employee's entire compensation, including salary, legal deductions with holding of income taxes & social security taxes, worker's compensation, employee & disability benefits & the like & shall be responsible for all employer obligations under all laws as applicable from time to time. FCSCP DEPARTMENT shall not be responsible for the above issues concerning the personnel of SI.
- ii. SI shall use its best efforts to ensure that sufficient SI personnel are employed to perform the Services, & that, such personnel have appropriate qualifications to perform the Services. FCSCP DEPARTMENT or its nominated agencies shall have the right to require the removal or replacement of any SI personnel performing work under this Agreement. In the event that FCSCP DEPARTMENT requests that any SI personnel be replaced, the substitution of such personnel shall be accomplished pursuant to a mutually agreed upon schedule & upon clearance of the personnel based on profile review & upon schedule & upon clearance of the personnel based on profile review & personal interview by FCSCP DEPARTMENT or its nominated agencies, within not later than 30 working days. SI shall depute quality team for the project & as per requirements, FCSCP DEPARTMENT shall have the right to ask SI to change the team.
- iii. Management (Regional Head / VP level officer) of SI needs to be involved in the project monitoring & should attend the review meeting at least once in a month.
- iv. The profiles of resources proposed by SI in the technical proposal, which are considered for Technical bid evaluation, shall be construed as 'Key Personnel' & the SI shall not remove such personnel without the prior written consent of FCSCP DEPARTMENT. For any changes to the proposed resources, SI shall provide equivalent or more experienced resources in consultation with FCSCP DEPARTMENT.
- v. Except as stated in this clause, nothing in this Agreement will limit the ability of SI freely to assign or reassign its employees; provided that SI shall be responsible, at its expense, for transferring all appropriate knowledge from personnel being replaced to their replacements. FCSCP DEPARTMENT shall have the right to review & approve SI's plan for any such knowledge transfer. SI shall maintain the same standards for skills & professionalism among replacement personnel as in personnel being replaced.
- vi. Each Party shall be responsible for the performance of all its obligations under this Agreement & shall be liable for the acts & omissions of its employees & agents in connection therewith.

**j) Variations & Further Assurance**

- a. No amendment, variation or other change to this Agreement or the SLAs shall be valid unless made in writing & signed by the duly authorized representatives of the Parties to this Agreement.
- b. Each Party to this Agreement or the SLAs agree to enter into or execute, without limitation, whatever other agreement, document, consent & waiver & to do all other things which shall or may be reasonably required to complete & deliver the obligations set out in the Agreement or the SLAs.

**k) Severability & Waiver**

- i. if any provision of this Agreement or the SLAs, or any part thereof, shall be found by any court or administrative body of competent jurisdiction to be illegal, invalid or unenforceable the illegality, invalidity or unenforceability of such provision or part provision shall not affect the other provisions of this Agreement or the SLAs or the remainder of the provisions in question which shall remain in full force & effect. The relevant Parties shall negotiate in good faith in order to agree to substitute any illegal, invalid or unenforceable provision a valid & enforceable provision which achieves to the greatest extent possible the economic, legal & commercial objectives of the illegal, invalid or unenforceable provision or part provision within 7 working days.
- ii. No failure to exercise or enforce & no delay in exercising or enforcing on the part of either Party to this Agreement or the SLAs of any right, remedy or provision of this Agreement or the SLAs shall operate as a waiver of such right, remedy or provision in any future application nor shall any single or partial exercise or enforcement of any right, remedy or provision preclude any other or further exercise or enforcement of any other right, remedy or provision.

**l) Survivability**

The termination or expiry of this Agreement or the SLAs for any reason shall not affect or prejudice any terms of this Agreement, or the rights of the Parties under them which are either expressly or by implication intended to come into effect or continue in effect after such expiry or termination.

**11.1.22 Applicable Law**

The contract shall be governed by the laws and procedures prescribed by the Laws prevailing and in force in India, within the framework of applicable legislation and enactment made from time to time concerning such commercial dealings/processing. All legal disputes are subject to the jurisdiction of Mumbai courts only.

**11.1.23 The stamp duty payable for the contract shall be borne by the SI.**

IN WITNESS whereof the parties hereto have signed this on the day, month and year first herein above written.

Signed, sealed and delivered

By -----

-----,  
For and on behalf of FCSCP DEPARTMENT, Government of Maharashtra

Signed, sealed and delivered

By -----

For and on behalf of the "SI",

-----

Witnesses:

(1)

(2)