



THE ODISHA STATE CO-OPERATIVE SPINNING MILLS FEDERATION LTD.(SPINFED)

Handlooms, Textiles & Handicrafts Department
Government of Odisha



REQUEST FOR PROPOSAL(RFP) FOR DEVELOPMENT OF 25,000 SPINDLE COTTON SPINNING MILL AT KONARKSPIN, KESINGA, ODISHA

Background: With an objective to promote the economic interest of the cotton cultivators of the region, SPINFED, on behalf of KONARKSPIN invites proposal from prospective Developers/ Investors/ Industries having experience in the Textile Industry for development of Spinning Mill at Kesinga, Kalahandi, Odisha.

Eligibility Criteria: **a) Financial Requirement-** Minimum average turnover of Rs 50.00 (Fifty) Crores in the preceding 3 years (FY 2011-12, 2012-13, 2013-14) or Networth of Rs 15.00 Crores as on 31st March 2014. **b) Profit making firm** in the last 3 Financial Years. **c) Experience Requirement** – Minimum 3 years of experience in the field of Development and/or Operation & Management of Textile Industries in ginning, spinning, weaving, knitting, garmenting, trading of Textiles products etc.

Proposal Submission: RFP document including Draft Concession Agreement can be downloaded from <http://www.odisha.gov.in/textiles/index.htm> & www.idco.in. Proposals/ Bids shall be submitted as per RFP, by **15:00 hours (IST)** on or before **March 09, 2015** at the address mentioned below. A Pre-bid meeting is being scheduled on **February 05, 2015 at 3:30 PM**, in the Conference Hall of Director Textiles, Odisha, Satya Nagar, Janpath, Bhubaneswar 751 007

RFP Submission Address:

To,
The Managing Director, SPINFED
Hastatanta Bhawan, Unit- IX, Janpath, Bhubaneswar-751 022
Phone: 0674-2540432, Fax: 0674-2540432, Email: spinfedodisha@gmail.com

For More details please contact :

Mr. Saswat Pattnaik
Phone: 0674-2542869, 2540820, Email: saswat.pattnaik@idco.in

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

MANAGING DIRECTOR

Size :3 col. or 12cm x 13 cm

**Designing, building, development, establishment, operation and maintenance of
25000 spindle cotton spinning mill at Konark Spin, Kesinga**

**VOLUME I
Instructions to Bidders**

Odisha Spinning Mills Federation Ltd.(SPINFED)

January 2015

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DISCLAIMER

The information contained in this Request for Proposal document (the “**RFP**”) or subsequently provided to Bidder(s) (hereinafter defined), whether verbally or in documentary or any other form, by or on behalf of *Odisha Spinning Mills Federation Ltd. (SPINFED)* (the “**Authority**”) or any of their employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidder(s) (the “**Bidder**”) or any other person. The purpose of this RFP is to provide the Bidders with information that may be useful to them in the formulation of their Bid for qualification pursuant to this RFP (the “**Bid**”). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority and/or its consultant in relation to the Project (hereinafter defined). Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements, data and information furnished in this RFP or to be furnished later under the Bidding Documents (hereinafter defined), by the Authority and/or any of its consultant are, only indicative and for the sole purpose of making available to Bidders information that may be useful to them in the formulation of their Bid. Such assumptions, assessments, statements, data and information 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 RFP and obtain independent advice from appropriate sources.

Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority, its employees and advisors accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The Authority, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder, under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in the Bidding Process (hereinafter defined).

The Authority, its employees, advisors, consultants, employees of the advisors and the consultants 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 RFP.

The Authority 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 RFP.

The issue of this RFP does not imply that the Authority is bound to select and short-list pre-qualified Bids for Bid Stage (hereinafter defined) or to appoint the Selected Bidder (hereinafter defined) or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bids or Bids without assigning any reasons whatsoever including the right to close the selection/bidding process, without incurring any liability or being accountable to any person(s) in any manner whatsoever.

The Bidder shall bear all the costs associated with or relating to the preparation and submission of its Bid in response to this RFP including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses shall be incurred and borne by the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by any Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

Laws of the Republic of India are applicable to this RFP.

Each Bidder's procurement of this RFP constitutes its agreement to, and acceptance of, the terms set forth in this Disclaimer. By acceptance of this RFP, the recipient agrees that this RFP and any information herewith supersedes document(s) or earlier information, if any, in relation to the subject matter hereto

1. INTRODUCTION

1.1 Background

- 1.1.1 Odisha Spinning Mills Federation Ltd. (SPINFED), is the apex organization in the Co-Operative sector of the state to plan and implement cotton processing programmes in their entirety, including manufacture of quality cotton yarn and its marketing. Considering the cotton grown in the region, land & infrastructure available with SPINFED at Kesinga, it is desirous to set up, operate and maintain a 25000 Spindle Spinning unit along with an optional ginning unit so as to ensure continuous supply of feedstock to the spinning mill through Private Sector Investment on design, build, finance, operate, maintain and transfer (the "**DBFOT**") basis (the "**Project**").

In order to identify and select a suitable entity for award of the Project, the Authority intends to carry out a single-stage two-envelop transparent & competitive bidding process (the '**Bidding Process**').

- 1.1.2 The Selected Bidder (a single entity or consortium of entities) (hereinafter defined), after selection and award of the Project, shall in terms hereof and more particularly in terms of the LOA (hereinafter defined), either by himself or by a special purpose vehicle incorporated under the provisions of the Companies Act, 2013 (the "**Concessionaire**"), undertake the development of the Project in terms hereof and more particularly the Concession Agreement (hereinafter defined).

The Concessionaire shall undertake the designing, financing, renovation, upgradation, operation, maintenance and transfer of the Project under and in accordance with the provisions of the agreement (the "**Concession Agreement**") to be entered into between the Authority, the Concessionaire and the Selected Bidder as the confirming party to the Concession Agreement in the form provided by the Authority as part of the Bidding Documents.

- 1.1.3 The scope of work will broadly include designing, building, operating & maintaining a cotton spinning mill at Kesinga, Odisha with capacity of not less than 25000 spindles in a phased manner in 2 years (Year 1- Minimum 10,000 Spindle and in Year 2 –balance of 25,000 Spindle) along with building, operating & maintaining an optional Ginning Unit (as defined in the Concession Agreement) to ensure continuous supply of feedstock to the spinning mill and handover of the project facilities and the Ginning Unit to the Authority at the end of the Concession Period (*as defined under the Concession Agreement*). The Project Site (*as defined under the draft Concession Agreement*) and the existing structures shall be made available to the Concessionaire on a leasehold basis under a binding lease deed (to be executed in the format provided as part of the Concession Agreement) (the '**Site Lease Deed**'). The

Concession period and the lease term are pre-determined and set forth under the Concession Agreement.

- 1.1.4 The estimated cost of the Project (the “**Estimated Project Cost**”) is Rs. Rs 81.61 Crores (Rupees eighty one crores sixty one lakhs). The assessment of actual costs, however, will have to be made by the Bidders.
- 1.1.5 The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire’s services and obligations (the “**Concession**”). The Bidders are advised to peruse the detailed terms and conditions including the scope of work, specified in the draft Concession Agreement, prior to formulating and submitting their Bids for the Project.
- 1.1.6 The statements and explanations contained in this RFP are intended to provide a proper understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the Scope of the Project (*as defined under the draft Concession Agreement*), the concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by Authority, its employees, advisors and consultants to the Authority.
- 1.1.7 The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and the draft Concession Agreement, provided by the Authority as part of this RFP (collectively the “**Bidding Documents**”), and as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms. Any corrigenda / addenda issued subsequent to this RFP Document, but before the Bid Due Date (hereinafter defined), will be deemed to form part of the Bidding Documents.

1.2 Brief description of Bidding Process

- 1.2.1 The Authority has adopted a **single-stage two-envelope system** (collectively referred to as the “**Bidding Process**”) comprising the Technical/ Qualification Bid and the Price Bid (hereinafter collectively referred to as the “**Bid**”) for selection of the Bidder for award of the Project. The first step of the Bidding Process involves qualification (the “**Qualification Stage**”) of interested parties/ consortia that make a Bid, in accordance with the provisions of this RFP. Price Bids

of only those Bidders that qualify in the Qualification Stage shall be considered for evaluation in the price bid stage (the “**Price Bid Stage**”).

1.2.2 **Qualification/Technical Bid Stage:**

Bidders would be required to furnish in their Technical Bid the information specified in this RFP. The Bidders shall be evaluated and shortlisted based on their technical and financial capacity for undertaking the Project, in accordance with the criteria mentioned in this RFP document. Based on the evaluation in this stage, the Authority will pre-qualify the entities for the Price Bid Stage, in accordance with the criteria set forth herein (the “**Shortlisted Bidders**”).

1.2.4 **Price Bid Stage:**

The Shortlisted Bidders will be called upon and their Price Bids in respect of the Project shall be opened, in accordance with the Bidding Documents provided by the Authority.

1.2.5 **Procurement of Documents and Bid Document Fee:**

- a. The RFP can be downloaded from websites viz. / <http://odisha.gov.in/textiles/index.htm/> [www.idco.in /](http://www.idco.in/) for reference.
- b. The Bidders would be required to procure the signed & stamped copy of the Bidding Documents [i.e. RFP and draft Concession Agreement] from the offices of The Managing Director, SPINFED, Hastatanta Bhawan, Unit IX, Janpath, Bhubaneswar-751022 on payment of **Rs. 10,000 (Rupees Ten Thousand only)** plus applicable tax under prevalent laws in State of Odisha, in the form of a demand draft in favour of Managing Director, SPINFED and payable at Bhubaneswar, drawn on any Nationalized Bank bank of India, towards the Bid document fee (the “**Bid Document Fee**”).

1.2.6 **Bid Validity:** The Bid shall be valid for a period of not less than 240 days from the Bid due date as specified in Clause 1.3 for submission of Bids (the “**Bid Due Date**”). The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

1.2.7 **Bid Security:** In terms of the RFP, a Bidder is required to deposit, along with its Qualification Bid, a bid security equivalent to an amount of **Rs. 30,00,000/-** (Rupees Thirty Lakhs only) (the “**Bid Security**”), refundable not later than 120 (one hundred and twenty) days from the selection of the Highest Bidder, except in the case of the Highest Bidder.

The Bidders will have an option to provide Bid Security in the form of a demand draft or an irrevocable & unconditional bank guarantee issued by a Nationalized bank in India acceptable to the Authority (as per prescribed format set out in the RFP). Where the Bid Security is furnished in the form of a Bank Guarantee, the validity period of the bank guarantee, shall not be less than 300 (three hundred) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

- 1.2.8 Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Concession including implementation of the Project.
- 1.2.9 In the Bid Stage, Price Bids will be evaluated on the basis of the annual lease rent ("**Annual Lease Rent**") quoted by the Bidder in its Price Bid as consideration amount [in INR] payable to the Authority against grant of lease in respect of land parcel and building and structures comprising the Project site, in terms hereof and more particularly the Concession Agreement.

The Bidder shall be required to quote the Annual Lease Rent payable during the first year of the Concession period; the Annual Lease Rent amount shall be subject to an escalation at the [as set out in Concession Agreement] rate of **10% (Ten per cent)** on the last paid Annual Lease Rent at the end of every 3 year. The minimum reserve price (Annual Lease Rental) for the Project Site shall be Rs. 24,00,000 (Rupees Twenty Four Lakhs) for 10 Acre. In case additional land is opted for by the developer for optional ginning unit, the Annual Lease Rental as well as the reserve price shall increase proportionately with respect to the indicated additional land requirement.

It is hereby clarified that, the Annual Lease Rent shall constitute the sole criteria for evaluation of Price Bids. For avoidance of any doubt, reference to highest Bidder ("**Highest Bidder**") in the above paras or subsequently elsewhere in the RFP document, shall mean the Shortlisted Bidder who offers in its Price Bid the highest Annual Lease Rent to be paid to the Authority in terms hereof and particularly the Concession Agreement.

1.2.10 The Highest Bidder shall generally be the Selected Bidder (hereinafter defined in Clause 3). The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP, be invited to match the Bid submitted by the Highest Bidder in case such Highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the Highest Bidder, the Authority may, in its discretion, invite fresh Bids from all Bidders or annul the Bidding Process, as the case may be.

1.2.11 The Concessionaire shall have the sole and exclusive right to demand, collect and appropriate revenue from the Project facilities, during the Concession Period at prevailing market rates in accordance with applicable laws, good industry practice and more particularly in accordance with the terms set out under the Concession Agreement.

1.2.12 Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the officer designated in Clause 2.13.3 below. The envelopes/ communications shall clearly bear the following identification/ title:

"QUERIES/ REQUEST FOR ADDITIONAL INFORMATION: RFP FOR DEVELOPMENT & ESTABLISHMENT OF 25000 SPINDLE COTTON SPINNING MILL AT KONARK SPIN, KESINGA".

1.3 Schedule of Bidding Process

The Authority shall endeavor to adhere to the following schedule:

i.	Issue of RFP document	T th day
ii.	Last date for receiving queries	T + 15 days
iii.	Pre-Bid Conference	T + 15 days
iv.	Authority response to queries	T + 30 days
v.	Bid Due Date / Bid Submission Date	T + 45 days
vi.	Evaluation & Announcement of Shortlisted Bidders	T + 60 days
vii.	Opening of Price Bids	T + 75 days
viii.	Issuance of Letter of Award (LOA)	T + 90 days
ix.	Signing of Concession Agreement	T + 120 days

Wherein Tth day shall mean the day of issue of RFP by the Authority.

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Scope of Bid

2.1.1 The Authority wishes to receive Bids in order to short-list experienced and capable Bidders for selection of Highest Bidder for award of implementation of the Project. The Price Bids for the Shortlisted Bidders shall be subsequently evaluated to select the Highest Bidder.

2.2 Eligibility of Bidders

2.2.1 For determining the eligibility of Bidders for their qualification hereunder, the following shall apply:

- (a) The Bidder may be a single entity or a group of entities (the “**Consortium**”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) A Bidder may be a company under the Companies Act, 1956 or a body corporate incorporated under the applicable laws of its origin or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.
- (c) A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise. Without limiting the generality of the above, a Bidder may be considered to have a Conflict of Interest that affects the Bidding Process, if:

- (i) the Bidder, its member or Associates (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5% (five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section 2(72) of the Companies Act, 2013. For the purposes of this Clause 2.2.1 (c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder, or any Associate thereof has a relationship with another Bidder, or any Associate thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each others’ information about, or to influence the Bid of either or each other; or

- (vi) such Bidder, or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- (d) A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFP. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the Commercial Operations Date (COD) (*as defined under the draft Concession Agreement*) of the Project.

2.2.2 To be eligible for pre-qualification and short-listing, a Bidder shall fulfill the following conditions of eligibility:

(A) **Technical Capacity:** For demonstrating the technical capacity and experience (the “**Technical Capacity**”), the Bidder shall, over the past 10 (ten) financial years preceding the Bid Due Date, have

- ▶ At least 3 years experience in the field of Development¹ and/or Operation & management of Textile Industries in ginning, spinning, weaving, knitting, garmenting, trading of textile products etc.

(B) **Financial Capacity:**

- ▶ The Bidder should be a net profit making firm since last three financial years, and
- ▶ Should have a Minimum net worth of at least Rs. 15 (fifteen Crore) as at the close of the financial year immediately preceding the Bid Due Date.

Or

Have Minimum Average Annual Turnover of Rs. 50 (fifty) crores, over the last three financial years immediately preceding the Bid Due Date.

¹ Development experience shall constitute the responsibility of design, construction, finance operation and maintenance of a textile mill

In computing the Financial and Technical capability of the Bidder/Consortium member, the Financial and Technical Capability of their respective Associates shall also be considered hereunder. Provided that such Associate whose credentials are being considered for evaluation hereunder, shall continue to be an Associate of the Bidder/ Consortium Member (if selected for award of the Project), during and throughout the equity lock-in period as set forth herein and more particularly specified in the Concession Agreement..-

- 2.2.3 In case of a Consortium, the Lead Member (hereinafter defined) shall fulfill either the Technical Capacity or Financial Capacity criteria on a standalone basis and shall hold an equity share of at least 26% (twenty six per cent) in the paid up equity share capital of the Concessionaire, from the date of execution of the Agreement and up till the expiry of a period of 5 five years [2 Years (construction) + 3 Years operation in full capacity] years from the Appointed Date (*as defined under the Concession Agreement*) (hereinafter the “**Lock-in Period**”). Further the other member of the Consortium shall hold paid up equity share capital of not less than 10% (ten percent) of the subscribed and paid up equity share capital of the Concessionaire.
- 2.2.4 The Bidder shall submit as part of its Technical Bid submissions, complete with its Annexure, the following:
- (i) Certificate(s) from its statutory auditors or the concerned client(s) stating the projects commissioned, during the past 10 years (immediately preceding the Bid Due date).
 - (ii) certificate(s) from its statutory auditors specifying the net worth of the Bidder, as on March 31, 2014, as also the Average annual turnover the last three years financial immediately preceding the Bid Due Date and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.4 (ii). For the purposes of this RFP, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity share capital and reserves from which the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders shall be deducted; and
- 2.2.5 The Bidder should submit a Power of Attorney as per the format at **Appendix-III**, authorizing the signatory of the Bid to commit the Bidder. In case of the Consortium, the members should submit a Power of Attorney in favour of the Lead Member as per format at **Appendix-IV**.

2.2.6 Upon award of the Project, the Bidder, in case it is an existing company incorporated under the Companies Act 1956 or the Companies Act, 2013, may or may not incorporate a limited liability, special purpose vehicle, under Companies Act, 2013 (with the equity shareholding as prescribed herein) to execute the Concession Agreement and implement the Project. However, in case the Selected Bidder is not a company incorporated under Companies Act, 1956 or the Companies Act, 2013 and/ or is a Consortium of entities, it shall be required to incorporate a limited liability company under Companies Act 2013 (with the equity shareholding as prescribed herein), as a special purpose vehicle (SPV), to execute the Concession Agreement and undertake the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of members in a consortium should be limited to 2 (two);
- (b) subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share of at least 26% (twenty six per cent) of the paid up and subscribed equity share capital of the Concessionaire during the Lock-in-Period. The nomination(s) of the Lead Member shall be supported by a Power of Attorney, as per the format at **Appendix-IV**, signed by all the other members of the Consortium;
- (d) the Bid should include a brief description of the roles and responsibilities of individual members;
- (e) an individual Bidder cannot at the same time be member of a Consortium applying for qualification. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium bidding for the Project;
- (f) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at **Appendix-VII** (the “**Jt. Bidding Agreement**”) for the purpose of submitting the Bid. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, *inter alia*:

- (i) convey the intent to execute the Project with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the Concession to undertake the Project is awarded to the Consortium;
- (ii) clearly outline the proposed roles and responsibilities, if any, of each member;
- (iii) commit, in terms hereof, the minimum equity stake to be held by each member in the Concessionaire during the Lock-in-Period;
- (iv) members of the Consortium undertake that, subject to the terms hereof, they shall collectively hold 100% (one hundred percent) of the subscribed and paid up equity of the Concessionaire at all times commencing from the date of incorporation of the Concessionaire, until and including the date of execution of the Concession Agreement and at least 51% (fifty one percent) of the subscribed and paid up equity of the Concessionaire at all times until the 5th (fifth) anniversary of the Appointed Date of the Project;
- (v) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close (*as defined under the draft Concession Agreement*) of the Project is achieved in accordance with the Concession Agreement; and
- (vi) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

2.2.7 Any entity which has been barred by the Central/State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.

2.2.8 A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate.

2.2.9 In computing the Technical Capacity and Financial Capacity of the Bidder/ Consortium Members under Clauses 2.2.2, 2.2.4 and 3.2, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder. Provided however, in the event a Bidder gets selected on the strength of the Financial and /or Technical Capability of its Associate, it shall ensure that the said Associate remains an Associate of the Bidder throughout the equity Lock-in-Period set forth herein and more particularly specified in the Concession Agreement.

For purposes of this RFP, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder / Consortium Member (the “Associate”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

2.2.10 The following conditions shall be adhered to while submitting a Bid:

- (i) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
- (ii) information supplied by a Bidder (or other constituent member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms. Invitation to submit Bids will be issued only to Bidders whose identity and/ or constitution is identical to that at qualification;
- (iii) in responding to the qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and
- (iv) in case the Bidder is a consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.

2.2.11 While participation is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Members;

then the Qualification of such Bidder or in the event described in sub-clause (b) above, the continued Qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in its shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

- 2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 10 (ten) years or 1 (one) year or 3 (three) years, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.3 Equity Shareholding in Concessionaire:

- 2.3.1 The Selected Bidder (a single entity or a Consortium) shall either through a limited liability company (wholly owned company), incorporated under the Companies Act, 1956, or on its own as the selected bidder act as the Concessionaire, execute the

Concession Agreement and implement the Project in terms of the Concession Agreement. The aggregate equity shareholding of the Selected Bidder (whether a single entity or a Consortium) in the issued and paid up equity share capital of the Concessionaire shall not be less than 100% (one hundred percent) at all times commencing from the date of incorporation of the Concessionaire, until and including the date of execution of the Concession Agreement (the “**Execution Date**”), and thereafter the aggregate equity shareholding of the Selected Bidder (whether a single entity or a Consortium) in the issued and paid up equity share capital of the Concessionaire shall not be less than 51% (fifty one percent) at all times until the 5th (fifth) anniversary of the Appointed Date of the Project (the **Lock-in-Period**);

Further, in addition to and without prejudice to, the aggregate equity shareholding requirements for the Selected Bidder set forth above (100% and /or 51%, as the case may be), in case the Selected Bidder is a Consortium of entities, then: (i) the Lead Member thereof shall be required to subscribe and hold an equity share of at least 26% (twenty six per cent) of the paid up and subscribed equity share capital of the Concessionaire during the Lock-in-Period; and (ii) the other member of the Consortium, whose experience shall be evaluated for the purposes of this RFP, shall also subscribe to and hold at all times during the Lock-in Period, at least 10% (ten per cent) of the paid up and subscribed equity share capital of the Concessionaire.

The Bidder acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder.

- 2.3.2 By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and qualification under and in accordance with the RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be.

In the event such change in control occurs after signing of the Concession Agreement but prior to the 5th (fifth) anniversary of the date of the Appointed Date, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the

contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid Security or the Performance Security, as the case may be, as damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

2.4 Number of Bids

A Bidder is eligible to submit only one Bid for the Project. A Bidder applying individually or as a Member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be.

2.5 Bid and other costs

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bid process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.6 Site visit and verification of information

2.6.1 Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

For any assistance in respect to the site visit to the Bidders, clarifications required regarding the RFP document, Bidders can contact the following offices at the address given below:

The Managing Director, SPINFED,
Hastatanta Bhawan, Unit IX, Janpath, Bhubaneswar
Phone : 0674 – 2540432, Fax : 0674 – 2540432,
Email : spinfedodisha@gmail.com

And/or

Mr. Saswat Pattnaik
Project Management Unit, IDCO, IDCO Towers,
Janpath, Bhubaneswar-751022

Phone : +91 674 -2542 869, 2540 820, Mob : +91- 9938339399, Fax : +91
674- 2542 956, 2540 749, Email : pmu@idco.in, saswat.pattnaik@idco.in

2.6.2 It shall be deemed that by submitting the Bid, the Bidder has:

- (a) made a complete and careful examination of the Bidding Documents;
- (b) received all relevant information requested from the Authority;
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.6.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.6.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement; and
- (f) agreed to be bound by the undertakings provided by it under and in terms hereof.
- (g) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.3 The Authority, its representatives and employees, consultants, advisors, employees and representatives of the consultants and advisors shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.7 Right to accept or reject any or all Bids

2.7.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.

2.7.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

Such misrepresentation/ improper response shall lead to the disqualification of the Bidder and in this event, if the Bidder is a Consortium, then the entire Consortium shall be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the highest Bidder gets disqualified / rejected, then the Authority reserves the right to:

(i) invite the remaining Bidders to submit their Bids in accordance with the RFP; or

(ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by the Authority, that one or more of the qualification conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be. In such an event, the Authority shall forfeit and appropriate the Bid Security or the Performance Security, as the case may be, as mutually agreed

genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any right or remedy that may be available to the Authority.

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

B. DOCUMENTS

2.8 Contents of the RFP

- 2.8.1 This RFP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

- Section 1. Introduction
- Section 2. Instructions to Bidders
- Section 3. Criteria for Evaluation
- Section 4. Fraud & Corrupt Practices
- Section 5. Pre Bid Conference
- Section 6. Miscellaneous

Appendices

- I Project Information
- II Format for Bid
 - Annex – I Details of Bidder
 - Annex – II Technical Capacity of Bidder
 - Annex – III Financial Capacity of Bidder
 - Annex – IV Details of Eligible Projects
 - Annex – V Statement of Legal Capacity
 - Annex-VI O&M Experience
- III Power of Attorney for signing of Bid
- IV Power of Attorney for Lead Member of Consortium
- V Bank Guarantee for Bid Security
- VI Letter comprising the Price Bid
- VII Joint Bidding Agreement for Consortium

- 2.8.2 The draft Concession Agreement provided by the Authority as part of the Bid Document shall be deemed to be part of this RFP.

2.9 Clarifications

- 2.9.1 Bidders requiring any clarification on the RFP may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.12. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Authority shall endeavor to respond to the queries within the period specified therein, but not later than 15 days prior to the bid due date. The responses will be sent by fax or e-mail. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.
- 2.9.2 The Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.
- 2.9.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.
- 2.9.4 The Bidders shall note that reliance upon information/ clarification that is provided by any other source shall be at the risk of the Bidders.

2.10 Amendment of RFP

- 2.10.1 At any time prior to the deadline for submission of Bid, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Bidder, modify the RFP by the issuance of Addenda.
- 2.10.2 Any Addendum thus issued will be sent in writing to all those who have purchased the RFP and would be uploaded on the respective website(s).
- 2.10.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BID

2.11 Language

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

2.12 Format and signing of Bid

2.12.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects. Incomplete and /or conditional Bids shall be liable to rejection.

2.12.2 The Bidder shall prepare one original set of the documents comprising each of the Qualification Bid and the Technical Bid (together with originals/copies of documents required to be submitted along therewith pursuant to this RFP) clearly marked "ORIGINAL". In addition, the Bidder shall submit 1 (one) copy each of the Qualification Bid and Technical Bid, clearly marked "COPY". In the event of any discrepancy between the original and the copies, the original shall prevail. The Price Bid shall be submitted in one original only. The Original and the Copy of the Qualification Bid and the Technical Bid shall be bound in hard cover and the pages thereof shall be numbered serially.

2.12.3 The complete Bid (Qualification Bid, the Technical Bid and the Price Bid) and its copy/copies shall be typed or written in indelible ink and signed by the authorised signatory of the Bidder who shall also initial each page constituting the Bid, in blue/black ink. In case of printed and published documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid.

2.13 Sealing and Marking of Bids

2.13.1 The Bidder shall submit the Bid consisting of 2 (two) envelopes as under and seal it in one single outer envelope.

Envelope I: Qualification/ Technical Bid (Original & Copy)

Envelope II: Price Bid (Original, as per the format provided in Appendix-II)

2.13.2 The Technical Bid shall comprise of the following submissions:

(i) Letter accompanying the Bid in the format prescribed at **Appendix-I**

- (ii) Power of Attorney for signing the Bid as per the format at **Appendix-III**;
- (iii) if applicable, the Power of Attorney for Lead Member of Consortium as per the format at **Appendix-IV**;
- (iv) copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at **Appendix-VII**;
- (v) copy of Memorandum and Articles of Association, if the Bidder/ Consortium member is a body corporate, and if a partnership then a copy of its partnership deed;
- (vi) copies of Bidder's/ each Consortium member's duly audited balance sheet and profit and loss account for the preceding financial year; and
- (vii) Bid Security in the prescribed format (**Appendix-V**);
- (ix) Copy of receipt issued against the Bid Document or Demand Draft of Rs.10,000/-plus applicable taxes towards Bid Document Fee;
- (x) Details of Technical and Financial Capacity along with Annexures and supporting documents;
- (xi) A copy of the draft Concession Agreement with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred hereinabove.

The Bidder shall seal the original and the copy of the Technical Bid, in Envelope I. This envelope shall be sealed, labeled as;

“ENVELOPE I: TECHNICAL BID FOR DEVELOPMENT & ESTABLISHMENT of 25000 SPINDLE COTTON SPINNING MILL at KONARK SPIN, KESINGA” and placed inside the Outer Envelope.

Envelope II, shall consist of the Price Bid which is required to be furnished in the format at **Appendix-II**, hereof clearly indicating the Bid amount in both figures and words, in Indian Rupees, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account. The envelope containing the Price Bid shall be sealed, labeled as:

“ENVELOPE II: PRICE BID FOR DEVELOPMENT & ESTABLISHMENT OF 25000 SPINDLE COTTON SPINNING MILL at KONARK SPIN, KESINGA” and placed inside the Outer Envelope. The Envelope clearly marked as aforesaid shall contain:

- (i) Price Bid Letter & Format duly filled in to quote the ‘Annual Concession Fees’ to be paid to the Authority. The “Annual Concession Fees” shall be paid by the Concessionaire as per the terms of the LOA and the Concession Agreement.

Bidder must note that the reserve price provisions mentioned in clause 1.2.9 while submitting the Price Bid.

Envelope I and II, shall be placed and sealed inside an Outer Envelope. The Outer Envelope shall be sealed, and labeled as **“BID FOR DEVELOPMENT & ESTABLISHMENT of 25000 SPINDLE COTTON SPINNING MILL at KONARK SPIN, KESINGA”**

Each of the Envelopes shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand corner of each of the envelopes.

The Bidder shall submit ‘soft copies’ written on CDs for all the submissions, excluding the Price Bid, made by them in the Outer Envelope, Envelope I and II (except experience certificates, annual reports, brochures etc.). The CDs should be placed in the respective envelopes. All the inner envelopes shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared “late” or “non responsive” or “non-qualified”, as the case may be. It is further clarified that in case of any mismatch between the soft copy and the hard copy, the contents of the hard copy shall prevail.

2.13.3 Each of the envelopes shall be addressed to:

To
The Managing Director, SPINFED,
Hastatanta Bhawan, Unit IX,
Janpath, Bhubaneswar 751022
Phone: 0674 – 2540432, Fax : 0674 – 2540432,
Email: spinfedodisha@gmail.com

2.13.4 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted.

2.13.5 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14 Bid Due Date

2.14.1 Bids should be submitted before 1500 hours IST on March 09, 2015 the Bid Due Date, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person specified in Clause 2.13.3.

2.14.2 The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Bidders.

2.15 Late Bids

Bids received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16 Modifications/ substitution/ withdrawal of Bids

2.16.1 The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority prior to Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

2.16.3 Any alteration/ modification in the Bid or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by the Authority, shall be disregarded.

D. EVALUATION PROCESS

2.17 Opening and Evaluation of Bids

2.17.1 The Authority shall open the Bids at 1530 hours IST on the Bid Due Date, at the place specified in Clause 2.13.3 and in the presence of the Bidders who choose to attend.

- 2.17.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.
- 2.17.3 The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3.
- 2.17.4 Bidders are advised that qualification of Bidders will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.17.5 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if any Project is subsequently awarded to it under the Bidding Process on the basis of such information.
- 2.17.6 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any Bid without assigning any reasons.
- 2.17.7 To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

2.18 Confidentiality

Information relating to the examination, clarification, evaluation, and recommendation for the short-listed pre-qualified Bidders shall not be disclosed to any person who is not officially concerned with the process or is not a retained professional advisor advising the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority will treat all information, submitted as part of Bid, in confidence and will require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority.

2.19 Tests of responsiveness

- 2.19.1 Prior to evaluation of the Bids at each stage, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:

- (a) it is received as per formats prescribed in this RFP.
- (b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed, sealed, hard bound and marked as stipulated in Clause 2.13;
- (d) it is accompanied by the Power(s) of Attorney as specified in Clause 2.2.5 and Clause 2.2.6 (c);
- (e) it contains all the information (complete in all respects) as requested in this RFP;
- (f) it is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.6(f);
- (g) it is accompanied by the Bid Security as specified in Clause 1.2.7;
- (h) it does not contain any condition or qualification;
- (i) it is accompanied by the Bid Document Fee or proof of payment thereof; and
- (j) it is not non-responsive in terms hereof.
- (k) it contains certificates from its statutory auditors in the formats specified in the RFP.

2.19.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid.

2.20 Clarifications

- (i) To facilitate evaluation of Bids at any stage, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) shall be in writing.
- (ii) If an Bidder does not provide clarifications sought under Sub-Clause (i) above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

E. QUALIFICATION AND BIDDING

2.21 Short-listing and notification

The Bidders whose Bids are adjudged responsive in accordance with clause 3.2 above shall only be considered for Bid evaluation. After the evaluation of Technical Bids, the Authority would announce a list of shortlisted Bidders who will be eligible for participation in the Price Bid Stage (the '**Shortlisted Bidders**'). At the same time, the Authority would notify the other Bidders that they have not been short-listed. The Authority will not entertain any query or clarification from Bidders who fail to qualify/ get shortlisted.

2.22 Submission of Bids

Price Bids for only Shortlisted Bidders shall be opened by the Authority. The Bidders are advised to visit the site(s) and familiarize themselves with the Project by the time of submission of the Bid. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the Authority.

2.23 Proprietary data

All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid or any information provided along therewith.

2.24 Correspondence with the Bidder

The Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

2.26 Other conditions

2.26.1 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.

2.26.2 The Bidding Documents including this RFP and all attached documents are and shall remain the property of the Authority and are transmitted to the

Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid or any information provided along therewith.

2.26.4 This RFP is not transferable.

2.26.5 Any award of Concession pursuant to this RFP shall be subject to the terms of Bidding Documents.

2.26.6 The Prefeasibility report prepared [for and on behalf of the Authority] by its consultant, in respect of the Project is only as a preliminary reference document aimed at providing assistance to the Bidder. However Bidders are expected to carry out their own due diligence, surveys, investigations and other detailed examination of the Project/Project report or its necessary details before submitting their Bids. Nothing contained in the Project report shall be binding on the Authority or its consultant, as the case may be, nor confer any right on the Bidders; and the Authority and/or its Consultant, as the case may be, shall have no liability whatsoever in relation to or arising out of any or all contents of the Project report. For avoidance of doubt, in case Bidder places reliance on Project report and/or any aforesaid assumptions, assessments, statements, data and information [furnished by the Authority and/or its consultant, or in this RFP], then, the same shall not in any manner bind/make liable the Authority and/or its consultant and/or employees or representatives of the Authority and its consultants, to indemnify the Bidder in respect of any loss/damage/costs whatsoever arising out of or in connection with such reliance placed by the Bidder on the Project report, or the aforesaid assumptions, assessments, statements, data and information and the Bidders are expected to do their own due diligence and investigations into the Project and its related details prior to submission of their Bids

F. BID SECURITY

2.27 Bid Security

2.27.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 1.2.4 hereinabove in the form of an irrevocable and unconditional bank guarantee issued by a Nationalised Bank, in India, in favour of the Authority in the format at **Appendix-V** (the “**Bank Guarantee**”) and having a validity period of not less than 300 days from the Bid Due Date including a claim period of 60 days, as may be extended by the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalised bank in India is required. For the avoidance of doubt, Scheduled Bank shall mean a bank

as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

- 2.27.2 Bid Security can also be furnished by the Bidder in the form of a demand draft issued by a Nationalized Bank in India, drawn in favour of Managing Director, SPINFED and payable at Bhubaneswar, Orissa (the “**Demand Draft**”). The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.27.3 Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non- responsive.
- 2.27.4 The Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on cancellation of Bidding Process by the Authority or on the acceptance of the Bid of the Selected Bidder, except in case of 2nd Highest Bidder, where the Bid Security shall be returned without interest within 3 months of the Bid Due Date. The Bid Security of 2nd Highest Bidder shall be promptly returned not later than 15 days of the signing of Concession Agreement by the Authority with the highest bidder. Where Bid Security has been paid by deposit, the refund thereof shall be in the form of an account payee demand draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the Authority give the name and address of the person in whose favour the said demand draft shall be drawn by the Authority for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.27.5 The Selected Bidder’s Bid Security will be returned, without any interest, upon the Bidder furnishing the Performance Security in accordance with the provisions hereof.
- 2.27.6 The Authority shall be entitled to forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation/ damages in any of the events specified in Clause 2.27.7 herein below. The Bidder, by submitting its Bid pursuant to RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the Bid Validity period. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 2.27.7 The Bid Security shall be forfeited and appropriated by the Authority as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise, under the following conditions:

- a) If a Bidder submits a non-responsive Bid;
- b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid Validity as specified in this RFP and as extended by the Bidder from time to time;
- d) In the case of Selected Bidder, if it fails within the specified time limit -
 - (i) to sign the Concession Agreement and/or
 - (ii) to furnish the Period Performance Security within the period prescribed thereof
 - (iii) to sign and return the duplicate copy of LOI
 - (iv) fails to pay the requisite fees payable within the stipulated time period as specified in the RFP
- e) If the Bidder refuses to accept the correction of errors in the Bid.
- f) If the Bidder submits a conditional Bid which would affect unfairly the competitive position of other Bidders who submitted substantially responsive Bids.
- g) any other conditions, with respect to the Bidder as well as the Selected Bidder, for which forfeiture of Bid Security has been provided under this RFP.

3. CRITERIA FOR EVALUATION OF BIDS

3.1 Evaluation parameters for Technical Stage

- 3.1.1 Only those Bidders whose Bids are found to be responsive and who meet the eligibility criteria set forth in 2.2.1 above shall qualify for evaluation under this Section 3. Bids of firms/ consortia who do not meet these criteria shall be rejected.
- 3.1.2 The Bidder's competence and capability is proposed to be established by the following parameters:
 - (a) Technical Capacity; and
 - (b) Financial Capacity

3.2 Technical Bid Stage

In the Technical Bid Stage the Bidder's competence and capability is proposed to be

on the basis of the minimum eligibility criteria (Technical and Financial Capacity) stipulated in clause 2.2.2. The Bidders, who meet the Technical and Financial Capacity Criteria, shall only be eligible for opening of their Price Bid. The Evaluation of the Technical Bids shall be done on a Pass/ Fail basis.

3.2.1 The Bidders must provide the necessary information relating to Technical Capacity as per format at **Annex-II of Appendix-I**.

3.3.3 The Bidder should furnish the required project-specific information and evidence in support to its claim of Technical Capacity, as per format at **Annex-IV of Appendix-I**.

3.3 Financial information for purposes of evaluation

3.3.1 The Bid must be accompanied by the audited annual reports of the Bidder (of each member in case of a Consortium) for the preceding financial year from the Bid Due Date.

3.3.2 In case the annual accounts for the latest financial year are not audited and therefore the Bidder could not make it available, the Bidder shall give an undertaking to the same effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for the year preceding the year for which the Audited Annual Report is not being provided.

3.3.3 The Bidder must establish a minimum Net Worth or average annual turnover specified in Clause 2.2.2 (B) and provide details as per format at **Annex-III of Appendix-I**.

3.4 NOT USED

3.5 Price Bid Stage

3.5.1 In the Price Bid Stage, Price Bids would be opened only for those Bidders whose Bids are found to be responsive and who are shortlisted in the Technical Bid Stage as per clause 3.2. above.

3.5.2 The Price Bids will be evaluated for the Project on the basis of the Annual Lease Rent to be paid and as quoted by a Bidder as per clause 1.2.10.

3.5.3 Price Bid is required to be furnished in the format at **Appendix-II**, clearly indicating the amount of Annual Lease Rent in both figures and words and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

Bidder must note that the reserve price provisions mentioned in clause 1.2.9 while submitting the Price Bid.

3.5.4 The Shortlisted Bidder whose Price Bid is adjudged as responsive in terms hereof and who shall have quoted the highest Annual Lease Rent payable to the Authority in terms hereof and more particularly the Concession Agreement, shall be the i.e Highest Bidder and shall be normally declared as the selected bidder (the "**Selected Bidder**").

3.5.5 In the event that two or more Shortlisted Bidders quote the same amount of Annual Lease Rent (the "**Tie Bidders**"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.5.6 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the "**first round of bidding**"), the Authority may in its sole discretion annul the Bidding process or invite all the remaining Short-listed Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Price Bid of the aforesaid Highest Bidder (the "**second round of bidding**"). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose Price Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said Highest Bidder in the second round of bidding, the said third highest bidder shall be the Selected Bidder.

3.5.7 In the event that no Bidder offers to match the Highest Bidder in the second round of bidding as specified in Clause 3.5.6, the Authority may, in its discretion, invite fresh Bids (the "**third round of bidding**") from all Bidders except Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the first round of bidding.

- 3.5.8 After selection, a letter of award (the “Letter of Award” or “**LOA**”) , in the format prescribed by Authority shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.
- 3.5.9 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall in terms hereof and more particularly the LOA, incorporate the Concessionaire and execute the Concession Agreement within the period prescribed in Clause 1.3 and more particularly in the LOA. The Selected Bidder and / or the Concessionaire shall not be entitled to seek any deviation in the Concession Agreement.

3.6 Contacts during Bid Evaluation

Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, the Authority and/or their employees/ representatives on matters related to the Bids under consideration.

3.7 Payments by the Selected Bidder

The Selected Bidder (for and on behalf of the Concessionaire) shall, pursuant to the issue of the LOA, within 45 days of the issuance of the LOA and in any case prior to the execution of the Concession Agreement fulfill the following prerequisites to the execution of the Concession Agreement, in addition to the incorporation of the Concessionaire as a wholly owned subsidiary SPV in case of consortium:

i. Performance Security

The Selected Bidder shall, in terms of this RFP and the LOA issued, within 45 days of the issuance of the LOA and in any case prior to the execution of the Concession Agreement, provide a Performance Security for an amount equivalent to Rs.1,60,00,000/- (Rupees One Crore Sixty Lakhs Only) in the form of an irrevocable and unconditional Bank Guarantee from a Nationalised Bank, in the format prescribed at Appendix _ hereof, in favor of Managing Director, SPINFED, payable at Bhubaneswar, with an initial validity period of 2 years from the date of issuance. The Performance Security shall be maintained for the time period and for the amounts as set forth in the Concession Agreement. In the event the Selected Bidder fails to furnish the Performance Security, within the time period prescribed, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to revoke the LOA issued and appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Bidder to comply with the terms hereof and the LOA issued, and deal with the Project as it may in its discretion consider fit.

ii. Payment of Upfront Fee

The Selected bidder shall pay an upfront premium of Rs.50,00,000 (Fifty Lakhs Only) towards land premium & existing building & other facilities (10 Acres) within 30 days of issue of the LoI and before the signing of the Lease/Concession Agreement.

In case the Selected Bidder opts for setting up of the optional Ginning Unit (as defined in the Concession Agreement) in the area of additional 5 Acres provided by the Authority, then the Selected Bidder shall pay to the Authority, the additional upfront premium proportionate to the upfront premium payable towards land premium and other facilities for the area of 10 acres for the Spinning Mill, within 30 days of approval of the Authority to the Concessionaire to develop, construct and operate an optional Ginning Unit (as defined in the Concession Agreement) and before the execution of lease deed for the Additional Land (as defined in the Concession Agreement) to be provided in this regard by the Authority.

iii. Annual Lease Rent

The Concessionaire shall, with effect from the Appointed Date, and within 15 (fifteen) days of date of expiry of each consecutive period of twelve months [commencing from Appointed Date] during the Concession Period (the “**Due Dates**”), pay to the Authority the advance annual lease rent (“**Annual Lease Rent**”) in terms hereof and as more particularly set out in Lease Deed. The Annual Lease Rent payable during the first three years of the Concession Period shall be equivalent to the quoted Annual Lease Rent p.a.; The Annual Lease Rent for the first year of the Concession Period shall be paid on or before the signing of the Lease

Deed. The Annual Lease Rental shall be subject to escalation @ 10% at the expiry of three years during the Concession Period.

- iv. The Concessionaire on receipt of approval of the Authority to establish the optional Ginning Unit and on execution of the separate lease deed shall be liable to pay the annual lease rent to the Authority as per the terms of the separate lease deed and as per the conditions imposed by the Authority in this regard.

4. FRAUD AND CORRUPT PRACTICES

- 4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority shall reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) **“corrupt practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;
- (b) **“fraudulent practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;
- (c) **“coercive practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“undesirable practice”** means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“restrictive practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. PRE-BID CONFERENCE

- 5.1 A Pre-Bid conference of the interested parties shall be convened at 3:30 PM, on February 05, 2015 at the office of Director Textile Odisha, Satya Nagar, Janpath, Bhubaneswar 751007, Orissa on the designated date and time. A maximum of three (3) representatives of each Bidder shall be allowed to participate on

production of authority letter from the Bidder.

- 5.2 During the course of Pre-Bid conferences, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.
- 5.3 The Bidder is advised to submit the queries in writing or by fax or by email and the same should be sent to the Authority at least 2 (two) working days before the scheduled Pre-Bid conference.

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with the laws of India and the courts at -Bhubaneswar, Orissa, shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
 - (d) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Bidder.

- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.

APPENDICES

APPENDIX I

Letter Accompanying the Bid
(Refer Clause 2.13.2 (i))

Dated:

Orissa

**Sub: Bid for “Development & establishment of 25000 spindle cotton spinning mill
at Konark Spin, Kesinga” Project**

Dear Sir

With reference to your RFP document dated *****, I/we, having examined the RFP document and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.

- 2 All information provided in the Bid and in the Appendices and Annexures is true and correct and all documents accompanying such Bid are true copies of their respective originals.
- 3 This statement is made for the express purpose of qualifying as a Bidder for the development, construction, operation and maintenance of the aforesaid Project.
- 4 I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
- 5 I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
- 6 We certify that in the last 3 (three) years, we/ any of the Consortium Members have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. I/ We declare that:

- (a) I/ We have examined and have no reservations to the RFP document, including any Addendum issued by the Authority;
 - (b) I/ We do not have any conflict of interest in accordance with the RFP document;
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
 - (d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Projects, without incurring any liability to the Bidders, in accordance with Clause 2.17.6 of the RFP document.
9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Financial & technical Capacity criteria and meet(s) the requirements as specified in the RFP document and are/is qualified to submit a Bid.
10. I/ We declare that we/any Member of the Consortium, are/ is not a Member of a/any other Consortium submitting a Bid for the Project.
11. I/ We certify that in regard to matters other than security and integrity of the country, we have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our Directors.

14. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
15. I/We acknowledge and undertake that, I/We shall hold not less than 100% (one hundred percent) of the subscribed and paid up equity capital of the Concessionaire at all times commencing from the date of incorporation of the Concessionaire, until and including the Execution Date.
16. I/ We further acknowledge and undertake that I/We shall collectively hold at least 51% (fifty one percent) of the subscribed and paid up equity of the Concessionaire at all times until the 12th (twelfth) anniversary of the Appointed Date of the Project.
17. I/ We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short-listing and qualification under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify us or withdraw the letter of award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to 12th (twelfth) anniversary of the Appointed Date, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
18. In the event of my/ our being declared as the Selected Bidder, I/We agree to incorporate an appropriate Special purpose company under the Companies Act, 2013, to act as the Concessionaire and to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
19. I/We have studied all the Bidding Documents carefully and also surveyed the Project Site. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of Concession.
20. I/We offer a Bid Security of _____ to the Authority in accordance with the RFP Document. The Bid Security in the form of a Demand Draft/ irrevocable and unconditional Bank Guarantee (*strike out whichever is not applicable*) is attached.

21. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened.
22. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided in the RFP, are enclosed.
23. I/ We understand that the selected Bidder who is either an individual or a Consortium shall incorporate the Concessionaire as a special purpose vehicle for undertaking the Project, prior to signing of the Concession Agreement.
24. I/We, hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Projects and the terms and implementation thereof.
26. I/we agree and undertake to abide by all the terms and conditions of the RFP document.
27. I/ We certify that in terms of the RFP, my/our Net worth is Rs. _____ (Rupees_____in words).
28. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.

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

Yours faithfully,
(Signature of the Authorised signatory)

Date:

Place:

(Name and designation of the of the Authorised signatory)
Name and seal of Bidder/Lead Firm

ANNEX-I to Appendix I

Details of Bidder

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:
 - (e) Board of Directors and Shareholding Pattern
2. Brief description of the Company & Promoter including details of its main lines of business and proposed role and responsibilities in this Projects:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:
4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:
5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.6(f) should be attached to the Bid.
 - (c) Information regarding role of each member should be provided as per table below:

Sl. No.	Name of Member	Role* {Refer Clause 2.2.6(d)}	Percentage of equity in the Consortium {Refer Clauses 2.2.6(a) & }
1.			
2.			
3.			
4.			

** The role of each member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at Annex-IV.*

- (d) The following information shall also be provided for each member of the Consortium:

Name of Bidder/ member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the Central/ State Government, or any entity controlled by them from participating in consortium? [1] (BOT)		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid.		

6. A statement by the Bidder and each of the members of its consortium (where applicable) disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

ANNEX-II to Appendix I

Technical Capacity of the Bidder

(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFP)

Bidder type #	Member Code*	Experience ¥			Experience Score £
		Development Experience			
(1)	(2)	(4)	(5)	(6)	(7)
Single entity Bidder					
Consortium Member 1					
Consortium Member 2					
Consortium Member 3					
Consortium Member 4					

- # *A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Member. In case of a Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.2.9, shall be provided.*

- * *Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OM means Other Member.*

- \$\$ *For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 55 (fifty-five) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.*

ANNEX-III to Appendix I

Financial Capacity of the Bidder

(Refer to Clauses 2.2.2(B), 2.2.4 (ii) and 3.3 of the RFP)

Bidder type \$	Member Code £	Net Worth € (in Rs. crore) \$\$	Average Annual Turnover (over the last three years)
		Last preceding Year	
Single entity Bidder			
Consortium Member 1			
Consortium Member 2			
Consortium Member 3			
Consortium Member 4			
TOTAL			

\$ A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

£ For Member Code, see instruction 4 at Annex-IV of this Appendix-II.

€ The Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.9.

\$\$ For conversion of other currencies into rupees, see note below Annex-II of Appendix-II.

Instructions:

1. The Bidder/ its constituent consortium members shall attach copy of the balance sheet, financial statements and Annual Report for preceding Financial Year at the Bid Due Date. The financial statement shall:
 - a) reflect the financial situation of the Bidder and its Associates where the Bidder is relying on its Associate's financials;
 - b) be audited by a statutory auditor;
 - c) be complete, including all notes to the financial statements; and
 - d) correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
3. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.6 (f) of the RFP document.
4. The Bidder shall also provide the name and address of the Bankers to the Bidder.
5. The Bidder shall provide an Auditor's Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.4 (ii) of the RFP document.

ANNEX-IV to Appendix I

Details of Technical Experience

(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFP)

Details of similar Projects:

Member Code:

Item	Particulars of the Project
Title & nature of the project	
Entity for which the project was constructed/ developed	
Location	
Project cost	
Date of commencement of project/	
Date of completion/ commissioning	
Equity shareholding (with period during which equity was held)	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/	

Instructions:

1. Certificate from the Bidder's statutory auditor[§] or its respective clients must be furnished as per formats below for each project experience claimed. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/ Member/Associate may provide the requisite certification.
- 2.

Certificate from the Statutory Auditor regarding Project experience ^Φ

Based on its books of accounts and other published information authenticated by it, this is to certify that *(name of the Bidder/Member/Associate)*

[§] In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

^Φ Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

was engaged by (*title of the project company*) to execute
(*name of project*) for (*nature of project*)^ψ. The construction of the
project commenced on (*date*) and the project was/ is likely to be
commissioned on (*date, if any*).

We further certify that the total estimated capital cost of the project is Rs.
cr. (Rupeescrore)

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised
signatory)

Date:

3. In the event that credit is being taken for the Technical/ Financial Capacity of an Associate, as defined in Clause 2.2.9, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate[§]

Based on the authenticated record of the company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of (*name of the Bidder/Consortium Member/ Associate*) is held, directly or indirectly[£], by (*name of Associate/ Bidder/ Consortium Member*). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.9 of the RFP.

A brief description of the said equity held, directly or indirectly, is given below:

Describe the share-holding of the Bidder/ Consortium Member and the Associate. In the event the Associate is under common control with the Bidder/ Consortium Member, the relationship may be suitably described and similarly certified herein.

Name of the audit firm:

[§] In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% (fifty per cent) in order to establish that the chain of "control" is not broken.

Seal of the audit firm: (Signature, name and designation of the authorised signatory).
Date:

4. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in evaluation.
5. For a Project to be considered hereunder for Technical Capacity evaluation, the Bidder/ entity claiming experience should have directly held in the subscribed and paid up equity of the entity owning the Project, a minimum equity stake of 26%.
6. Experience in respect of the same project/activity relating to a project, shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience/ project shall be permitted in any manner whatsoever. Provided however where a particular project has been implemented in a consortium by two or more members of a Consortium, bidding for the Project, each such consortium member shall be entitled to claim and substantiate their respective share of work done towards the implementation of the project.

APPENDIX II

(To be sealed in a separate envelope as per RFP)

Letter comprising the PRICE BID

(Refer Clauses 2.13.1 and 3.6.3)

Dated:

Odisha Spinning Mills Federation Ltd.(SPINFED)

Orissa

Sub: Price Bid for '**Development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga**' Project

Dear Sir

With reference to your RFP document dated ____, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Price Bid for the aforesaid Project. The Price Bid is unconditional and unqualified.

1. I/We hereby submit our Price Bid in terms whereof, we offer to pay to Authority in consideration of the lease to be granted by the Authority in respect of the project site, an annual lease rent equivalent to **Rs. ____ = Rs. ____** (*indicate in words also*) ("**Annual Lease Rent**"). We agree and acknowledge that the aforesaid amount shall be the Annual Lease Rent payable in the first three years of the lease period and thereafter the Annual Lease Rent shall be subject to escalation at the rate of 10% at the expiry of every three years during the lease period, in accordance with the Bidding Documents and particularly the Concession Agreement.
2. We hereby understand and agree that the Price Bids will be evaluated for the Project on the basis of the Annual Lease Rent. The Annual Lease Rent amount shall constitute the sole criteria for evaluation of Bids and the Project shall, subject to the provisions of the RFP, be awarded to the Bidder quoting the highest Annual Lease Rent.
3. We hereby declare and confirm that the Annual Lease Rent has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of costs and after a careful assessment of the Sites and all the conditions that may affect the Bid.
4. I/We agree to keep this offer valid for 240 (two hundred and forty) days from the Bid Due Date specified in the RFP.

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

Yours faithfully,

Date:
signatory)

(Signature of the Authorised

Place:
signatory)

(Name and designation of the of the Authorised

Name and seal of Bidder/Lead
Firm

APPENDIX III

Power of Attorney for signing of Bid

(Refer Clause 2.2.5)

Know all men by these presents, We, _____(name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms (Name), son/daughter/wife of _____ and presently residing at _____, who is presently employed with us/ the Lead Member of our Consortium and holding the position of _____, as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the **** Project proposed or being developed by the **Odisha Spinning Mills Federation Ltd.(SPINFED)** (the “Authority”) including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

IN WITNESS WHEREOF WE, _____, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ____DAY OF _____, 20**.

For

(Signature, name, designation and address)

Witnesses:

1.

2.

(Notarised)

Accepted

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholder's resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX IV

Power of Attorney for Lead Member of Consortium

(Refer Clause 2.13.2)

Whereas the “the Authority” has invited Bids from interested parties for the **Development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga** Project.

Whereas, _____, _____, _____, and _____ (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project[s] in accordance with the terms and conditions of RFP document and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium’s bid for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office at _____,
M/s. _____ having our registered office at _____,
M/s. _____ having our registered office at _____,

and _____ having our registered office at _____ (the respective names and addresses of the registered office) (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s _____ having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”). We hereby irrevocably authorise the Attorney (with power to sub- delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of bid[s] of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ____ DAY OF ____20**

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

For

(Signature)

.....
(Name & Title)

Witnesses:

1.

2.

.....

(Executants)

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

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.*

APPENDIX-V

Bank Guarantee for Bid Security (Refer Clauses 2.27)

B.G. No.

Dated:

1. In consideration of you, **Odisha Spinning Mills Federation Ltd.(SPINFED)**, having its office at Hastatanta Bhawan, Unit IX, Janpath, Bhubaneswar - 751022, (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of _____ [a Company registered under provision of the Companies Act, 1956] and having its registered office at ____ [and acting on behalf of its Consortium] (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the **Development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga** Project on DBFOT basis (hereinafter referred to as “the **Project**”) pursuant to the RFP Document dated <<to be inserted>> issued in respect of the Project and other related documents (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at ____ and one of its branches at _____ (hereinafter referred to as the “**Bank**”), at the request of the Bidder, do hereby in terms of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of _____ as bid security (hereinafter referred to as the “**Bid Security**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and

irrespective of whether the claim of the Authority is disputed by the Bidder or not merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set-forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding _____.

4. This Guarantee shall be irrevocable and unconditional and remain in full force for a period of 300 (three hundred) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid Validity period set forth in the said Bidding Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of letter of award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these

presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. *** crore (Rupees ***** crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [*** (indicate date falling 300 days after the Bid Due Date)]

Signed and Delivered by _____ Bank

By the hand of Mr./Ms _____, its _____ and authorised official.

(Signature of the Authorised Signatory)
(Official Seal)

APPENDIX VI
Bank Guarantee for Performance Security

To
Odisha Spinning Mills Federation Ltd. (SPINFED)

.....
.....
Orissa

WHEREAS:

(A) **** (the "**Concessionaire**") and the Information and ***Odisha Spinning Mills Federation Ltd.(SPINFED)*** (the "**Authority**") in terms of the request for proposal No.____ dated ____ (the "**RFP**"), issued by the Authority for selection of a suitable private partner for undertaking **Development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga** on design, build, finance, operate and transfer ("**DBFOT**") basis, (the "**Project**"), have issued a Letter of Award dated ____ (the "**LOA**") to M/s _____ (the "**Selected Bidder**").

(B) In terms of the RFP and the LOA, the Selected Bidder is required, among other things, to furnish a Performance Security (*for and on behalf of M/s____, a special purpose vehicle incorporated/ to be incorporated by the Selected Bidder (the "**Concessionaire**")*), to the Authority in a sum of [Rs. 1,60,,00,000 (RupeesOne Crore Sixty Lakhs)] (the "**Guarantee Amount**") as security for due and faithful performance of the Concessionaire's obligations, under and in accordance with the Concession Agreement (the "**Agreement**"), to be entered in to between the Authority and the Concessionaire, with the Selected Bidder being the confirming party.

(C) We, ***** through our Branch at ***** (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Concessionaire's obligations during the Compliance Period, the Construction Period and for a period of two years thereafter, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer not below the rank of Managing Director, in the Odisha Spinning Mills Federation Ltd.(SPINFED), that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.
5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of

time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Concessionaire during Construction Period under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of 30 Years & 3 Months years from the date of issuance hereof and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, not later than 3 (three) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.
8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
10. This Guarantee shall come into force with immediate effect and shall remain in force and effect upto _____ or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ** day of ***, 20** at ***.

SIGNED, SEALED AND DELIVERED For and on behalf of
the BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

The address, telephone number and other details of the Head office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing branch.

APPENDIX-VII
Joint Bidding Agreement
(Refer Clause 2.2.6(g))

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of,20.....

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context include its successors and permitted assigns)

The above mentioned parties of the FIRST and SECOND are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”.

WHEREAS

- (A) **Odisha Spinning Mills Federation Ltd.(SPINFED)**, Orissa, represented by its _____ and having its principal office at _____(hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (“the **Bids**”) by its Request for Qualification-cum-Request for Proposal No. dated (the “**RFP**”) for selection of bidders for **Development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga** (the “**Project**”) through public private partnership.
- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

- (C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the Bidding Documents.

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the “**Consortium**”) for the purposes of jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Selected Bidder and awarded the Project, it shall incorporate the Concessionaire as a special purpose vehicle for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member and the {Technical/ financial member} of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the Concessionaire shall become effective;
- (b) Party of the Second Part shall be {the technical member of the Consortium; and}

5. Joint and Several Liabilities

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. Shareholding in the Concessionaire

6.1 The Parties agree that the proportion of shareholding among the Parties in the Concessionaire shall be as follows:

First Party:

Second Party:

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the Concessionaire shall, at all times during the period commencing from the Execution Date and till the 5th (Fifth) anniversary of the Appointed Date (the **Lock-in Period**), be held by the Lead Member of the Consortium and a minimum of 10% of the subscribed and paid up equity share capital of the Concessionaire shall at all times during the Lock-in Period be held by the other member.

6.3 In this regard the Parties further undertake that the Lead Member thereof shall hold an equity share of at least 26% (twenty six per cent) of the paid up and subscribed equity capital of the Concessionaire during the Lock-in-Period.

6.4 The Parties agree and undertake that the aggregate equity shareholding of the Parties (in the issued and paid up equity capital of the Concessionaire shall not be less than 100% (one hundred percent) at all times commencing from the date of incorporation of the Concessionaire, until and including the Execution Date. The Parties further agree and undertake that they shall collectively hold at 51% (fifty one percent) of the subscribed and paid up equity share capital of the Concessionaire at all times until the 5th (fifth) anniversary of the Appointed Date of the Project.

6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the RFP and more particularly the Concession Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

(a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval not already obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not qualified / shortlisted for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

9.1 This Joint Bidding Agreement shall be governed by laws of India.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

IN WITNESS WHEREOF THE PARTIES ABOVE NAMED HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of
LEAD MEMBER by:
(Signature)
(Name)
(Designation)
(Address)

For and on behalf of
SECOND PART by:
(Signature)
(Name)
(Designation)
(Address)

In the presence of:

- 1.
- 2.

Notes:

1. *The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
2. *Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.*

3. *For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.*

**Designing, building, development, establishment, operation and maintenance of
25000 spindle cotton spinning mill at Konark Spin, Kesinga**

VOLUME II

Draft Concession Agreement

Odisha Spinning Mills Federation Ltd. (SPINFED) (the “Authority”)

January, 2015

CONCESSION AGREEMENT

This concession agreement (“**Agreement**”) is entered into on this the ____ day of____, 20** at ____ [...].

BETWEEN

1 **Konark Cotton Growers Coop. Spinning Mills, Kesinga, Kalahandi (Konark Spin)**, represented herein by its _____, who is duly empowered in this regard and having its principal office at Hastatanta Bhawan, Unit IX, Janpath, Bhubaneswar- 751022, (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of **First Part**;

AND

2 _____, a company incorporated under the provisions of the Companies Act, 2013, and having its registered office at _____, represented herein by _____, duly authorized in this behalf, vide the board resolution dated _____ (hereinafter referred to as the "**Concessionaire**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the **Second Part**.

AND

3 [The consortium of (i) M/s _____ having its registered office at _____; and (ii) M/s _____ having its registered office at _____ and M/s _____ having its registered office at _____, in their capacity as the confirming party to this Agreement (hereinafter referred to as the '**Selected Bidder**' which expression shall, unless the context otherwise requires, include its successors) duly represented through M/s _____, the lead member of the consortium, through its authorized signatory _____ of the **Third Part**.]¹

OR

¹ Reference to Consortium to be deleted if the Selected Bidder is a Single entity

M/s _____ having its registered office at _____, in their capacity as the confirming party to this Agreement (hereinafter referred to as the '**Selected Bidder**' which expression shall, unless the context otherwise requires, include its successors) duly represented through M/s _____, through its _____ of the **Third Part**

The "**Authority**" and "**Concessionaire**" are hereinafter, as the context may admit or require, referred to as "**Party**" individually and "**Parties**" collectively, and the confirming party [i.e party of the Third Part in the aforesaid array of parties] is hereinafter referred to as the **Selected Bidder**.

WHEREAS:

- (A) Odisha Spinning Mills Federation Ltd. (SPINFED) is the Apex organization in the Co-Operative sector of the state to plan and implement cotton processing programmes in their entirety, including manufacture of quality cotton yarn and its marketing. Under the aegis of SPINFED nearly 7 co-operative spinning mills were functioning and most of them have stopped functioning and are under liquidation except the Konark Cotton Growers Coop. Spinning Mills, Kesinga, Kalahandi (Konark Spin) where ginning activities are being undertaken.

Considering the cotton grown in the region, land & infrastructure available with ***Konark Cotton Growers Coop. Spinning Mills, Kesinga, Kalahandi (Konark Spin)*** at Kesinga, it is desirous to set up a minimum of 25000 Spindle Spinning unit through Private Sector Investment (the "**Project**").

- (B) In order to identify and select suitable entity for the development of the Project on DBFOT basis in terms hereof, the Authority had accordingly invited bids from interested entities through a single stage three envelope competitive bidding process, vide its request for proposal, No. _____ dated _____ (the "**RFP**") on terms and conditions contained therein.
- (C) After evaluation of the bids received in accordance with the RFP, the Authority has accepted the bid of _____ and issued its letter of award No. _____ dated _____ (hereinafter called the "**LOA**") to the Selected Bidder [i.e. M/s _____], requiring inter alia, the execution of this Agreement within ___ days of the date of issue LOA.
- (D) The Selected Bidder has since promoted and incorporated a special purpose company in accordance with the provisions of the Companies Act, 2013, under the name and style of M/s _____, as the Concessionaire, and has requested the Authority to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder including the obligation to enter into this Agreement pursuant to the LOA.

- (E) By its letter dated _____, the Concessionaire has also joined in the said request of the Selected Bidder to the Authority to accept it as the entity. The Concessionaire has further represented to the effect that it has been promoted by the Selected Bidder for the purposes hereof.
- (H) The Selected Bidder on behalf of the Concessionaire/ the Concessionaire, as the case may be, has made the following payments/ fulfilled the following pre-requisites, as the case may be, in terms of the RFP and the LOA,
- i. **Payment of Upfront Premium:** *Made a non refundable upfront premium of Rs.50,00,000 (Fifty Lakhs Only) towards land premium & existing building & other facilities*
 - ii. **Incorporation of SPV:** *The Selected Bidder has for the purpose of this Agreement, incorporated a Special Purpose Vehicle, under the provisions of the Companies Act, 2013 (the "SPV"), so as to execute the Concession Agreement and implement the Project, on its behalf, as per and in accordance with the Agreement.²*
 - iii. **Performance Security:** furnished a Performance security for an amount equivalent to Rs. 1,60,00,000/- (Rupees One Crore Sixty Lakhs Only) in the form of an irrevocable and unconditional Bank Guarantee no. _____, dated _____, from _____ Bank (a Nationalized Bank), in the format prescribed at Appendix _____ hereof, in favor of _____, payable at _____, with an initial validity period of __ years.
- (I) Pursuant to the above payments and compliance with the terms of the LOA by the Concessionaire, as aforesaid, the Authority has agreed to the above mentioned request of the Selected Bidder and the Concessionaire, and has accordingly agreed to the implementation of the Project by the Concessionaire on the terms, conditions and covenants hereinafter set forth in this Agreement and to lease the Site to the Concessionaire for the purposes hereof.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties and the Selected Bidder, respectively, agree as follows:

² Incorporation of SPV is not compulsory, so the clause may be removed as per the terms of the agreement.

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 45) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of Orissa, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a "**person**" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) the words "include" and "including" are to be construed without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;
- (f) references to "**construction**" or "**building**" include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "**construct**" or "**build**" shall be construed accordingly;

- (g) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (h) any reference to day shall mean a reference to a calendar day;
- (i) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which Nationalized Banks in Orissa are generally open for business;
- (j) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (k) references to any date, period or Project Milestone shall mean and include such date, period or Project Milestone as may be extended pursuant to this Agreement;
- (l) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;
- (m) the words importing singular shall include plural and vice versa;
- (n) references to any gender shall include the other and the neutral gender;
- (o) "lakh" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);
- (p) **"indebtedness"** shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- (q) references to the "winding-up", "dissolution", "insolvency", or "reorganization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
- (r) any reference, at any time, to any agreement, deed, instrument, lease or document of any description shall be construed as reference to that agreement, deed, instrument, lease or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

- (s) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Independent Engineer, as the case may be, in this behalf and not otherwise;
- (t) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (u) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears; and
- (v) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**").

1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Concessionaire to the Authority and/or the Independent Engineer shall be provided free of cost and in three copies, and if the Authority and/or the Independent Engineer is required to return any such Documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.4 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements and errors/discrepancies

1.4.1 This agreement, and all other agreements and documents forming part of this agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this agreement, the priority of this agreement and other documents and agreements forming part hereof shall, in the event of any conflict between them, be in the following order:

- (a) this Agreement; and
- (b) all other agreements [including RFP and LOA] and documents forming part hereof;

i.e. the Agreement at (a) above shall prevail over the agreements and documents at (b) above.

1.4.2 Subject to Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
- (b) between the Clauses of this agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
- (c) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
- (d) between the dimension scaled form the Drawing and its specific written dimension, the latter shall prevail; and
- (e) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2

SCOPE OF THE PROJECT

2.1 Scope of the Project

The scope of the Project (the "**Scope of the Project**") shall mean and include, during the Concession Period:

- (a) planning, designing, development/ re-development, financing, construction/ refurbishment of the Spinning Mill, together with provision of Project Facilities as specified in Schedule B, on the Site set forth in **Schedule A**, and in conformity with the Specifications and Standards set forth in **Schedule C**;
- (b) planning, designing, development, financing, construction, maintenance and operation of an optional Ginning Unit, on the Additional Land, as may be provided to the Concessionaire by the Authority by way of a separate lease deed and as set forth in **Schedule AA**, subject to and in accordance with the provisions of this Concession Agreement and the terms & conditions as may be decided by the Authority in this regard;
- (c) operation and maintenance of the Project Facilities in accordance with the provisions of this Agreement; and
- (d) Performance and fulfillment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement.

ARTICLE 3

GRANT OF CONCESSION

3.1 The Concession

- 3.1.1 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits, the Authority hereby grants to the Concessionaire the concession set forth herein including the exclusive right, lease and authority during the subsistence of this Agreement to design, construct, finance, operate and maintain the Project at the Site (the "**Concession**") for a period of **30 (Thirty) years** from the Appointed Date with further renewal for an additional 30 (Thirty) years on the basis of satisfactory performance and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein.

Further, subject to and in accordance with the provisions of this Agreement and as per the terms & conditions made applicable by the Authority, the Authority may on request of the Concessionaire during the Option Period, at its discretion, allow the Concessionaire to design, construct, finance, operate and maintain an optional ginning unit, on the Additional Land, as may be provided to the Concessionaire by the Authority (the "**Ginning Unit**"). The setting up of Ginning Unit by the Concessionaire shall be subject to the terms and conditions, restrictions and

obligations as set forth herein and as may be decided by the Authority.

For the purpose of this Agreement, the optional Ginning Unit shall form part of the Concession as defined in this Clause and would be co-terminus with the same.

The Concessionaire shall have the option to set up and operationalise the Ginning Unit anytime on or before the expiry of 5 (five) years from the date of execution of this Agreement (the “**Option Period**”). The Concessionaire shall within the Option Period if it desires to set up the optional Ginning Unit make a proposal to the Authority giving in reasonable detail the proposed development and operation plan including but not limited to the designs, drawings, means of financing and operating standards in respect of the proposed ginning unit. The Authority shall on receipt of the application from the Concessionaire convey its decision to the Concessionaire within a reasonable period of time.

3.1.2 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the terms of the Applicable Permits, the Concession hereby granted shall oblige or entitle (as the case may be) the Concessionaire to:

- (a) grant of access and lease hold rights in respect of the Site and the Additional Land as the case may be and existing structures for the purpose of and to the extent conferred by the provisions of this Agreement;
- (b) Fulfill and achieve the completion of the Project Facilities in accordance with the Specifications and Standards, Applicable Laws, Applicable Permits and Good Industry Practice in terms as set out in this Agreement;
- (c) Finance, design and construct/ redevelop/ restructure/ renovate/ refurbish the Project and the Project Facilities including renovating/ refurbishing the existing structures and facilities;
- (d) manage, operate and maintain the Project and Project Facilities and regulate the use thereof by third parties;
- (e) demand, collect and appropriate Revenue from the Project or any part thereof;
- (f) perform and fulfil all of the Concessionaire's obligations under and in accordance with this Agreement;
- (g) bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement; and

- (h) neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Project Site(s) and Project Facilities nor transferor part possession thereof, save and except as expressly permitted by this Agreement or the Substitution Agreement.
- (i) Any part of the work (but not the whole of works) may be sub-contracted by the Concessionaire through construction contracts/O&M contract, provided always that notwithstanding the construction contracts/O&M contract, the Concessionaire retains overall management, responsibility, obligation and liability in relation to the sub-contracted work. Any such subcontracting shall not relieve the Concessionaire from any of its obligations in respect of the provision of such work under this Agreement. It is clarified that Concessionaire shall remain liable and responsible for any acts, omissions or defaults of any of its contractor, and shall indemnify the Authority in respect thereof.

ARTICLE 4

CONDITIONS PRECEDENT

4.1 Conditions Precedent

- 4.1.1 Save and except as expressly provided in Articles 4, 9, 10, 24, 32, 41 and 44, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this clause 4.1 (the "**Conditions Precedent**").
- 4.1.2 The Concessionaire may, at any time after 90 (ninety) days from the Execution Date or on an earlier day acceptable to the Authority, by notice require the Authority to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 90 (ninety) days of the notice, or such longer period not exceeding 120 (one hundred and twenty) days as may be specified therein. The Conditions Precedents required to be satisfied by the Authority prior to the Appointed Date shall be deemed to have been fulfilled when the Authority shall have:
 - (a) granted to the Concessionaire the lease hold rights in respect of the Site by way of execution of the Project Site lease deed ("**Lease Deed**") as per the format annexed hereto at **Schedule L**, in accordance with the provisions of Clause 10.3.1;

- (b) earmarked and reserved for the Option Period an Additional Land for the Concessionaire to set up optional Ginning Unit. Provided that after the expiry of the Option Period, the Authority shall be free to use, maintain, sell or by any way dispose of the Additional Land, in any manner whatsoever as it may deem fit and appropriate and the Concessionaire shall have no rights, reserve or claim over the same.
- (b) handed over the vacant possession of the Project Site as detailed in **Schedule A** to the Concessionaire on 'as is where is' basis free from all encumbrances in terms hereof and particularly the Lease Deed.

4.1.3 The Conditions Precedent required to be satisfied by the Concessionaire within a period of 90 days from the Execution Date or on any date thereafter, shall be deemed to have been fulfilled when the Concessionaire shall have:

- (a) executed and procured execution of the Substitution Agreement;
- (b) submitted the Performance Security of Rs. 1,60,00,000 (Rupees One Crore Sixty Lakhs Only) in the form of an irrevocable and unconditional bank guarantee.....
- (c) procured all the Applicable Permits specified in **Schedule D** unconditionally or if subject to conditions then all such conditions shall have been satisfied in full and such Applicable Permits are in full force and effect;
- (d) executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Concessionaire;
- (e) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by the authorized person of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders;
- (f) delivered to the Authority the confirmation, in original, of the correctness of its representations and warranties set-forth in Clause 7.1 of this Agreement; and
- (g) delivered to the Authority a legal opinion from the legal counsel of the Concessionaire with respect to the authority of the Concessionaire to enter into this Agreement and the enforceability of the provisions thereof;
- (h) Paid to the Authority in advance the Annual Lease Rent for the first year of the Concession Period in accordance with the provisions hereof.

Provided that upon request in writing by the Concessionaire, the Authority may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3.

- 4.1.4 Each Party shall make all reasonable endeavors to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.
- 4.1.5 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2 Damages for delay by the Authority

In the event that (i) the Authority does not procure fulfillment of any or all of the Conditions Precedent set forth in Clause 4.1.2 within 210 (two hundred and ten) days from the Appointed Date, and (ii) the delay has not occurred as a result of failure or breach of the obligations under this Agreement by the Concessionaire, or due to Force Majeure, then the Authority shall pay to the Concessionaire, Damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum of 12% (twelve percent) of the Performance Security.

Any delay by the Authority in the fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.2, save and except for reasons attributable to the Selected Bidder/Concessionaire or Force Majeure; beyond a period of 270 (two hundred seventy) days from the date of this Agreement or such later date as mutually agreed between the Parties, would entitle the Concessionaire to terminate this Agreement as per provisions hereof.

In such an event of termination, the Authority shall

- (i) release the Performance Security; provided however that in the event the Authority's failure to fulfill its Conditions Precedent is attributable to the Concessionaire's default, the Authority shall forfeit the Performance Security, as damages; and
- (ii) In the event the access / possession/lease in respect of the Project Site or the Additional Land as the case may be, shall have been granted to the Concessionaire in terms hereof on or before such date of termination; then the Project Site/ Additional Land shall immediately revert to the Authority, free and clear from any encumbrances and along with all associated

easementary rights, irrespective of any outstanding mutual claims between the parties or any third party claims;.

4.3 Damages for delay by the Concessionaire

- (a) In the event that (i) the Concessionaire does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period of 210 (two hundred ten) days from the date of this Agreement, and (ii) the delay has not occurred as a result of Authority's failure to fulfil the obligations under Clause 4.1.2 or due to Force Majeure or fulfilment of such Condition Precedent has not been waived off by Authority, the Concessionaire shall pay to the Authority, Damages in an amount calculated at the rate of 0.2% (zero point two percent) of the Performance Security for each day's delay subject to a maximum of 12% Performance Security; without prejudice to any other rights and remedies available to the Authority in terms hereof or under law or otherwise.
- (b) Notwithstanding anything to the contrary in the event delay referred to in aforesaid clause 4.3 (a) above, exceeds a period of 270 (two hundred seventy) days from the date of this Agreement or goes beyond such later date as may be mutually agreed between the Parties for fulfilment of condition precedent, then the Authority would be entitled to terminate this Agreement in accordance with the provisions hereto.

In such an event, notwithstanding anything to the contrary contained in the Agreement, the Authority shall, without prejudice to any other right or remedy that may be available to the Authority under this Agreement, be entitled to:

- (i) forfeit/invoke and appropriate the Performance Security as the case may be;
- (ii) appropriate the payments [including towards the total land premium] made by the Concessionaire in terms of the RFP and/or LOA, till the date of such termination, as damages;
- (iii) In the event the access / possession/lease in respect of the Project Site shall have been granted to the Concessionaire in terms hereof on or before such date of termination; then the Project Site shall immediately revert to the Authority, free and clear from any encumbrances and along with all associated easementary rights, irrespective of any outstanding mutual claims between the parties or any third party claims; and the Lease Deed [if already executed] shall be deemed to have been terminated simultaneously with said termination of this Agreement.

- 4.4 Without prejudice to and notwithstanding anything to the contrary set out in the foregoing, the Parties may by mutual agreement, instead of terminating the Agreement, decide to extend the time for fulfilling the Conditions Precedent.

ARTICLE 5

OBLIGATIONS OF THE CONCESSIONAIRE AND THE SELECTED BIDDER

5.1 Obligations of the Concessionaire

- 5.1.1 Subject to and on the terms and conditions of this Agreement, the Concessionaire shall at its cost and expense procure finance for and undertake the design, engineering, procurement, construction, operation and maintenance of the Project and Project Facilities and observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder.
- 5.1.2 The Concessionaire shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
- 5.1.3 Subject to Clauses 5.1.1 and 5.1.2, the Concessionaire shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.
- 5.1.4 The Concessionaire shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:
- (a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details, as may be required for obtaining all Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;
 - (b) set up the 25,000 Spindle capacity Project Facility in a phased manner in two years, ie. Minimum 10,000 Spindle in the 1st Year and balance of 25,000 Spindle in the 2nd Year.
 - (c) on receiving approval from the Authority to set up the Ginning Unit during the Option Period, the Concessionaire shall, prepare the designs and drawings, finalize the implementation plan for the Ginning Unit including the specifications and standards, the project implementation schedule along with appropriate measures for safety, security and protection of the works, property, life and materials at the Additional Land and the environment, subject to the separate lease deed as may be signed in this regard and in accordance with the provisions of this Agreement and the terms & conditions as may be decided by the Authority;

- (c) procure, as required, the appropriate proprietary rights, licenses, lease, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project;
- (d) perform and fulfill its obligations under the Financing Agreements;
- (d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
- (e) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement;
- (f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
- (h) support, cooperate with and facilitate the Authority in the performance of its obligations hereunder in relation to the Project, in accordance with the provisions of this Agreement; and
- (i) not undertake, cause or suffer the undertaking of prohibited activities under any law at the Site/ Additional Land or any part thereof;
- (j) transfer the Project and Project Facilities to the Authority upon Termination, of this Agreement, in accordance with the provisions thereof;
- (k) maintain a minimum performance standard during the entire concession period;
- (l) follow all other applicable industrial standards and regulations & best practices followed in similar industries;

5.2 Obligations relating to Project Agreements

5.2.1 It is expressly agreed that the Concessionaire shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Concessionaire from its obligations or liability hereunder.

- 5.2.2 The Concessionaire shall submit to the Authority the drafts of all Financing Agreements or any amendments or replacements thereto for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Financing Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that no review and/or observation of the Authority and/or its failure to review and/or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.
- 5.2.3 The Concessionaire shall not make any replacement or amendments to any of the Financing Agreements without the prior written consent of the Authority if such replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Concessionaire shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the Debt Due.
- 5.2.4 The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination or Suspension (the “**Covenant**”). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Concessionaire expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(ies) of each of the Project Agreements, whereunder such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

5.3.5 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that selection or replacement of an O&M Contractor and execution of the O&M Contract shall be subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire or its Contractors from any liability or obligation under this Agreement.

5.2.6 The Concessionaire shall ensure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination or Suspension.

5.3 Obligations relating to Change in Ownership

5.3.1 The Selected Bidder shall adhere to the equity lock-in-requirements set out in clause 5.6 (g) below and shall not undertake or permit any Change of Ownership in the equity shareholding of the Concessionaire, except with the prior written approval of the Authority, which permission the Authority may in its discretion deny.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that:

- (i) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 15% (fifteen per cent) of the total Equity of the Concessionaire; or
- (ii) acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or persons acting in concert with him

shall be subject to prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Concessionaire without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement.

For the purposes of this Clause 5.3.2:

- (a) the expression "acquirer", "control" and "person acting in concert" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Concessionaire;
- (b) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Concessionaire; and
- (c) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situate in India or abroad) the Equity of the Concessionaire, not less than half of the directors on the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 15% (fifteen per cent) of the Equity of the Concessionaire shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

5.3.3 In case any shareholder of the Concessionaire dilutes/transfers its Equity in the Concessionaire, subject to the provisions of this Agreement, to a third party, the member transferring the share/ Concessionaire shall ensure that the third party acquiring the Equity shall agree and conform to the provisions of this Concession Agreement.

5.4 Employment of foreign nationals

The Concessionaire acknowledges, agrees and undertakes that employment of foreign personnel by the Concessionaire and/or its contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Concessionaire and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Concessionaire or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Concessionaire from the performance and discharge of its obligations and liabilities under this Agreement.

5.5 Employment of trained personnel

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

5.6 Obligations of the Selected Bidder

The Selected Bidder shall in accordance with and subject to the provisions of this Agreement, undertake or manage, inter alia, the herein mentioned areas of the Concessionaire's activities such that its experience and expertise becomes available to the Concessionaire on an on-going basis:

- a. Assist the Concessionaire in arranging finances for the Project, including mobilization of financial assistance and Equity;
- b. Timely implementation of the Project in accordance with the provisions of this Agreement, including the Specifications and Standards and the project implementation schedule;
- c. Implementation of measures for safety, security and protection of the works, property, life and materials at the Project Site and the environment;
- d. Preparation of the Designs and Drawings and finalization of the Implementation Plan;
- e. Procurement of Applicable Permits for commencing and implementing the Project;
- f. Award of Project contracts (if any) in respect of operation and maintenance of the Project Facilities;
- g. The Selected Bidder shall ensure that its equity shareholding in the paid up capital of the Concessionaire shall be as under:-

The aggregate direct Equity shareholding of the Selected Bidder in the issued and paid up Equity capital of the Concessionaire shall not be less than 100% (one hundred percent) at all times commencing from the date of incorporation of the Concessionaire, until and including the date of execution of this Agreement, and thereafter the aggregate direct Equity shareholding of the Selected Bidder in the issued and paid up Equity capital of the Concessionaire shall not be less than 51% (fifty one percent) at all times until 5th (fifth) anniversary of the Appointed Date of the Project (the **Lock-in-Period**);

Provided that in case Selected Bidder is a consortium of entities, then: (i) the Lead Member thereof shall be required to hold Equity shareholding of at least 26% (twenty six per cent) of the paid up and subscribed Equity share capital of the Concessionaire during the Lock-in-Period; and (ii) each other member(s) of the consortium whose experience have been evaluated for the purposes of the RFP, shall subscribe to at least 10% (ten per cent) of the paid up and subscribed Equity share capital of the Concessionaire,

ARTICLE 6

OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

- 6.1.1 The Authority agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:
- (a) upon written request from the Concessionaire, and subject to the Concessionaire complying with Applicable Laws, provide all reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Instrumentality for implementation and operation of the Project;
 - (b) the Authority shall at its own cost and expense, procure and make available the Off-Site Infrastructure and shall upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary On-Site infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;
 - (c) ensure that no barriers are erected or placed on the Site/ Additional Land as the case may be, by any Government Instrumentality or persons claiming

through or under it, except for reasons of Emergency, national security, law and order and/ or collection of taxes, if any;

- (d) subject to and in accordance with the Applicable Laws, grant to the Concessionaire the authority to regulate trespass on the Project Site/ Additional Land as the case may be;
- (e) In accordance with the Applicable Laws and this Agreement, the Authority shall, if required, assist the Concessionaire in procuring police assistance from the State Police Department or a substitute thereof, on payment of requisite fee for police service by the Concessionaire.
- (f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;
- (g) support, cooperate with and facilitate the Concessionaire in the implementation and operation of the Project in accordance with the provisions of this Agreement;
- (h) upon written request from the Concessionaire and subject to the provisions of Clause 5.4, provide reasonable assistance to the Concessionaire and any expatriate personnel of the Concessionaire or its Contractors to obtain applicable visas and work permits for the purposes of discharge by the Concessionaire or its Contractors their obligations under this Agreement and the Project Agreements;

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

- (a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;

- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or those of any member of the Consortium or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;
- (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;
- (k) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.3

- (l) all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;
- (m) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- (n) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith.

7.2 Representations and Warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

- a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary under the Applicable Laws to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- b) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- c) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its obligations under this Agreement;
- d) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;
- e) it has complied with Applicable Laws in all material respects;

- f) all information provided by it in the RFP and invitation to bid in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects;
 - (i) it has the right, power and authority to manage the Project Site/ Additional Land as the case may be up to the Appointed Date;
 - (j) it has good and valid right to the Project Site, and has power and authority to grant a lease in respect thereto to the Concessionaire; and
 - (k) upon the Concessionaire performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Concessionaire, in accordance with this Agreement.

7.3 Representations and Warranties of the Selected Bidder

The Selected Bidder represents and warrants to the Authority that:

- (a) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.3 and that the Selected Bidder together with its Associates holds 100% of the issued and paid up Equity of the Concessionaire as on the date of this Agreement;
- (b) that the respective holding of each Consortium Member conforms to the representation made by the Consortium and accepted by the Authority as part of the Bid;
- (c) that the Selected Bidder has the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;
- (d) that the Selected Bidder is duly organized and validly existing under the laws of the jurisdiction of its incorporation, and has requested the Authority to enter into this Agreement with the Concessionaire pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (e) all information provided by the Selected Bidder in response to the RFP or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

7.4 Disclosure

In the event that any occurrence or circumstance comes to the attention of either

Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of either Party under this Agreement.

ARTICLE 8

DISCLAIMER

8.1 Disclaimer

- 8.1.1 The Concessionaire and Selected Bidder acknowledge that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the RFP (interalia including any project report/feasibility report/ information memorandum, furnished therein by any of its consultant, for and on behalf of the Authority), Scope of the Project, Specifications and Standards, Site, local conditions, physical qualities of ground, subsoil and geology, and all information provided by the Authority and/or its consultant or obtained procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 7.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and/or completeness of the information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Authority and/or its consultant in this regard.
- 8.1.2 The Concessionaire has obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Concessionaire and its rights and obligations under this Agreement.
- 8.1.3 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority and/or its consultant shall not be liable for the same in any manner whatsoever to the Concessionaire or the Selected Bidder or any person claiming through or under any of them.
- 8.1.4 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement or render it voidable.

- 8.1.5 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority and/or its consultant to give any notice pursuant to this Clause 8.1.5 shall not prejudice the disclaimer of the Authority and/or its consultant contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire/Selected Bidder pursuant to this Agreement or the Project Agreements.
- 8.1.6 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Concessionaire/Selected Bidder and the Authority and/or its consultant shall not be liable in any manner for such risks or the consequences thereof to the Concessionaire or any person claiming under or through the Concessionaire/Selected Bidder.

ARTICLE 9

PERFORMANCE SECURITY

9.1 Performance Security

- 9.1.1 The Concessionaire has, for the performance of its obligations hereunder during the Compliance Period, Construction Period and for a period of three months thereafter [including obligations towards payment of Annual Lease Rent], provided to the Authority, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to **Rs.1,60,00,000/- (Rupees One Crore Sixty Lakhs Only)**, from _____ Bank, payable at _____ in the form set forth in **Schedule E**, (the “**Performance Security**” and the Authority hereby acknowledges the receipt thereof.
- 9.1.2 The Performance Security shall remain valid and be maintained in full force and effect throughout the Construction Period and until expiry of 3 (three) months period commencing from the Project Completion Date.

9.2 Appropriation of Performance Security

- 9.2.1 In the event of the Selected Bidder/Concessionaire being in default of the due, faithful and punctual performance of its obligations, under Section 2.1 of this Agreement and during the Construction Period, as the case may be, or owing any sums whatsoever to the Authority under this Agreement or in the event of there being any claims or demands whatsoever whether liquidated or which may at any time be made or have been made on behalf of the Authority for or against the Concessionaire under this Agreement, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant or delinquent amounts from the Performance Security as Damages for such default, dues, demands or claims. Upon such encashment and

appropriation from the Performance Security, the Concessionaire shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 34. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Concessionaire Default, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 34.

9.3 Release of Performance Security

9.3.1 The Authority shall, subject to the provisions hereof release the Performance Security forthwith expiry of 3 (three) months from the Project Completion Date, subject however to deductions towards any outstanding amount payable to Authority by Concessionaire in terms hereof.

ARTICLE 10

LEASE & RIGHT OF WAY

10.1 The Site

The Site of the Project shall comprise of the land parcels described in **Schedule A hereto**, together with the existing buildings and structures, in respect of which the Authority shall towards fulfillment of its condition precedent set out herein grant to the Concessionaire the lease hold rights under and in accordance with terms hereof and more particularly the Lease Deed (the "**Site**"). For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Site(s) shall be construed as references to the land required for the Project as set forth in **Schedule A**.

10.2 Additional Land

Upon the request of the Concessionaire, during the Option Period to the Authority of its offer to set up an optional Ginning Unit on the Additional Land parcel as maybe provided by the Authority, together with the existing building and structures thereon (the "**Additional Land**"), the Authority may, in its sole discretion grant to the Concessionaire leasehold rights over the Additional Land by way of a separate lease deed, subject to and in accordance with the provisions of this Agreement and on the terms and conditions as may be decided by the Authority at the time of granting of the rights with respect to the

Additional Land to the Concessionaire. For the purpose of this Agreement, the rights with respect to the Additional Land shall be existent during the term of this Concession Agreement and shall be co-terminus with the Lease Deed granting rights with respect to the Site.

10.2 Lease and Access Rights

- 10.2.1 In this regard, the Concessionaire shall be required to execute with the Authority a Lease Deed in the format prescribed in **Schedule L** hereof. Further, on request of the Concessionaire to set up the optional Ginning Unit, the Authority may, in its discretion, give to the Concessionaire, by way of a separate lease deed for the Ginning Unit, suitable rights on the Additional Land to set up the Ginning Unit, subject and in accordance with the terms and conditions as may be decided by the Authority at the time of granting of rights in this regard and in the format as may be prescribed by the Authority for this purpose.
- 10.2.2 The Authority shall grant to the Concessionaire access to the Site/ Additional Land as the case may be, for carrying out any surveys, investigations and soil tests that the Concessionaire may deem necessary during the Compliance Period or during the setting up of the Ginning Unit, as the case may be, it being expressly agreed and understood that the Authority shall have no liability whatsoever in respect of survey, investigations and tests carried out or work undertaken by the Concessionaire on or about the Site/ Additional Land, as the case may be, pursuant hereto in the event of Termination or otherwise.
- 10.2.3 In consideration of the Upfront Premium, the Annual Lease Rent payable in terms hereof and particularly the Lease Deed and other covenants and warranties of the Concessionaire set out herein and particularly therein, the Authority shall grant leasehold rights in respect of all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Site which are described, delineated and shown in **Schedule A** hereto on an "as is where is" basis, free of any Encumbrances, to the Concessionaire in terms of the Lease Deed, together with all rights, liberties, privileges, easements and appurtenances whatsoever to the said leased premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period and, for the purposes permitted under this Agreement and the Lease Deed, and for no other purpose whatsoever. The minimum lease rent payable with respect to the Site (along with any building, constructions or immovable assets, if any) shall be Rs. _____ pursuant to and as more clearly set out in the Lease Deed annexed as Schedule L with this Agreement.

The grant of lease in respect of the Additional Land (along with any buildings, constructions or immovable assets, if any, thereon), as more clearly set out in **Schedule AA** hereto on an "as is where is" basis, shall be free of any Encumbrances, together with all rights, liberties, privileges, easements and appurtenances whatsoever to the said leased premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, and shall be limited and restricted for the duration between execution of the lease deed for optional ginning unit to the Transfer Date, by way of and as per and in accordance with the terms and conditions as set forth by the Authority in the lease deed for optional ginning unit and pursuant to the provisions of this Agreement.

10.2.4 The Parties hereto agree that the Lease Deed would be co-terminus with the term of this Agreement and accordingly shall not exceed the Concession Period and shall stand terminated, regardless of the date of execution of the Lease Deed.

10.2.5 The Concessionaire hereby irrevocably appoints the Authority (or its nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the lease granted pursuant to the Lease Deed at any time after the Concession Period has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorized officer of the Authority, and the Concessionaire consents to it. The Concessionaire shall execute an irrevocable Power of Attorney for the same.

10.3 Handover of the Site

10.3.1 Pursuant to the notice specified in Clause 4.1.2, the Authority and the Concessionaire shall, on a mutually agreed date and time, inspect the Site or the Additional Land as the case maybe and prepare a memorandum containing an inventory of the Sites or Additional Land as the case maybe including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Sites. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the authorised representatives of the Parties shall be deemed to constitute grant of the lease and handover of possession to the Concessionaire for free and unrestricted use and development of the vacant and unencumbered Sites or Additional Land during the Concession Period or during the period between execution of the Lease Deed for the Additional Land and Transfer Date respectively, under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

10.3.2 On and after signing the memorandum and until the Transfer Date, the Concessionaire shall maintain a round-the-clock vigil over the Sites or Additional Land as the case maybe and shall ensure and procure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, the Concessionaire shall bring such encroachment or occupation forthwith to the notice

of the Authority and undertake its removal at its cost and expenses.

10.3.3 The Authority confirms that upon the Site or the Additional Land as the case may be, being handed over, the Concessionaire shall have the right to enter upon, occupy and use the Sites/ Additional Land as the case may be and to make at its cost, charge and expense such development and improvements in the Sites as may be necessary or appropriate to implement the Project and to establish, operate and maintain the Project subject to and in accordance with the provisions of this Agreement.

10.4 Site/ Additional Land to be free from Encumbrances

Subject to the provisions of Clause 10.3, the Site/ Additional Land, as and when provided, shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the leased premises shall not be deemed to be Encumbrances. It is further agreed that the Concessionaire accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Sites/ Additional Land.

10.5 Protection of Site/ Additional Land from encroachments

During the Concession Period, the Concessionaire shall protect the Site/ Additional Land, as and when provided from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Concessionaire to place or create any Encumbrance or security interest over all or any part of the Sites/ Additional Land or the Project Assets, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.6 Special/temporary right of way

The Concessionaire shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Sites/ Additional Land, as the case may be. The Concessionaire shall obtain at its cost such facilities on or outside the Sites/ Additional Land, as may be made available and as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

10.7 Access to the Authority and Independent Engineer

The lease, right of way and right to the Site/ Additional Land, as the case may be, granted to the Concessionaire hereunder shall always be subject to the right of access of the Authority and the Independent Engineer and other Governmental

authorities, their employees and agents for inspection, viewing and exercise of their right and performance of their obligation under this Agreement or under Applicable Laws.

10.8 Geological and archaeological finds

It is expressly agreed that mining, geological and archaeological rights do not form part of the long term lease granted to the Concessionaire under this Agreement and particularly the Lease Deed/ separate lease deed for Ginning Unit and the Concessionaire hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site/ Additional Land, as the case maybe, shall vest in and belong to the Authority or the concerned Government Instrumentality. The Concessionaire shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Concessionaire hereunder shall be reimbursed by the Authority. It is also agreed that the Authority shall procure that the instructions hereunder are issued by the concerned Government Instrumentality within a reasonable period.

ARTICLE 11

Not Used

ARTICLE 12

CONSTRUCTION OF THE PROJECT

12.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Concessionaire shall:

- (a) submit to the Authority and the Independent Engineer its detailed design, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule approved as part of the Implementation Plan;

The requirements under this Article 12 shall also apply on the Concessionaire, subject to such modifications and amendments, as may be approved by the Authority in writing, with respect to the development, construction and commissioning of the optional Ginning Unit. The Concessionaire shall comply with the provisions of this Article 12, in terms hereof, in respect of the Optional Ginning Unit also.

- (b) appoint its representative duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;
- (c) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, the Applicable Laws and Applicable Permits; and
- (d) make its own arrangements for carrying of materials needed for the Project under and in accordance with the Applicable Laws and Applicable Permits.

12.2 Maintenance during Construction Period

During the Construction Period, the Concessionaire shall maintain, at its cost, the Site and shall undertake the necessary maintenance works for this purpose.

12.3 Drawings

In respect of the Concessionaire's obligations with respect to the Drawings of the Project Facilities, the following shall apply:

- (a) The Concessionaire shall prepare and submit, within 90 days of the Execution Date, three copies each of all Drawings to the Independent Engineer for review;
- (b) By submitting the Drawings for review to the Independent Engineer, the Concessionaire shall be deemed to have represented that it has determined and verified that the design and engineering, including field construction criteria related thereto, are in conformity with the Specifications and Standards;
- (c) Within 15 (fifteen) days of the receipt of the Drawings, the Independent Engineer shall review the same and convey its observations to the Concessionaire with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. The Concessionaire shall not be obliged to await the observations of the Independent Engineer on the Drawings submitted pursuant hereto beyond the said 15 (fifteen) days period and may

begin or continue Construction Works at its own discretion and risk;

- (d) If the aforesaid observations of the Independent Engineer indicate that the Drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such Drawings shall be revised by the Concessionaire and resubmitted to the Independent Engineer for review. The Independent Engineer shall give its observations, if any, within 7 (seven) days of receipt of the revised Drawings;
- (e) No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Independent Engineer or the Authority be liable for the same in any manner;
- (f) Without prejudice to the foregoing provisions of this Clause 12.3, the Concessionaire shall submit to the Authority for review and comments, its Drawings, location and layout of Project and Project Facilities, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, within 30 (thirty) days of the receipt of such Drawings. The provisions of this Clause 12.3 shall apply *mutatis mutandis* to the review and comments hereunder; and
- (g) Within 90 (ninety) days of the Project Completion Date, the Concessionaire shall furnish to the Authority and the Independent Engineer a complete set of as-built Drawings, in 2 (two) hard copies and in micro film form or in such other medium as may be acceptable to the Authority, reflecting the Project and Project Facilities as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project and Project Facilities and setback lines, if any, of the buildings and structures forming part of the Project and Project Facilities.

12.4 Scheduled Project Completion Date

- 12.4.1 On or after the Appointed Date, the Concessionaire shall undertake construction of Project and Project Facilities as specified in **Schedule B**, and in conformity with the Specifications and Standards set forth in **Schedule C**. The date falling at the expiry of 24 (twenty four) months from the Appointed Date shall be the scheduled date for Completion of the Project and the Project Facilities (the "**Scheduled Project Completion Date** ") and the Concessionaire agrees and undertakes that Project Facilities shall be completed on or before the Scheduled Project Completion Date.

12.4.2 In the event the Project Completion Date is not achieved within 90 days from the Scheduled Project Completion Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority at the rate of 0.1% (zero point one percent) of the amount of Performance Security for delay of each day until the Project Completion Date is achieved (subject to a maximum of 90 days delay). In the event the Project Completion Date is not achieved within 180 (one hundred and eighty) days from the Scheduled Project Completion Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to terminate this Agreement.

12.4.3 For the avoidance of any doubt, Project Completion, as used herein shall refer to the completion of the Construction Works in respect of the Project Facilities and the issuance of Completion/ Provisional Certificate in respect thereof by the Independent Engineer.

12.5 Implementation Plan

The Concessionaire shall within 90 days from the date hereof, submit to the Authority, a detailed plan for the development of Project Facilities and for implementation of the Project (the “**Draft Implementation Plan**”) in conformity with the Scope of Work, the Standards and Specifications, Schedule Completion Date and the implementation plan submitted by the Selected Bidder as part of its Technical Bid in terms of the RFP and the terms hereof.

The Draft Implementation Plan should include:

- i. a detailed project implementation schedule, indicating project milestones for executing the Development/construction and operationalisation of the Project; This would cover all stages/ aspects of the implementation including design and engineering, installation, construction and testing; etc.
- ii. Manpower Deployment Plan, including the designation of key personnel for the management and supervision of project activities. Concessionaire will have to set up an adequately furnished site office and provide vehicles for use at site for the team deployed on the project by Concessionaire as well the Authority.
- iii. a broad statement for key items setting out the methodology of construction, materials and construction equipment mobilization/ utilization plans, broad output calculations and details of the quality assurance and quality control procedures.

ARTICLE 13

MONITORING OF CONSTRUCTION

13.1 Quarterly progress reports

During the Construction Period, the Concessionaire shall, no later than expiry of 7 (seven) days after the close of each quarter, furnish to the Authority and the Independent Engineer a quarterly report on progress of the Construction Works and shall promptly give such other relevant information as may be required by the Independent Engineer.

13.2 Inspection

During the Construction Period, the Independent Engineer shall inspect the Project Facilities at least once a month and make a report of such inspection (the "**Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Scope of the Project and Specifications and Standards. It shall send a copy of the Inspection Report to the Authority and the Concessionaire within 7 (seven) days of such inspection and upon receipt thereof, the Concessionaire shall rectify and remedy the defects or deficiencies, if any, stated in the Inspection Report. Such inspection or submission of Inspection Report by the Independent Engineer shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

13.3 Tests

13.3.1 For determining that the Construction Works conform to the Specifications and Standards and the terms hereof, the Independent Engineer shall require the Concessionaire to carry out or cause to be carried out Tests, at such time and frequency and in such manner as may be specified by the Independent Engineer from time to time, in accordance with Good Industry Practice for quality assurance. The size of sample for such tests shall, to the extent possible, not exceed 10% (ten per cent) of the quantity of construction works undertaken. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the Independent Engineer and furnish the results thereof to the Independent Engineer.

One half of the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire. For the avoidance of doubt, the costs to be incurred on any Test which is undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the Concessionaire.

13.3.2 In the event that results of any tests conducted under this Clause 13.3 establish any defects or deficiencies in the Construction Works, the Concessionaire shall carry out remedial measures and furnish a report to the Independent Engineer in this behalf. The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests to determine that such remedial measures have brought the Construction Works into compliance with the Specifications and Standards, and the procedure set forth in this Clause 13.3 shall be repeated until such Construction Works conform to the Specifications and Standards. For the avoidance of doubt, it is agreed that tests pursuant to this Clause 13.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Concessionaire to the Independent Engineer forthwith.

13.4 Delays during construction

If the Concessionaire does not achieve any of the Project milestones or the Independent Engineer shall have reasonably determined that the rate of progress of Construction Works is such that Project Completion Date is not likely to be achieved by the Scheduled Project Completion Date(s), it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Independent Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

13.5 Suspension of unsafe Construction Works

13.5.1 Upon recommendation of the Independent Engineer to this effect, the Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, such work threatens the safety of the Users and pedestrians.

13.5.2 The Concessionaire shall, pursuant to the notice under Clause 13.5.1, suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works and the Users. The Concessionaire may by notice require the Independent Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Independent Engineer, the Authority shall either revoke such suspension or instruct the Concessionaire to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 13.5 shall be repeated until the suspension hereunder is revoked.

- 13.5.3 Subject to the provisions of Clause 32.7, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of Suspension (the "**Preservation Costs**"), shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.
- 13.5.4 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine any extension of the dates set forth in the Project Completion Schedule to which the Concessionaire is reasonably entitled, and shall notify the Authority accordingly whereupon the Authority shall extend such Project Completion Schedule dates in accordance with the recommendations of the Independent Engineer. In the event that the Scheduled Project Completion Date is extended pursuant hereto, the Concession Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Project Completion Date in terms of this sub-clause 13.5.4.

13.6 Monitoring by External Consultant

The Authority, at its own discretion, reserves the right to appoint an external consultant for assisting / facilitating the Authority in the monitoring process. The cost of the external consultant, if any appointed, shall be borne by the Authority.

13.7 Video recording

During the Construction Period, the Concessionaire shall provide to the Authority for every calendar quarter, a video recording, which will be compiled into a 3 (three)-hour compact disc or digital video disc, as the case may be, covering the status and progress of Construction Works in that quarter. The first such video recording shall be provided to the Authority within 7 (seven) days of the Appointed Date and thereafter, no later than 15 (fifteen) days after the close of each quarter.

ARTICLE 14

COMPLETION CERTIFICATE

14.1 Tests

- 14.1.1 At least 30 (thirty) days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer of its intent to subject the Project to Tests. The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire, and notified to the Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the

Tests, the Concessionaire shall fix the dates by not less than 10 (ten) days notice to the Independent Engineer.

- 14.1.2 The Independent Engineer shall observe, monitor and review the results of the Tests to determine compliance of the Project with Specifications and Standards and if it is reasonably anticipated or determined by the Independent Engineer during the course of any Test that the performance of the Project or any part thereof does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Concessionaire to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Independent Engineer shall provide to the Concessionaire and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Independent Engineer may require the Concessionaire to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.

14.2 Completion Certificate

Upon completion of Construction Works pertaining to the Project Facilities in terms hereof and the Independent Engineer determining the Tests to be successful, it shall forthwith issue to the Concessionaire and the Authority a certificate substantially in the form set forth in **Schedule I** (the "**Completion Certificate(s)**").

14.3 Provisional Certificate

The Independent Engineer may, at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set forth in **Schedule I** (the "**Provisional Certificate(s)**") if the Tests are successful and the Project Facilities can be safely and reliably placed in commercial operation though certain works or things forming part thereof are outstanding and not yet complete. In such an event, the Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (the "**Punch List**"); provided that the Independent Engineer shall not withhold the Provisional Certificate for reason of any work remaining incomplete if the delay in completion thereof is attributable to the Authority.

14.4 Completion of Punch List items

- 14.4.1 All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) days of the date of issue of the Provisional Certificate and for any delay thereafter, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to complete the Punch List items on its own cost and recover Damages from the Concessionaire to be calculated and paid for each day of delay until all items are completed, at the lower of (a) 0.1% (zero point one per cent) of the Performance Security, and (b) 0.2% (zero point two per cent) of the cost of completing such items as estimated by the Independent Engineer. Subject to payment of such Damages, the Concessionaire shall be entitled to a further period not exceeding 120 (one hundred and twenty) days for completion of the Punch List items. For the avoidance of doubt, it is agreed that if completion of any item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the completion date thereof shall be determined by the Independent Engineer in accordance with Good Industry Practice, and such completion date shall be deemed to be the date of issue of the Provisional Certificate for the purposes of Damages, if any.
- 14.4.2 Upon completion of all Punch List items, the Independent Engineer shall issue the Completion Certificate. Failure of the Concessionaire to complete all the Punch List items within the time set forth in Clause 14.4.1 for any reason, other than conditions constituting Force Majeure or for reasons solely attributable to the Authority, shall entitle the Authority to terminate this Agreement.

14.5 Withholding of Provisional Certificate

- 14.5.1 If the Independent Engineer determines that the Project or any part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in commercial operation, it shall forthwith make a report in this behalf and send copies thereof to the Authority and the Concessionaire. Upon receipt of such a report from the Independent Engineer and after conducting its own inspection, if the Authority is of the opinion that the Project or any part thereof is not fit and safe for commercial service, it shall, within 7 (seven) days of receiving the aforesaid report, notify the Concessionaire of the defects and deficiencies in the Project and direct the Independent Engineer to withhold issuance of the Provisional Certificate. Upon receipt of such notice, the Concessionaire shall remedy and rectify such defects or deficiencies and thereupon Tests shall be undertaken in accordance with this Article 14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

14.5.2 Notwithstanding anything to the contrary contained in Clause 14.5.1, the Authority may, at any time after receiving a report from the Independent Engineer under that Clause, direct the Independent Engineer to issue a Provisional Certificate under Clause 14.3, and such direction shall be complied forthwith.

14.6 Rescheduling of Tests

If the Independent Engineer certifies to the Authority and the Concessionaire that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Concessionaire shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

14.7 The provisions of this Article 14 shall also apply on the Concessionaire, subject to such modifications and amendments, as may be approved by the Authority in writing, with respect to the development, construction and commissioning of the optional Ginning Unit. The Concessionaire shall comply with the provisions of this Article 14, in terms hereof, in respect of the Optional Ginning Unit also.

ARTICLE 15

ENTRY OF PROJECT FACILITIES INTO COMMERCIAL SERVICE

15.1 Commercial Operation Date (COD)

The Project shall be deemed to be complete when the Completion Certificates or the Provisional Certificates, as the case may be, are issued under the provisions of Article 14 and accordingly, the commercial operation date of the Project shall be the date on which such Completion Certificate or the Provisional Certificate is issued in respect of the Project (the "**COD or Commercial Operation Date**"). The Project Facilities shall enter into commercial service on the COD, whereupon the Concessionaire shall commence production and collect User Charges in accordance with the provisions of Article 27.

With respect to the optional Ginning Unit the Commercial Operations Date, shall be the date on which commissioning of the Ginning Unit is allowed by the Authority, pursuant to the compliance of the provisions of Article 12 and Article 14 of this Agreement (subject to modifications and amendments by the Authority in writing).

15.2 Damages for delay

Subject to the provisions of Clause 12.4, if COD does not occur prior to the 91st (ninety first) day from the Scheduled Project Completion Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority at the rate of at the rate of 0.1% (zero point one percent) of the amount of Performance Security for delay of each day until COD is achieved.

ARTICLE 16

Not Used

ARTICLE 17

OPERATION AND MAINTENANCE

17.1 O&M obligations of the Concessionaire

17.1.1 During the Operation Period, the Concessionaire shall operate and maintain the Project and Project Facilities , if any in accordance with this Agreement either by itself, or through the O&M Contractor and if required, modify, repair or otherwise make improvements to the Project Facilities to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Good Industry Practice. The obligations of the Concessionaire hereunder shall include:

- (a) permitting safe, smooth and uninterrupted O&M of the Project Facilities in terms hereof during normal operating conditions;
- (b) collecting and appropriating the User Charges;
- (c) minimising disruption of operation of Project Facilities in terms hereof in the event of accidents or other incidents affecting the safety and use of the Project by providing a rapid and effective response and maintaining liaison with emergency services available in the State of Orissa;
- (d) carrying out periodic preventive maintenance of the Project;
- (e) undertaking major & routine maintenance such as repairs, refurbishments, drainage system, structures, buildings, fire system, etc.
- (f) preventing, with the assistance of concerned law enforcement agencies, any unauthorised use or encroachments of the Project, including the Site;
- (g) protection of the environment and provision of equipment and materials thereof;

- (h) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the Project; and
- (i) maintaining a public relations unit to interface with and attend to suggestions from the Users, government agencies, media and other agencies.

17.1.2 The Concessionaire shall remove promptly from the Site all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project Facilities in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice.

17.1.3 The Concessionaire shall maintain, in conformity with Good Industry Practice and the applicable standards, all stretches of the Project Facility.

17.2 Maintenance Requirements

17.2.1 The Concessionaire shall, at all times, operate and maintain the Project Facilities in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Concessionaire shall, at all times during the Operation Period, conform to the maintenance requirements (the "**Maintenance Requirements**") as under:

- a) maintaining the Site environment so as to cause minimum disturbance to the environment,
- b) ensure that the facilities are operational and rectification of the defects and deficiencies within the minimum time
- c) ensure that the O&M obligations set forth in this Agreement are abided by at any time during the Operation Period,

17.2.2 Notwithstanding anything to the contrary contained in this schedule, if any defect, deficiency or deterioration in the Project poses danger to the life and property of the users thereof, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.

In respect of any defect or deficiency, the Independent Engineer may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Concessionaire within the time limit specified by the Independent Engineer.

17.2.3 Repair/rectification of defects and deficiencies

The obligations of the Concessionaire in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies.

Extension of time limit: If the nature and extent of any defect or deficiency justifies more time for its repair or rectification, the Concessionaire shall be entitled to additional time in conformity with Good Industry Practice. Such additional time shall be determined by the Independent Engineer and conveyed to the Concessionaire and the Authority with reasons thereof.

Emergency repairs/restoration: If any defect, deficiency or deterioration in the Project and Project Facilities poses danger to the life or property of the Users thereof, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.

Periodic Inspection by the Concessionaire: The Concessionaire shall, through its engineer, undertake a periodic visual inspection of the Project and maintain a record thereof in a register to be kept in such form and manner as the Independent Engineer may specify. Such record shall be kept in safe custody of the Concessionaire and shall be open to inspection by the Authority at any time during office hours.

Divestment Requirements: All defects and deficiencies shall be repaired and rectified by the Concessionaire so that the Project conforms to the Maintenance Requirements on the Transfer Date.

17.3 Maintenance Manual

Not later than 180 (one hundred and eighty) days prior to the Scheduled Project Completion Date, the Concessionaire shall evolve a repair and maintenance manual (the "**Maintenance Manual**") for the regular and preventive maintenance of the Project in conformity with the Specifications and Standards, Maintenance Requirements, Safety Requirements and Good Industry Practice, and shall provide 5 (five) copies thereof to the Authority and two (2) copies to the Independent Engineer. The Maintenance Manual shall be revised and updated once every 3 (three) years and the provisions of this Clause 17.3 shall apply, *mutatis mutandis*, to such revision.

Note: Kindly confirm the time period for updation of the Maintenance Manual.

Without prejudice to the provision of Clause 17.3, the Maintenance Manual shall, in particular, include provisions for maintenance of Project Assets and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that their overall condition conforms to Good Industry Practice.

17.4 Safety, breakdowns and accidents

17.4.1 The Concessionaire shall ensure safe conditions in the Mill, and in the event of unsafe conditions, breakdowns and accidents, it shall follow the relevant operating procedures and removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

17.4.2 The Concessionaire's responsibility for rescue operations at the Project Sites shall include safe evacuation of all Users and staff from the affected area as an initial response to any particular incident and shall also include prompt removal of debris or any other obstruction, which may endanger or interrupt the smooth operation of the Project and movement of the Users.

17.5 De-commissioning due to Emergency

17.5.1 If, in the reasonable opinion of the Concessionaire, there exists an Emergency which warrants de-commissioning and closure to Users of the whole or any part of the Project, the Concessionaire shall be entitled to de-commission and close the whole or any part of the Project to Users for so long as such Emergency and the consequences thereof warrant; provided that such decommissioning and particulars thereof shall be notified by the Concessionaire to the Authority without any delay, and the Concessionaire shall diligently carry out and abide by any reasonable directions that the Authority may give for dealing with such Emergency.

17.5.2 The Concessionaire shall re-commission the Project or the affected part thereof as quickly as practicable after the circumstances leading to its decommissioning and closure have ceased to exist or have so abated as to enable the Concessionaire to re-commission the Project.

17.5.3 Any decommissioning or closure of any part of the Project Facility and the re-commissioning thereof shall, as soon as practicable, be brought to the notice of affected persons by means of public announcements/notice.

17.6 Restoration of loss or damage to Project

Save and except as otherwise expressly provided in this Agreement, in the event that the Project or any part thereof suffers any loss or damage during the Concession Period from any cause whatsoever, the Concessionaire shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project conforms to the provisions of this Agreement.

17.7 Excuse from performance of obligations

The Concessionaire shall not be considered in breach of its obligations under this Agreement if any part of the Project is not available to User on account of any of the following for the duration thereof:

- (a) an event of Force Majeure;
- (b) measures taken to ensure the safe use of the Project or any part thereof except when unsafe conditions occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or
- (c) compliance with a request from the Authority or the directions of any Government Instrumentality, the effect of which is to close all or any part of the Project.

Notwithstanding the above, the Concessionaire shall keep all unaffected parts of the Project open to Users provided they can be operated safely.

- 17.8 The provisions of this Article 17 (subject to such modifications and amendments as may be allowed by the Authority in writing) shall also apply on the operation and maintenance of the Ginning Unit as constructed and developed by the Concessionaire. The Authority while granting the permission for setting up of the optional Ginning Unit at the Additional Land may also in its discretion specify additional specific terms and conditions with respect to the operation, maintenance and up gradation of the Ginning Unit facilities.

The Concessionaire shall comply with the provisions of this Article 17 as made applicable to the Ginning Unit facilities and the additional specific terms and conditions prescribed by the Authority in this regard and collective the same shall be the operating standards for the operation and maintenance of the Ginning Unit.

ARTICLE 18

Not Used

ARTICLE 19

MONITORING OF OPERATION AND MAINTENANCE

19.1 Quarterly status reports

During Operation Period, the Concessionaire shall, no later than 7 (seven) days after the close of each quarter, furnish to the Authority a quarterly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the Maintenance Requirements, Maintenance Manual, and shall promptly give such other relevant information as may be required by the Authority.

19.2 Inspection

The Authority may inspect the Project at least once in a quarter. It shall make a report of such inspection (the "**O&M Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Requirements, and send a copy thereof to the Concessionaire within 15 (fifteen) days of such inspection.

19.3 Remedial measures

19.3.1 The Concessionaire shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report and furnish a report in respect thereof to the Authority within 15 (fifteen) days of receiving the O&M Inspection Report or the test results, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Concessionaire shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.

19.3.2 In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the Authority shall be entitled to do these remedial measures at its own cost and recover the same from the Concessionaire, including by forfeiting and appropriating such amount from the Performance Security and in case of such forfeiture the Concessionaire shall replenish or furnish fresh Performance Security in terms of Clause 9 hereof; failing which the relevant provisions of the said clause shall apply.

19.4 Tests

For determining that the Project Facility conforms to the Maintenance Requirements, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests specified by it in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Independent Engineer and furnish the results of such tests forthwith to the Independent Engineer. One half of the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire.

19.5 Reports of unusual occurrence

The Concessionaire shall, prior to the close of each day, send to the Authority and the Independent Engineer, by facsimile or e-mail, a report stating accidents and unusual occurrences on the Project Facility relating to the safety and security of the Users and Project Facility. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case may be. For the purposes of this Clause 19.6, accidents and unusual occurrences on the Project Facility shall include:

- (a) death or injury to any person;
- (b) damaged or dislodged fixed equipment;
- (c) any obstruction on the Project Facility, which results in slow down of the services being provided by the Concessionaire;
- (d) disablement of any equipment during operation;
- (e) communication failure affecting the operation of Project Facility;
- (f) smoke or fire;
- (g) flooding of Project Facility; and
- (h) such other relevant information as may be required by the Authority or the Independent Engineer.

- 19.6 The Concessionaire with respect to the Ginning Unit shall allow such inspections or monitoring as may be prescribed by the Authority in this regard and shall maintain such records and provide such reports and information as may be required by the Authority, in such form and at such intervals as may be prescribed in this regard by the Authority.

ARTICLE 20

Not Used

ARTICLE 21

EMERGENCY MEDICAL AID AND OTHER CIVIL AMENITIES

21.1 Medical Aid Posts

For providing emergency medical aid during the Operation Period, as set forth in this Agreement, the Concessionaire shall set up and operate a medical aid post (the "**Medical Aid Post**") at a suitable location at the Site.

21.2 Civil Amenities

21.2.1 The Concessionaire shall during the entire term of the Concession Period, in addition to the infrastructure required to be developed, operated and maintained by it under this Agreement, provide and maintain amenities, in adequate numbers in accordance with Good Industry Practice, for common use by the Users of the Project. These shall include drinking water facilities, sanitation facilities, toilets, telephone and communication facilities.

21.2.2 The Concessionaire shall, during the entire term of the Concession Period, provide and procure hygienic and safe low-cost eateries and canteens, serving nutritious and healthy food, in adequate numbers and in accordance with Good Industry Practice, inter-alia for serving the needs of its labor and staff of the Concessionaire, the Concessionaire's contractors / sub-contractors.

ARTICLE 22

INDEPENDENT ENGINEER

22.1 Appointment of Independent Engineer

The Authority shall appoint a suitable organization with consulting engineering expertise of not less than 5 years, to be the independent consultant under this Agreement (the "**Independent Engineer**"). The appointment shall be made no later than 270 (two hundred seventy) days from the date of this Agreement and shall be for a period till the expiry of 6 (six) months from the Project Completion Date.

22.2 Duties and functions

22.2.1 The Independent Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in **Schedule K**.

22.2.2 The Independent Engineer shall submit regular periodic reports (at least once every Quarter) during the subsistence of its appointment, to the Authority in respect of its duties and functions set forth in **Schedule K**.

22.3 Remuneration

The remuneration, cost and expenses of the Independent Engineer shall be paid by the Authority and one-half of such remuneration, cost and expenses shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receiving a statement of expenditure from the Authority.

In the event of any delay in making the said payments, the Concessionaire shall pay interest for a period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate and the Authority would reserve the right to recover the amount from the Performance Security, as the case may be, without prejudice to the right of the Authority under the provisions of this Agreement including Termination. In case of such appropriation and forfeiture of delinquent amount from Performance Security, as the case may be, the provisions of clause 9 (providing for replenishment of bank guarantee amount) hereof shall apply.

22.4 Termination of appointment

22.4.1 The Authority may, in its discretion, terminate the appointment of the Independent Engineer at any time, but only after appointment of another Independent Engineer in accordance with Clause 22.1.

22.4.2 If the Concessionaire has reason to believe that the Independent Engineer is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the Authority and seek termination of the appointment of the Independent Engineer. Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Concessionaire and Independent Engineer for an amicable resolution of the Dispute, and if any difference or disagreement between the Authority and the Concessionaire remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Independent Engineer is terminated hereunder, the Authority shall appoint forthwith another Independent Engineer in accordance with Clause 22.1

22.5 Authorised signatories

The Authority shall require the Independent Engineer to designate and notify to the Authority and the Concessionaire up to 2 (two) persons employed in its firm to sign for and on behalf of the Independent Engineer. Any communication/report/document submitted by the Independent Engineer in terms hereof shall be valid and effective only if signed by any of the designated persons; provided that the Independent Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

22.6 Dispute resolution

If either Party disputes any advice, instruction, decision, direction or award of the Independent Engineer, or as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

ARTICLE 23

EXPERT

23.1 Appointment of Experts

The Authority may from time to time, appoint Experts to assist the Authority in monitoring the implementation of the Project and execution of the O&M Works/obligations by the Concessionaire, and other persons claiming through or under the Concessionaire for compliance with the provisions of this Agreement, including the Specifications and Standards and for inspection, verification and reporting in this behalf. The remuneration, cost and expenses of the Experts, if any appointed shall be borne by the Authority.

The Expert(s) shall have no authority to relieve the Concessionaire of any of its obligations or responsibilities under this Agreement. Any proposal, inspection, examination, testing, consent, approval or similar act of or by an Expert(s) (including absence of disapproval) shall not relieve the Concessionaire from its obligations and responsibilities hereunder.

ARTICLE 24

FINANCIAL CLOSE

24.1 Financial Close

24.1.1 The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 210 (two hundred and ten) days from the date of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding 60 days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day of delay subject to maximum of 12% Period Security as per the rate specified in Clause 4.3; provided that the Damages specified herein shall be payable every week in advance, and the period beyond the said 210 (two hundred and ten) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the Authority in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in additions to the Damages, if any, due and payable under the provisions of Clause 4.3.

24.1.2 The Concessionaire shall, upon occurrence of Financial Close, notify the Authority forthwith, and shall have provided to the Authority, at least 2 (two) days prior to Financial Close, 3 (three) true copies of the Financial Package and the Financial Model pertaining to the Project, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders.

24.4 Termination due to failure to achieve Financial Close

24.4.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 32.6.1, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 24.1.1 (including the period of extension permitted subject to payment of Damages), all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 24.4.1 shall not apply.

24.2.2 Upon Termination under Clause 24.4.1, the Authority shall be entitled to encash and appropriate the Performance Security, as Damages; provided, however, if Financial Close has not occurred solely as a result of the Authority being in default of any of its obligations under Clause 4.1.2, it shall, upon Termination, return the Performance Security, forthwith to the Concessionaire.

ARTICLE 25

Payments by the Concessionaire

25.1 Annual Lease rent

25.1.1 In consideration of the grant of leasehold rights in respect of the Site by the Authority pursuant to and in accordance with the Lease Deed [as per the format set forth in **Schedule L** hereto], the Concessionaire shall, with effect from the Appointed Date, and within 15 (fifteen) days of date of expiry of each consecutive period of twelve months [commencing from Appointed Date] during the Concession Period (the “**Due Dates**”), pay to the Authority the advance annual lease rent (“**Annual Lease Rent**”) in terms hereof and as more particularly set out in Lease Deed. The Annual Lease Rent payable during the first three years of the Concession Period shall be equivalent to the minimum amount of Rs. (Rupeesonly) p.a.; The Annual Lease Rent for the first year of the Concession Period shall be paid on or before the signing of the Lease Deed. The Annual Lease Rental shall be subject to escalation @ 10% at the expiry of three years during the Concession Period.

25.2.2 For securing the payment of the Annual Lease Rentals, the Concessionaire shall along with the Annual Lease rentals for the first year of the Concession Period provide a rolling bank guarantee for an amount equivalent to the applicable Annual Lease Rental, which shall have a validity period of not less than 14 months from the date of its issuance.

Each such bank guarantee security for securing the Annual Lease Rental payment (the **Lease Rent Security**), shall be kept valid, enforceable and subsisting for a period of 14 (fourteen) months from the respective date(s) thereof and the Concessionaire shall ensure that the same is annually / periodically renewed [in aforesaid manner], from time to time and the renewed Lease Rent Security is furnished to the Authority at least 30 days prior to the expiry of the validity of the existing Lease Rent Security; so as to ensure that the Lease Rent Security remains valid, enforceable and subsisting throughout the Concession Period

In the event of a delay in payment of the Annual Lease Rentals beyond 15 days from the Due Date, the Authority shall be entitled to invoke and appropriate the Lease Rent Security.

In the event of the Authority invoking the Lease Rent Security for recovery of any delinquent amounts, the Concessionaire shall forthwith and in any case not later than 15 days from the date of the said invocation by the Authority replenish, in case of partial appropriation, to its original level of the bank guarantee, and in case of appropriation of the entire bank guarantee a fresh bank guarantee, as the case may be, and the Concessionaire shall, within the time so granted replenish or furnish fresh bank guarantee as aforesaid failing the same shall amount to and be construed as a Concessionaire Default.

In the event of any delay in payments towards the Annual Lease Rent, the Concessionaire shall be liable to pay interest on the outstanding amount at a rate equal to 5% (five per cent) above the prevailing Bank Rate for the period commencing from the due date until date of actual payment, subject to a maximum delay of 15 days.

ARTICLE 26

Not Used

ARTICLE 27

Revenue and Charges

27.1 Determination and Collection and appropriation of Charges by the Concessionaire

27.1.1 With effect from the COD and till the Transfer Date, the Concessionaire shall have the sole and exclusive right to undertake production at the Spinning Mill and demand, determine, collect, revise and appropriate charges/ money from the purchasers for the produce at market driven rates, in accordance with Applicable Laws, Applicable Permits, Good Industry Practice and more particularly in terms set out under this Agreement along with applicable taxes, duties and levies, if any, payable the under Applicable Laws.

27.1.2 The Concessionaire shall have the exclusive right to use the cotton produced in the Ginning Unit at the Spinning Mill. In case there is any surplus cotton produced in the Ginning Unit, the Concessionaire shall be free to sell or by any way dispose of the same and demand, determine and collect money in this regard.

ARTICLE 28

Not Used

ARTICLE 29

Not Used

ARTICLE 30

30.1 Insurance during Concession Period

30.1.1 The Concessionaire shall effect and maintain at its own cost, during the Construction Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements, and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice (the "**Insurance Cover**"). The Concessionaire shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period and/or Operation Period. For the avoidance of doubt, the level of insurance to be maintained by the Concessionaire after repayment of Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Lenders' dues.

30.1.2 The Concessionaire shall, procure and maintain Insurance Cover including but not limited to the following:

- (i) Loss, damage or destruction of the Project Assets, including assets handed over by the Authority to the Concessionaire, at replacement value;
- (ii) comprehensive third party liability insurance including injury to or death of personnel of the Authority or others who may enter the Project Site;
- (iii) the Concessionaire's general liability arising out of the Concession;
- (iv) liability to third parties for goods or property damage;
- (v) workmen's compensation insurance; and
- (vi) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (i) to (v) above.

30.2 Notice to the Authority

Not later than 45 (forty-five) days prior to commencement of the Construction Period or the Operation Period, as the case may be, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 30. Within 30 (thirty) days of receipt of such notice, the Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary

pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

30.3 Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 30 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, copies of the certificate (s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Authority.

30.4 Remedy for failure to insure

If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premia and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

30.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article 30 shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

30.6 Concessionaire's waiver

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of

deductible clauses in or inadequacy of limits of any such policies of insurance.

30.7 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire and it shall apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

30.8 The Concessionaire shall pursuant to the provisions of Article 30 (subject to modifications and amendments by the Authority in writing) take up an insurance policy for the optional Ginning Unit, subject to and in accordance with this Article 30 and specific terms and conditions as may be made applicable in this regard by the Authority.

ARTICLE 31

ACCOUNTS AND AUDIT

31.1 Audited accounts

31.1.1 The Concessionaire shall maintain books of accounts recording all its receipts (including all User Charges and other revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The said account shall, inter-alia, clearly reflect:

- (i) Sub-Lessee wise account of receipts and receivables in respect of the Project Facilities;
- (ii) Accounts of all other receipts and receivables;
- (iii) Obligations towards contractors, Sub-Contractors, suppliers and all payments made;
- (iv) Application of debt fund with clear bifurcation of details of debt funds applied towards the Project Facilities; and
- (v) Application of equity fund, with clear details of funds applied towards the Project Facilities.

The Concessionaire shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain. The Authority shall have the right to inspect the records of the Concessionaire during office hours and require copies of relevant extracts of books of accounts, duly certified by the Auditors, to be provided to the Authority for verification.

31.1.2 The Concessionaire shall, within 30 (thirty) days of the close of each quarter of an Accounting Year, furnish to the Authority its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Indian Accounting Standards.

31.1.3 On or before the thirty-first day of May each Year, the Concessionaire shall provide to the Authority, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarised information on (a) the user count using the Project Facility and liable for payment of User Charges thereof, (b) User Charges charged and received, realisable User Charges and other revenues derived from the Project and (c) such other information as the Authority may reasonably require.

31.2 Appointment of auditors

31.2.1 The Concessionaire shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a reputed firm of chartered accountants. All fees and expenses of the Statutory Auditors shall be borne by the Concessionaire.

31.3 Certification of claims by Statutory Auditors

Any claim or document provided by the Concessionaire to the Authority in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors. For the avoidance of doubt, such certification shall not be required for exchange of information in the normal course of business.

ARTICLE 32

FORCE MAJEURE

32.1 Force Majeure

As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall mean occurrence in India of any or all of the events, as listed in Clauses 32.2, 32.3 and 32.4, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, (iii) do not result from the negligence or misconduct of such Party or the failure of such Party to perform its obligations hereunder; and (iv) has Material Adverse Effect on the Affected Party.

32.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site/ Additional Land);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 7 (seven) days and an aggregate period exceeding 30 (thirty) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 32.3;
- (c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (d) any delay or failure of an overseas contractor to deliver rolling stock or equipment in India if such delay or failure is caused outside India by any event specified in Sub-clause (a) above and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such overseas contractor,
- (e) any judgement or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

- (f) the discovery of geological conditions, toxic contamination or archaeological remains at the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (g) any event or circumstances of a nature analogous to any of the foregoing.

32.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) industry-wide or State-wide strikes or industrial action for a continuous period of 7 (seven) days and exceeding an aggregate period of 30 (thirty) days in an Accounting Year;
- (c) any civil commotion, boycott or political agitation which prevents collection of User Charges by the Concessionaire for an aggregate period exceeding 30 (thirty) days in an Accounting Year;
- (d) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (e) any Indirect Political Event that causes a Non-Political Event; or
- (f) any event or circumstances of a nature analogous to any of the foregoing.

32.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any Government Instrumentality:

- (a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 38;
- (b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors; or
- (c) any event or circumstance of a nature analogous to any of the foregoing;

- (d) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;
- (e) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or

32.5 Duty to report Force Majeure Event

32.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

- (a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 32 with evidence in support thereof;
- (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
- (c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
- (d) any other information relevant to the Affected Party's claim.

32.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event not later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

32.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 32.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

32.6 Effect of Force Majeure Event on the Concession

32.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 24.1.1 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

32.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs:

- (a) before Project Completion Date, the Concession Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or
- (b) after Project Completion Date, whereupon the Concessionaire is unable to undertake production and collect Revenue despite making best efforts or it is directed by the Authority to suspend the production during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from undertaking production on account thereof; provided that in the event of partial collection of Fee where the daily collection is less than 90% (ninety per cent) of the Average Daily Fee, the Authority shall extend the Concession Period in proportion to the loss of Fee on a daily basis. For the avoidance of doubt, loss of 25% (twenty five per cent) in collection of Fee as compared to the Average Daily Fee for four days shall entitle the Concessionaire to extension of one day in the Concession Period.

32.7 Allocation of costs arising out of Force Majeure

32.7.1 Upon occurrence of any Force Majeure Event, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

32.7.3 Save and except as expressly provided in this Article 32, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

32.7.4 Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the “**Force Majeure Costs**”) shall be allocated and paid as follows:

- (a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;
- (b) upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and
- (c) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Authority to the Concessionaire.

For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include loss of Fee revenues or debt repayment obligations, and for determining such costs, information contained in the Financial Package may be relied upon to the extent that such information is relevant.

32.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 32, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

32.9 Termination Payment for Force Majeure Event

32.9.1 If Termination is on account of a Non-Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

32.9.2 If Termination is on account of an Indirect Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to Debt Due less Insurance Cover.

32.9.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount that would be payable under Clause 34.3 as if it were an Authority Default.

32.10 Dispute resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

32.11 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- (c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 33

SUSPENSION OF CONCESSIONAIRE'S RIGHTS

33.1 Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to collect Revenue, and other revenues pursuant hereto, and (ii) exercise such rights itself or authorise any other person to exercise the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty)

days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

33.2 Authority to act on behalf of Concessionaire

33.2.1 During the period of Suspension, the Authority shall, on behalf of the Concessionaire, collect all Revenues under and in accordance with this Agreement and deposit the residual [if any after meeting the costs hereunder mentioned] in the Concessionaire's designated account conveyed to the Authority in this regard; after meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying other expenses incurred by it in connection with the implementation [on behalf of Concessionaire] of the Project in terms hereof.

33.2.2 During the period of Suspension hereunder, all assets and liabilities in relation to the Project shall continue to vest in the Concessionaire and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period.

33.3 Revocation of Suspension

33.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

33.3.2 Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

33.4 Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 33.1, for enabling the Lenders'

Representative to exercise its rights of substitution on behalf of Lenders.

33.5 Termination

33.5.1 At any time during the period of Suspension under this Article 33, the Concessionaire may by notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 33.4, the Authority shall within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 34.

33.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 33.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

33.6 For the purpose of this Agreement, the rights of the Concessionaire with respect to the Additional Land shall be existent during the term of this Concession Agreement and shall be co-terminus with the Lease Deed granting rights with respect to the Site. The provisions of Article 33 (subject to modifications and amendments) along with the terms and conditions as may be imposed by the Authority shall be applicable on the development, construction and operation of the Ginning Unit also.

ARTICLE 34

TERMINATION

34.1 Termination for Concessionaire Default

34.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 180 (one hundred eighty) days, the Concessionaire shall be deemed to be in default of this Agreement (a "**Concessionaire Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

- (a) the Performance Security has been encashed and appropriated in accordance with Clause 9 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;

- (b) subsequent to the replenishment or furnishing of fresh Period Performance Security in accordance with Clause 9, the Concessionaire fails to cure, within a Cure Period of 90 (ninety) days, the Concessionaire Default for which whole or part of the Performance Security was appropriated;
- (c) the Concessionaire abandons or manifests intention to abandon the Project without the prior written consent of the Authority;
- (d) Project Completion Date(s) does not occur within the period specified ie. 180 (one hundred and eighty) days of the Scheduled Project Completion Date in Clause 12.4.3;
- (e) the Punch List items have not been completed within 90 (ninety) days of issue of the Provisional Certificate as set forth in Clause 14.4.1;
- (f) the Concessionaire has failed to furnish/ replenish and or maintain the Lease Rent Security in accordance with the provisions of this Agreement pursuant to the provisions of the Section 25.2.2 of this Agreement;
- (g) upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified hereinabove;
- (h) a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;
- (i) the Concessionaire creates any Encumbrance in breach of this Agreement;
- (j) the Concessionaire is in breach of the O&M obligations in respect of the Project inter-alia including the Maintenance Requirements and Good Industry Practice, as more particularly set out in terms of this Agreement ("**O&M Default**").
- (k) the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
- (l) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;
- (m) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes Material Adverse Effect;

- (n) an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;
- (o) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;
- (p) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;
- (q) a resolution for winding up of the Concessionaire is passed, or any petition for winding up on the Concessionaire is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction, provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements, provided further that:
 - (i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;
 - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date, and
 - (iii) each of the Project Agreements remains in full force and effect;
- (r) any representation or warranty of the Concessionaire/Selected Bidder herein contained which is, as of the date hereof, found to be materially false or the Concessionaire/Selected Bidder is at any time hereafter found to be in breach thereof;
- (s) the Concessionaire submits to the Authority any statement which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

- (t) the Concessionaire has failed to fulfill any obligation, for which failure Termination has been specified or which has been identified as a Concessionaire Default in this Agreement; or
- (u) the Concessionaire commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Authority.
- (v) the Concessionaire engaging or knowingly allowing any of its employees, agents, Contractor or representative to engage in any activity prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.

34.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default or O&M Default, as the case may be, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire to make a representation, issue the Termination Notice, subject to the provisions of clause 34.1.3.

34.1.3 The Authority shall, if there be Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 34.1.2 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event the Authority receives such representation on behalf of Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Lenders' right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders' Representative may, instead of exercising the Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Authority shall withdraw its notice referred to above and restore all the rights of the Concessionaire:

Provided further that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as the Authority may deem appropriate.

34.2 Termination for Authority Default

34.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 180 (one hundred eighty) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include:

- (a) The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Concessionaire;
- (b) The Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement; or the Authority repudiates this Agreement.

34.2.2 Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Concessionaire shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

34.3 Termination Payment

34.3.1 Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due. For the avoidance of doubt, the Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default occurring prior to COD.

37.3.2 Upon Termination on account of an Authority Default, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

(a) Debt Due; and
120% (one hundred and fifty per cent) of the Adjusted Equity.

34.3.3 Termination Payment shall become due and payable to the Concessionaire within 30(thirty) days of a demand being made by the Concessionaire to the Authority with the necessary particulars. In the event of any delay beyond a period of 180 days from the due date, the Authority shall pay interest at a rate equal to 3% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 270 (two hundred seventy) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

34.4 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

- (a) be deemed to have taken unencumbered possession and control of the Project, the Site, Project Assets and Project Facilities forthwith free of any encroachments or Encumbrances;
- (b) be deemed to have taken unencumbered possession and control of the Additional Land, if provided for the setting up of the optional Ginning Mill forthwith free of any encroachment or Encumbrances;
- (c) take possession and control of all materials, stores, implements, tangible and intangible assets [including moveable and immoveable properties] and tools, furniture, consumer durables on or about the Site;
- (d) be entitled to restrain the Concessionaire and/ or any person claiming through or under the Concessionaire from entering upon the Site or any part thereof or of the Project;
- (e) require the Concessionaire to comply with the Divestment Requirements set forth in Clause 35.1;

- (f) succeed upon election by the Authority, without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Authority elects to succeed to the interests of the Concessionaire. For the avoidance of doubt, it is hereby agreed, and the Concessionaire hereby acknowledges, that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors, and the Authority shall not in any manner be liable for such sums. It is further agreed that in the event the Authority elects to cure any outstanding defaults under such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment; and
- (g) The Concessionaire shall transfer of all of Concessionaire's rights, titles and interest in or over the Project and the Project Facilities, including tangible assets and intangible assets comprised in the Project [including Site and Project Asset] to Authority through execution of appropriate deeds and documents as may be necessary for the said purpose and complete all legal or other formalities required in this regard at its cost. In this regard, the Parties hereby agree and confirm that notwithstanding anything to the contrary contained in this Agreement, such transfer of the Concessionaire's rights, titles and interest in or over the Project, Project Assets, Site to the Authority through appropriate conveyance documents shall be against a consideration equivalent to **Re. 1 (Rupee one)** to be paid by the Authority to the Concessionaire.

34.5 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

- 34.6 Upon termination of the Agreement subject to this Article 34 and the specific terms and conditions as made applicable by the Authority, the rights of the Concessionaire over the Additional Land as may be provided by the Authority under the separate lease deed for Ginning Unit shall also stand terminated.

ARTICLE 35

DIVESTMENT OF RIGHTS AND INTEREST

35.1 Divestment Requirements

35.1.1 Upon Termination, the Concessionaire shall comply with and conform to the following Divestment Requirements:

- (a) conduct or cause to be conducted, by an independent expert under Authority's supervision, a condition survey of the Project, Site/ Additional Land as the case may be and the Project Assets to ascertain the condition thereof, verifying compliance with the Concessionaire's obligations under this Agreement and to prepare an inventory of the assets, comprised in the Project and notify to the Authority forthwith the location and particulars of all Project Assets and Project Site/ Additional Land as the case may be;
- (b) deliver/transfer/surrender forthwith : (i) the peaceful, actual or constructive possession of the Project Assets and Site/ Additional Land as the case may be, free and clear of all Encumbrances and encroachments to the Authority; and (ii) transfer all of Concessionaire's rights, titles and interest in or over the Project including tangible assets and intangible assets comprised in the Project [including Site and Project Asset] and the Additional Land as the case may be, against a consideration **Re. 1 (Rupee One)** only, save and except to the extent set forth in the Substitution Agreement. For avoidance of doubt, only the assets of the Concessionaire shall be taken over and liabilities, including without limitation, liabilities relating to labor and personnel related obligations of the Concessionaire shall not be taken over by the Authority;
- (c) cure all Project Assets comprising the Project Facilities, of all defects and deficiencies so that the Project and Project Facilities are compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;
- (d) deliver and transfer relevant records, reports, Intellectual Property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date. For the avoidance of doubt, the Concessionaire represents and warrants that the Intellectual Property delivered hereunder shall be adequate and complete for the design, engineering, construction, operation and maintenance of the Project/ Ginning Unit as the case may be shall be assigned to the Authority free of any encumbrance;

- (e) The Concessionaire shall at the cost of the Authority transfer/assign such of the Project Agreements which the Authority may require to be transferred in its favour subject to the counter parties to such contracts consenting to such transfer/ assignment. The Concessionaire shall entirely at its cost, terminate all such Project Agreements which are not transferred/assigned to the Authority provided, if the termination is on account of the Authority Event of Default, the Authority shall compensate the Concessionaire to the extent of the termination payments, if any, made or to be made by the Concessionaire to the counter parties to such contracts;
- (f) The Concessionaire shall, at its own cost, transfer to the Authority all such Applicable Permits which the Authority may require and which can be legally transferred. Provided if the termination is on account of Authority Event of Default the cost of such transfer shall be borne/ reimbursed by the Authority;
- (g) execute deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Concessionaire in the Project/ Additional Land and the Ginning Unit as the case may be, including the right to receive outstanding insurance claims to the extent due and payable to the Authority, absolutely unto the Authority or its nominee; against a consideration amount of Re. 1(one), and the Concessionaire agrees and confirms that the same shall be deemed as valid and adequate consideration for the purposes hereof; and
- (h) The Authority shall be entitled to encash any subsisting Bank Guarantee(s) provided by the Concessionaire, if the termination is on account of a Concessionaire Event of Default.
- (i) Comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the Project, free from all Encumbrances, absolutely unto the Authority or to its nominee.
- (j) Until the Transfer Date, all risks shall lie with the Concessionaire for loss of or damage to the whole or any part of the Project and the Project Assets [including Site or part thereof]/ Ginning Unit and the Additional Land granted to the Concessionaire thereto unless the loss or damage is due to an act or omission of the Authority in contravention of its obligations under this Agreement. On and from the Transfer Date all risks in relation to the Project and the Project Assets/ Ginning Unit and the Additional Land granted to the Concessionaire shall be deemed to have been transferred to and lie with the Authority or its nominated agency.

- (k) Transfer costs and taxes, if applicable, for the transfer of the Project Assets, Facilities, and, consequent to termination of this Concession Agreement in the event of Default of the Concessionaire, shall be borne by the Concessionaire.

35.2 Inspection and cure

Not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to the effective date of such Termination, the Authority shall verify, after giving due notice to the Concessionaire of the time, date and venue of such verification, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire at its cost and the provisions of Article 36 shall apply, *mutatis mutandis*, in relation to curing of defects or deficiencies under this Article 35.

35.3 Cooperation and assistance on transfer of Project

- 35.3.1 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the Users, other members of the public or the lawful occupiers of any part of the Site.
- 35.3.2 The Parties shall provide to each other, 9 (nine) months prior to the Transfer Date in the event Termination by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the Authority or its nominee may reasonably require for operation of the Project until the expiry of 6 (six) months after the Transfer Date.
- 35.3.3 The Authority shall have the option to purchase or hire from the Concessionaire at a fair market value and free from any encumbrance all or any part of the movable plant and machinery used in connection with the Project but which does not form part of the assets specified in Clause 35.1.1 and is reasonably required in connection with operation of the Project. For the avoidance of doubt, in the event of dispute or difference relating to fair market value, the Dispute Resolution Procedure shall apply.

35.4 Vesting Certificate

The divestment of all rights, title and interest in the Project/ Ginning Unit as the case maybe shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in **Schedule M** (the "**Vesting Certificate**"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project/ Ginning Unit as the case may be, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the Project/ Ginning Unit as the case may be on the footing that all Divestment Requirements have been complied with by the Concessionaire.

35.5 Divestment costs etc.

35.5.1 The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Concessionaire in the Project/ Ginning Unit as the case may be in favour of the Authority upon termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such divestment shall be borne by the Authority.

35.5.2 In the event of any dispute relating to matters covered by and under this Article 35, the Dispute Resolution Procedure shall apply.

ARTICLE 36

DEFECTS LIABILITY AFTER TERMINATION

36.1 Liability for defects after Termination

The Concessionaire shall be responsible for all defects and deficiencies in the Project for a period of 3 (three) months after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Authority in the Project during the aforesaid period. In the event that the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Concessionaire's risk and cost so as to make the Project conform to the Maintenance Requirements. All costs incurred by the Authority hereunder shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same from the Concessionaire by way of forfeiture and appropriation of delinquent amount from the Lease Rent Security [if still subsisting].

ARTICLE 37

ASSIGNMENT AND CHARGES

37.1 Restrictions on assignment and charges

37.1.1 Subject to Clauses 37.2 and 37.3, this Agreement shall not be assigned by the Concessionaire to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

37.1.2 Subject to the provisions of Clause 37.2, the Concessionaire shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement/ Additional Land provided to the Concessionaire by the Authority vide a separate lease deed to which the Concessionaire is a party except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

37.2 Permitted assignment and charges

The restraints set forth in Clause 37.1 shall not apply to:

- (a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project Facilities;
- (b) mortgages/pledges/hypothecation of goods/assets/receivables accruing from the Project, other than Project Assets, and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Lenders under the Financing Agreements and/or for working capital arrangements for the Project;
- (c) assignment of rights, interest and obligations of the Concessionaire to or in favour of the Lenders' Representative as nominee and for the benefit of the Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Lenders under the Financing Agreements; and
- (d) liens or encumbrances required by any Applicable Law.

37.3 Substitution Agreement

37.3.1 The Lenders' Representative, on behalf of Lenders, may exercise the right to substitute the Concessionaire in accordance with the agreement for substitution of the Concessionaire (the "**Substitution Agreement**") to be entered into amongst the Concessionaire, the Authority and the Lenders' Representative, on behalf of Lenders, substantially in the form set forth in **Schedule N**.

Provided that at any given time, the Authority shall enter into only 1 (one) Substitution Agreement with 1 (one) Lenders' Representative (as defined in the Substitution Agreement); such Lenders' Representative being an agent for one consortium of Lenders.

37.3.2 Upon substitution of the Concessionaire under and in accordance with the Substitution Agreement, the Nominated Company substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations of the Concessionaire under this Agreement as if it were the Concessionaire; provided that where the Concessionaire is in breach of this Agreement on the date of such substitution, the Authority shall by notice grant a Cure Period of 120 (one hundred and twenty) days to the Concessionaire (Nominated Company) for curing such breach.

37.4 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Concessionaire, assign any of its rights and benefits and/or obligations under this Agreement; to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the Authority's then outstanding obligations under this Agreement.

ARTICLE 38

CHANGE IN LAW

38.1 Change in Law

38.1.1 In the event of a Change in Law results in a Material Adverse Effect, the Authority or the Concessionaire may by notice in writing to the other party request such modifications to the terms of this Agreement as the requesting party reasonably believes is necessary to place it in substantially the same legal, commercial and economic position as it was prior to such Change in Law. The Concessionaire and the Authority shall thereafter consult in good faith to agree to such modifications and in the event agreement cannot be reached, either of them may refer the matter for determination in accordance with the Dispute Resolution Procedure described under Article 41 of this Agreement.

For the avoidance of doubt, a change in the rate of any Tax or the imposition of a new Tax shall not constitute a Change in Law and the Parties shall be liable to bear the impact and incidence thereof at their cost and risk.

ARTICLE 39

LIABILITY AND INDEMNITY

39.1 General indemnity

39.1.1 The Concessionaire will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (**"the Authority Indemnified Persons"**) against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any User, except to the extent that any such suits, proceedings, actions, demands and claims have arisen solely due to any negligent act or omission, or breach of this Agreement on the part of the Authority Indemnified Persons.

39.1.2 The Authority will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Authority in the land comprised in the Site, and/or (ii) breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

39.2 Indemnity by the Concessionaire

39.2.1 Without limiting the generality of Clause 39.1, the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any all loss and/or damages arising out of or with respect to:

- (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits:

- (b) payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or
- (c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors.

39.2.2 Without limiting the generality of the provisions of this Article 39, the Concessionaire shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Authority a lease/license, at no cost to the Authority, authorising continued use of the infringing work. If the Concessionaire is unable to secure such lease/license within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

39.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 39 (the **"Indemnified Party"**) it shall notify the other Party (the **"Indemnifying Party"**) within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

39.4 Defence of claims

- 39.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 39, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.
- 39.4.2 If the Indemnifying Party has exercised its rights under Clause 39.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).
- 39.4.3 If the Indemnifying Party exercises its rights under Clause 39.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party when and as incurred, unless:
- (a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or
 - (b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
 - (c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or
 - (d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

- (i) that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
- (ii) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 39.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

39.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 39, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

39.6 Survival on Termination

The provisions of this Article 39 shall survive Termination.

- 39.7 On and with effect from the date of execution of a separate lease deed for the Additional Land, the provisions of this Article 39, subject to modifications and amendments and as per the terms and conditions provided by the Authority, shall be applicable over the Concessionaire with respect to the development, maintenance and operationalisation of the Ginning Unit.

ARTICLE 40

RIGHTS AND TITLE OVER THE SITE

40.1 Lease rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Site for the Concession Period for the purposes of the Project and for no other purpose, as sole lessee subject to and in accordance with this Agreement and more particularly the Lease Deed, and to this end, it may regulate the entry and use of the Project and the Site by third parties in accordance with and subject to the provisions of this Agreement and the Lease Deed.

40.2 Access rights of the Authority and others

40.2.1 The Concessionaire shall allow free access to the Site at all times for the authorized representatives of the Authority, Lenders, and the Independent Engineer, and for the persons duly authorised by any Government Instrumentality to inspect the Project or Project Facilities or to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

40.2.2 The Concessionaire shall, for the purpose of operation and maintenance of any utility or road specified in Article 11, allow free access to the Site at all times for the authorised persons of the controlling body of such utility or road.

40.3 Property taxes

All property taxes on the Site, during the Concession Period, shall be payable by the Concessionaire; and any such taxes payable by the Concessionaire under Applicable Laws for use of the Site shall not be reimbursed or payable by the Authority.

40.4 Restriction on sub-letting

The Concessionaire shall not sublease or sublet the whole or part of the Site, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interrupted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

40.5 The provisions of Article 40 (subject to modification and amendment) along with the terms and conditions as made applicable by the Authority in this regard, shall on and with effect from the date of execution of the lease deed for the Additional Land for setting up of the Ginning Unit, be applicable on the Concessionaire.

ARTICLE 41

DISPUTE RESOLUTION

41.1 Dispute resolution

41.1 .1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 41.2.

41.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

41.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Expert to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Expert or without the intervention of the Expert, either Party may require such Dispute to be referred to the _____, the Authority and the Chairman of the Board of Directors of the Concessionaire for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 41.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 41.3.

41.3 Arbitration

41.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 41.2, shall be finally decided by reference to arbitration by a Board of Arbitrators appointed in accordance with Clause 41.3.2. Such arbitration shall be held in accordance with the provisions of the Arbitration and Conciliation Act. 1996, as amended from time to time. The venue of such arbitration shall be in Bhubaneswar, Orissa and the language of arbitration proceedings shall be English.

41.3.2 There shall be a Board of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

41.3.3 The arbitrators shall make a reasoned award (the "**Award**"). Any Award made in arbitration held pursuant to this Article 41 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Authority agree and undertake to carry out such Award without delay.

41.3.4 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

41.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

41.4 Adjudication by Regulatory Authority or Commission

In the event of constitution of a statutory regulatory authority or commission with powers to adjudicate upon disputes between the Concessionaire and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 41.3, be adjudicated upon by such regulatory authority or commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or competent High Court having jurisdiction in this regard, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

ARTICLE 42

DISCLOSURE

42.1 Disclosure of Specified Documents

Subject to terms hereof and Applicable Laws, the Concessionaire shall make available for inspection by any person, copies of this Concession Agreement, the Maintenance Manual, and the Maintenance Requirements (hereinafter collectively referred to as the “**Specified Documents**”), free of charge, during normal business hours on all working days at the Concessionaire’s registered office and at the Project Site. The Concessionaire shall prominently display at the Project Site, public notices stating the availability of the Specified Documents for such inspection, and shall provide copies of the same to any person upon payment of copying charges on a ‘no profit no loss’ basis.

42.2 Disclosure of Documents relating to safety

Subject to terms hereof and Applicable Laws, The Concessionaire shall make available for inspection by any person copies of all documents and data relating to safety of the Project, free of charge, during normal business hours on all working days, at the Concessionaire’s registered office. The Concessionaire shall make copies of the same available to any person upon payment of copying charges on a ‘no profit no loss’ basis.

42.3 Withholding disclosure of Protected Documents

Notwithstanding the provisions of Clauses 42.1 and 42.2, the Authority shall be entitled to direct the Concessionaire, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The capitalized expression “Protected Documents” shall mean such of the Specified Documents or documents referred to in Clauses 42.1 and 42.2, or portions thereof, the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005.

ARTICLE 43
Not Used

ARTICLE 44

MISCELLANEOUS

44.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Bhubaneswar, Orissa, shall have jurisdiction over matters arising out of or relating to this Agreement.

44.2 Waiver of immunity

Each Party unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

44.3 Depreciation

44.3.1 For the purposes of depreciation under the Applicable Laws, the property representing the capital investment made by the Concessionaire in the Project shall be deemed to be acquired and owned by the Concessionaire. For the avoidance of doubt, the Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Concessionaire under the Applicable Laws.

44.3.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

44.4 Delayed payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 15 (fifteen) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate (unless otherwise provided for), and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

44.5 Waiver

44.5.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

44.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

44.6 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

- (a) no review, comment or approval by the Authority or the Independent Engineer of any Project Agreement, Document or Drawing/ Implementation Plan submitted by the Concessionaire nor any observation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and
- (b) the Authority shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

44.7 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

44.8 Survival

44.8.1 Termination shall:

- (a) not relieve the Concessionaire or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

44.8.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

44.9 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn.

44.10 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

44.11 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

44.12 Third Parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

44.13 Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

44.14 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

- (a) in the case of the Concessionaire, be given by facsimile or e-mail and by letter delivered by hand to the address of the Managing Director of the Concessionaire or to such other person as the Concessionaire may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside ____, Orissa may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Concessionaire may from time to time designate by notice to the Authority;
- (b) in the case of the Authority, be given by facsimile and by letter delivered by hand and be addressed to the _____ of the Authority or such other person as the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in ____, Orissa it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

44.15 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

44.16 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

ARTICLE 45

DEFINITIONS

45.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Accounting Year" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year; provided however that the first Accounting Year shall be deemed to mean the period commencing from Appointed Date until thirty-first day of March of the immediately succeeding calendar year; and the last Accounting Year shall be deemed to mean the period commencing from first day of April of relevant calendar year until Transfer Date.

Adjusted Equity" means the Equity Funded in Indian Rupees and adjusted on the first day of the current month (the "Reference Date"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

- a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
- b) from COD and until the 4th (fourth) anniversary thereof; all amount equal to the Adjusted Equity as on COD) shall be deemed to be the base (the Base Adjusted Equity' end the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation WPI occurring between COD and the Reference Date; and

after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.24% (zero point two four percent) thereof at the commencement of each month following The 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date. For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made;

"Affected Party" shall have the meaning set forth in Clause 32.1;

"Agreement" or "Concession Agreement" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;

"Applicable Laws" means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"Applicable Permits" means all clearances, licenses, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project Facilities during the subsistence of this Agreement;

"Appointed Date" means the date on which every Condition Precedent shall have been satisfied or waived in terms of the Agreement and shall be deemed to be the date of commencement of the Concession Period; provided however that in the event all Condition Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur and accordingly Concession Period shall be deemed to commence only when each and every Condition Precedent is either satisfied or waived, as the case may be.

"Approved Implementation Plan" shall mean the Implementation plan prepared by the Operator and approved by the Authority, for the execution / implementation of the Project, in accordance with the terms of this Agreement.

"Arbitration Act" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"Associate" or "Affiliate" means, in relation to either Party (and/or Consortium Members), a person who controls, is controlled by, or is under the common control with such Party (or Consortium Member). The expression "control" shall mean, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise;

"Authority Default" shall have the meaning set forth in Clause 34.2.1;

"Authority Representative" means such person or persons as may be authorised in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"Bank" means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Lenders, but does not include a bank in which any Lender has an interest;

"Bank Rate" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of Section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

"Bid" means the documents in their entirety comprised in the bid submitted by the Selected Bidder in response to the RFP in accordance with the provisions thereof;

"Bid Security" means the security provided by the Selected Bidder to the Authority along with the Bid in accordance with the RFP, and which is to remain in force until substituted by the Performance Security;

"COD" or "Commercial Operation Date" shall have the meaning set forth in Clause 15.1;

"Change in Law" means the occurrence of any of the following after the date of this Agreement (other than in case of any Tax laws) having direct bearing on the implementation of the Project:

- (a) the enactment of any new Indian law;
- (b) the repeal, modification or re-enactment of any existing Indian law;
- (c) the commencement of any Indian law which has not entered into effect until the date of this Agreement;
- (d) a change in the interpretation or application of any Indian law by judgment of a court of record which has become final conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of this Agreement.

"Change in Ownership" means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the [Selected Bidder] together with their Associates in the total Equity, whether held by itself or by a Special Purpose Vehicle (SPV) incorporated under the Companies Act, 2013 for this purpose, to decline below (i) 51% (fifty one per cent) thereof during the period commencing from the Appointed Date and until the 5th (fifth) anniversary of the Appointed Date, and (iii) 26% (twenty six per cent) thereof, or such lower proportion as may be permitted by the Authority during the remaining Concession Period; provided that any material variation (as compared to the representations made by the Concessionaire during the bidding process) in the proportion of the equity holding of [any Consortium Member] to the total Equity as set forth in sub-clause 5.6 (g) , if it occurs prior to expiry of the Lock-in Period, shall constitute Change in Ownership. For the avoidance of doubt, indirect, legal or beneficial ownership of any shares, or securities convertible into shares shall include transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in any person acquiring

control over the Equity or voting rights of the shares of the Concessionaire;

"Company" means the entity acting as the Concessionaire under this Agreement;

"Completion Certificate" shall have the meaning set forth in Clause 14.2;

"Concession" shall have the meaning set forth in Clause 3.1.1;

"Concessionaire" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"Concession Period" means the period starting on and from the Appointed Date and ending on the Transfer Date;

"Concessionaire Default" shall have the meaning set forth in Clause 34.1.1;

"Conditions Precedent" shall have the meaning set forth in Clause 4.1.1;

"Construction Period" means the period beginning from the Appointed Date and ending on the Project Completion Date;

"Construction Works" means all works and things necessary to complete the Project in accordance with this Agreement and would also include the development, construction and commissioning of the optional Ginning Unit in terms of this Agreement and the term Construction Works shall be construed accordingly wherever required;

"Contractor" means the person or persons, as the case may be, with whom the Concessionaire has entered into for any of the EPC Contract, the O&M Contract, or any other agreement or contract for construction, operation and/or maintenance of the Project and / or Project Facilities or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Concessionaire;

"Performance Security" shall for the purpose of this Agreement mean Performance Security as set forth in Clause 9.1 of this Agreement;

"Cure Period" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

- (a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
- (b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

- (c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Concessionaire requires any reasonable action by the Concessionaire that must be approved by the Authority hereunder, the applicable Cure Period shall be extended by the period taken by the Authority to accord their approval;

"Damages" shall have the meaning set forth in Sub-clause (v) of Clause 1.2.1;

"Debt Due" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date; as verified by an Expert [whose cost shall be shared equally between Authority and Concessionaire] to the satisfaction of the Authority:

- (a) the principal amount of the debt provided by the Lenders under the Financing Agreements for financing the Project Facilities (the "**principal**") but excluding any part of the principal that had fallen due for repayment 2 (two) years prior to the Transfer Date;
- (b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due 1 (one) year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such changes have arisen due to Authority Default; and

"Compliance Period" means the period from the date of this Agreement until the Appointed Date;

"Dispute" shall have the meaning set forth in Clause 41.1;

"Dispute Resolution Procedure" means the procedure for resolution of Disputes set forth in Article 41;

"Divestment Requirements" means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 35.1;

"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"Drawings" means all of the drawings, calculations and documents pertaining to the Essential Facilities and shall include 'as built' drawings of the Essential Facilities;

“Execution Date” shall mean the date on which the Concession Agreement has been executed by the Parties;

"EPC Contract" means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the Project and Project Facilities in accordance with the provisions of this Agreement;

"EPC Contractor" means the person with whom the Concessionaire has entered into an EPC Contract;

"Emergency" means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Encumbrances" means, in relation to the Project and Project Facilities, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project and Project Facilities, where applicable herein but excluding utilities referred to in Clause 11.1;

"Equity" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and shall for the purposes of this Agreement include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component; provided however that notwithstanding the foregoing, any amounts that have been infused in the Concessionaire as paid-up share capital would not be classified as 'Equity' to the extent that such amounts do not relate to Project Facilities (in accordance with the Approved OF Scheme).

“Expert” means any person, body or organization of repute with recognized technical/professional expertise in respect of any field, matter or subject relevant for the purpose of this Agreement, appointed by the Authority.

"User Charges" means all charges, tariff, charges, deposits and amounts received by or paid to the Concessionaire from or with respect to the Project Facilities, for different type services provided and maintenance charges for the Project, including but not limited to the rental amounts accruing from the lease/sub-lease/licensing of Project Facilities; and other tariff and charges including maintenance charges for services provided to the Users;

"Financial Close" means the date on which the Financing Agreements providing for financial assistance by the Lenders have become effective and conditions if any for draw down of fund have been met by the Concessionaire such that the Concessionaire has immediate access to such sanctioned funding under the Financing Agreements;

"Financial Default" shall have the meaning set forth in **Schedule O**;

"Financial Model" means the financial model adopted by Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"Financial Package" means the financing package indicating the total capital cost of Project and the means of financing thereof, as set forth in the Financial Model and approved by the Lenders, and includes Equity and all financial assistance specified in the Financing Agreements;

"Financing Agreements" means the agreements executed by the Concessionaire in respect of financial assistance to be provided by the Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.2;

"Force Majeure" or **"Force Majeure Event"** shall have the meaning ascribed to it in Clause 32.1;

"GOI" means the Government of India;

"Good Industry Practice" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Concessionaire in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"Government Instrumentality" means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;

"Revenue" means all revenue of the Concessionaire from the Project Facilities, which shall include the revenues from all sources or amounts of money by whatever name called and the total receipts of business of the Concessionaire for any period, that arise, accrue to and/or are received (or which would have been received) by the Concessionaire from the operation of Project excluding the following: (a) payments received/ collected by the Concessionaire for and on behalf of any Government Authorities under Applicable Laws; (b) insurance proceeds except insurance indemnification for loss of revenue;

"Indemnified Party" means the Party entitled to the benefit of an indemnity pursuant to Article 39;

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Article 39;

"Independent Engineer" shall have the meaning set forth in Clause 23.1;

"Insurance Cover" means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 30, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

"Lenders" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost;

"Lenders' Representative" means the person duly authorised by the Lenders to act for and on behalf of the Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"Maintenance Manual" shall have the meaning ascribed to it in Clause 17.3;

"Maintenance Requirements" shall have the meaning set forth in Clause 17.2;

"Material Adverse Effect" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

"Nominated Company" means a company selected by the Lenders' Representative and proposed to the Authority for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;

"O&M" means the operation and maintenance of the Project and Project Facilities and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities, and collection of User Charges in accordance with the provisions of this Agreement;

"O&M Contract" means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of the O&M obligations;

"O&M Contractor" means the person, if any, with whom the Concessionaire has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;

"O&M Expenses" means expenses incurred by or on behalf of the Concessionaire or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and User Charges due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract, or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

"O&M Inspection Report" shall have the meaning set forth in Clause 19.2;

"Operation Period" means the period commencing from Commercial Operations Date and ending on the Transfer Date;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually;

"Political Event" shall have the meaning set forth in Clause 32.4;

"Project" shall mean and refer to design, construction, finance, operation, maintenance and transfer of the Project Facilities at the Site, comprising the Project Facilities set forth in **Schedule C**, in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

"Project Agreements" means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, and any other agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the the Substitution Agreement;

"Project Assets" means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of lease [granted in terms of Lease Deed], Right of Way or otherwise; (b) tangible assets such as civil works and equipment (*excluding movables*) including but not limited to foundations, embankments, drainage works, sign boards, electrical systems, rest areas, maintenance depots and administrative offices; (c) Project Facilities situated on the Site; (d) all rights of the Concessionaire under the Project Agreements; and (e) Applicable Permits and authorisations relating to or in respect of the Project;

"Project Completion Date" means the date on which the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Article 14;

"Project Completion Schedule" means the progressive Project Milestones to be prepared on or before the Appointed Date and forming part of Approved Implementation Plan, for completion of the Project.

"Project Facilities" means the Mandatory Project Components/Minimum Development Obligations [including all the On-Site amenities and facilities required as basic and support infrastructure for Project, for the optimal functioning thereof, including but not limited to sewage and sanitation system, water supply, electricity distribution and supply, paved roads and lanes, situated on the Site, as described in **Schedule C** to be developed, operated and maintained by the Concessionaire on the Project Site in terms of the Agreement and more particularly in terms of **Schedule B**. The term Project Facilities shall on and with effect from the date of execution of the lease deed with respect of the Additional Land would also include the optional Ginning Unit, set up in accordance with the terms of this Agreement at the Additional Land

"Project Milestones" means the project milestones set forth in **Project Implementation Schedule**;

"Provisional Certificate" shall have the meaning set forth in Clause 14.3;

"Punch List" shall have the meaning ascribed to it in **Clause 14.3**;

"RBI" means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;

"Reference Exchange Rate" means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Delhi by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Delhi by the Bank of India and the Bank of Baroda;

"Re.," "Rs." or "Rupees" or "Indian Rupees" means the lawful currency of the Republic of India;

"Right of Way" means the constructive possession of the Site and the Additional Land if provided and as the case may be, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Project in accordance with this Agreement;

"Scheduled Project Completion Date" shall have the meaning set forth in Clause 12.4.1;

"Scope of the Project" shall have the meaning set forth in Article 2;

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

"Selected Bidder" means the bidder who has been awarded the Project;

"Site"/ "Project Site" shall have the meaning set forth in Clause 10.1;

"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project Facility, as set forth in **Schedule D**, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project Facility submitted by the Concessionaire to, and expressly approved by, the Authority;

"State" means the State of Orissa and **"State Government"** means the government of that State;

"Statutory Auditors" means a reputable firm of chartered accountants acting as the auditors of the Concessionaire under the provisions of the Companies Act, 2013 including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 31.2.1;

"Sub-Lease Deed" shall mean the agreement by the Concessionaire with a third party through which the Concessionaire confers sub-lease rights to the third party in respect of the Built-up Spaces, if any.

"Sub-Lessee" shall mean the party with whom the Concessionaire executes the Sub-Lease Deed.

"Substitution Agreement" shall have the meaning set forth in Clause 37.3;

"Suspension" shall have the meaning set forth in Clause 33.1;

"Taxes" means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

"RFP" shall have the meaning set forth in Recital (B);

"Termination" means the expiry or earlier termination [for any reason whatsoever], as the case may be, of this Agreement and the Concession hereunder in terms hereof;

"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Termination Payment" means the amount payable, under and in accordance with this Agreement, by the Authority to the Concessionaire upon Termination.

"Tests" means the tests to determine the completion of Project in accordance with the provisions of this Agreement.

"Total Project Cost" means the capital cost incurred on construction and financing of the Project Facilities, and shall be limited to the lowest of:

- (a) the capital cost of the Project Facilities, as set forth in the Financial Package; and
- (b) the actual capital cost of the Project Facilities upon completion of the Project Facilities;
- (c) a sum of Rs.*****crore (Rupees*****crore);

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provision of this Agreement;

"Transfer Date" means the date on which this Agreement and the Concession hereunder expires (including any extension thereof, in terms hereof) pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

in token thereof:	
SIGNED, SEALED AND DELIVERED For and on behalf of _____, Lead Member of the Consortium (“Selected Bidder”) by:	Sign and Seal: Name: Designation:

In the presence of: 1.

2.

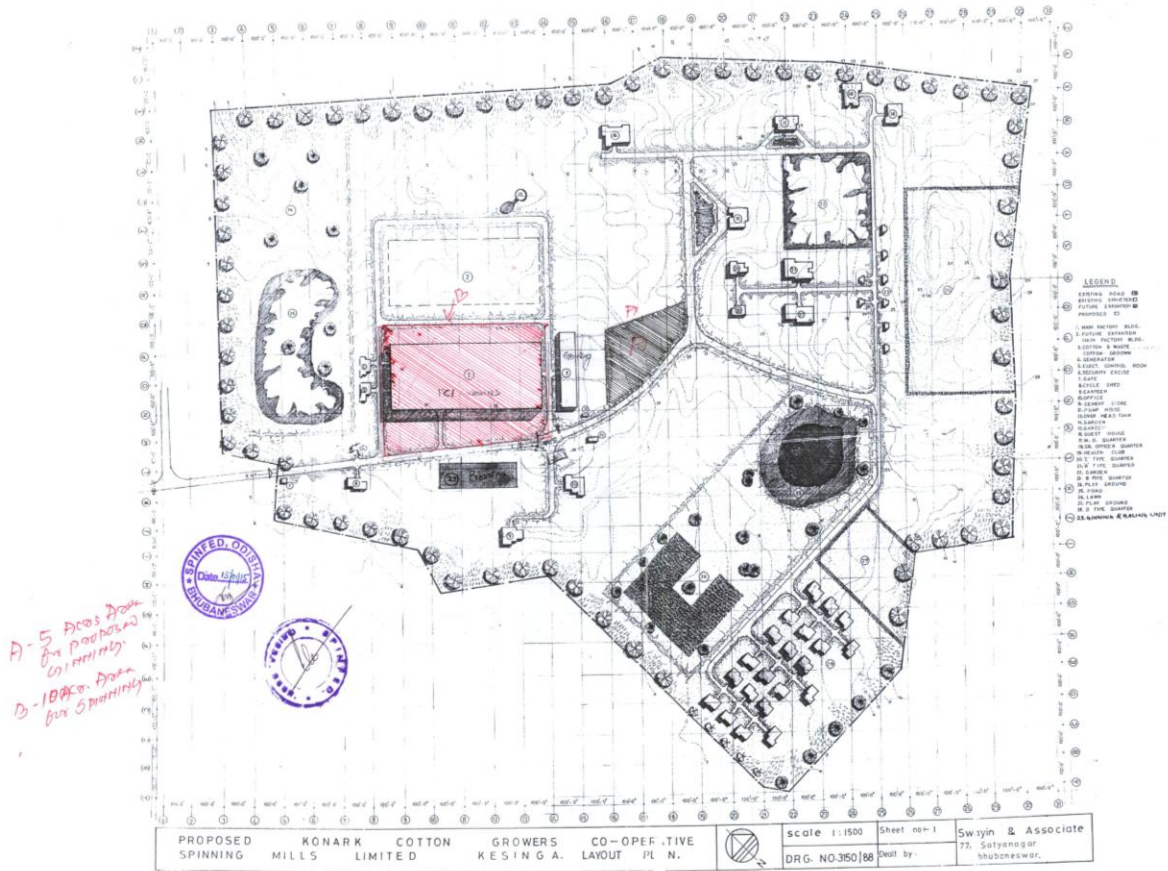
Schedules
to the Concession Agreement

- A.** Site of the Project
- B.** Project Facilities
- C.** Specifications and Standards
- D.** Applicable Permits
- E.** Performance Security
- F.** Approved Implementation Plan
- G.** Completion Certificate / Provisional Certificate
- H.** Selection of Independent Engineer
- I.** Terms of Reference for Independent Engineer
- J.** Lease Deed
- K.** Vesting Certificate
- L.** Substitution Agreement

Schedule- AA

(See Clause 10.1)

ADDITIONAL LAND



SCHEDULE – B
(See Article 2.1)

PROJECT FACILITIES

1. Project Facilities

The Concessionaire shall construct the Project Facilities in accordance with the provisions of this Agreement. Project Facilities forming part of the Spinning Mill/ Project and to be completed on or before the Project Completion Date have been described in Annex-I & Annex- II of this Schedule-B.

Annex-I

Broad Level description of Project Facilities is briefly described below:

Sl. No	Components
1.	Design, build, finance, operate & maintain a cotton spinning mill with minimum capacity of 25,000 spindle or more
2.	Develop required internal power supply, water supply, & other infrastructure for implementation and operation of the project
3.	Repair and upgradation of the existing spinning building for installation of the machinery

Annex-II

PROJECT SUPPORT INFRASTRUCTURE

The Concessionaire shall construct or install the Project & Project Facilities including all the amenities and support facilities required as basic and support infrastructure for Project, for the optimal functioning thereof. These support facilities shall include the following but not be limited to:

- a) sewage sewerage and sanitation facilities;
- b) water supply and distribution;
- c) electricity supply and distribution electricity;
- d) paved interconnecting roads and lanes; pavements and sidewalks;
- e) toilets;
- f) facilities for disabled;
- g) administrative offices;
- h) security;
- i) landscaping and perimeter fencing;
- j) internal road network;
- k) street lighting within the perimeter;
- l) firefighting system;
- m) and such other facilities as may be necessary and required to establish and operate and the Project in accordance with the Specifications and Standards.

The above facilities shall be developed, constructed and commissioned in accordance with the provisions of this Agreement and shall be completed by the Scheduled Project Completion Date.

SCHEDULE -C

SPECIFICATIONS AND STANDARDS

1. Preamble:

The Concessionaire shall design, finance, construct, operate, maintain and manage the proposed Project as per NITRA/SITRA guidelines & other regulating laws and well as strictly conforming to the relevant Indian standards, Good Industry Practices and internationally acceptable norms or as prescribed & approved by the Authority. Whether the requirements are explicitly stated or not in the Bidding documents, the Concessionaire must note that the Authority envisages a world class facility in all respects and expects a truly international quality and standards from the Concessionaire, as the binding contractual obligation.

SCHEDULE - D
(See Clause 4.1.3)

APPLICABLE PERMITS

The Concessionaire shall obtain, as required under the Applicable Laws, the following Applicable Permits on or before the Appointed Date, save and except to the extent of a waiver granted by the Authority in accordance with Clause 4.1.3 of the Agreement:

- a. Clearance from Water Resources Department, Govt. of Odisha
- b. Clearances from State Pollution Control Board
- c. Clearances from WESCO, for Power Supply
- d. Any other clearance required for setting-up & operation of a Spinning Mill

Note: The above list is indicative and not exhaustive.

SCHEDULE E
(See Clause 9.1)

PERFORMANCE SECURITY

To

.....
.....

WHEREAS:

- (A) **** (the "**Concessionaire**") and the SPINFED (the "**Authority**") have entered into a Concession Agreement dated *** (the "**Agreement**") whereby the Authority has agreed to the Concessionaire undertaking the development & establishment of 25000 spindle cotton spinning mill at Konark Spin, Kesinga on design, build, finance, operate and transfer ("DBFOT") basis, subject to and in accordance with the provisions of the Agreement (the "**Project**").
- (B) The Agreement requires the Concessionaire to furnish a Performance Security to the Authority in a sum of **Rs. _____ (Rupees _____)** (the "**Guarantee Amount**") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).
- (C) We, ***** through our Branch at ***** (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Construction Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Concessionaire's obligations during the Construction Period, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer not below the rank of _____, in the SPINFED, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is

- in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
 4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.
 5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
 6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Concessionaire during Construction Period under the Agreement.
 7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the expiry of 3 (three) months beyond the Project Completion Date and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, not later than 6 (six) months from the date of expiry of this Guarantee, all

rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
10. This Guarantee shall come into force with immediate effect and shall remain in force and effect upto _____ or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ** day of ***, 20** at ***.

SIGNED, SEALED AND DELIVERED
For and on behalf of
the BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the Head office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing branch.

SCHEDULE G

Lease Rent SECURITY

To

SPINFED

WHEREAS:

- (D) **** (the "**Concessionaire**") and the SPINFED, (the "**Authority**") have entered into a Concession Agreement dated *** (the "**Agreement**") whereby the Authority has agreed to the Concessionaire undertaking the development of Integrated Film City at _____ on design, build, finance, operate and transfer ("DBFOT") basis, subject to and in accordance with the provisions of the Agreement (the "**Project**").
- (E) The Agreement requires the Concessionaire to furnish a Lease Rent Security to the Authority in a sum of **Rs. _____ (Rupees _____)** (the "**Guarantee Amount**") as security for due and punctual payment by the Concessionaire under and in accordance with the Agreement, during the Concession Period (as defined in the Agreement) and thereafter for a period of 150 days.
- (F) We, ***** through our Branch at ***** (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Lease Rent Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and punctual payment by the Concessionaire of the Lease rent during the Concession Period, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer not below the rank of _____, SPINFED, that the Concessionaire has committed default in the due payment of Lease Rent under and in accordance with the Agreement, shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority's decision that the Concessionaire is in default in payment of Lease Rent shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire

- for any reason whatsoever.
3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
 4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.
 5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
 6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfillment, compliance and/or performance of all or any of the obligations of the Concessionaire during Concession Period under the Agreement.
 7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until 14 months from the date of issuance hereof and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, not later than **2 (two) months** from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

In terms of the Agreement, the Bank hereby undertakes to keep [on revolving basis] each Lease Rent Security valid, enforceable and subsisting for a period of fourteen months from the respective date(s) of issuance thereof and shall ensure that the same is annually / periodically renewed [in terms of the Agreement], from time to time and furnished to the Authority at least 30 days prior to the expiry of the validity of the existing bank guarantee.

8. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
9. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
10. This Guarantee shall come into force with immediate effect and shall remain in force and effect upto _____ or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this ** day of ***, 20** at ***.

SIGNED, SEALED AND DELIVERED
For and on behalf of
the BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) The address, telephone number and other details of the Head office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing branch.

SCHEDULE H
(See Clause 12.1)

Approved Implementation Plan

The Implementation Plan submitted by the Bidder shall be appended to the Agreement, upon the finalization thereof in terms of the Concession Agreement

SCHEDULE I
(See Clauses 14.2 & 14.3)

FORMAT FOR COMPLETION CERTIFICATE

- 1 I, **** (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated *** (the "**Agreement**"), for construction and development of "****" (the "**Project**") on Design, Build, Finance, Operate and Transfer (DBFOT) basis/ the Ginning Unit on the Additional Land provided to the Concessionaire by the Authority subject to terms and conditions of the separate lease deed executed in this regard, through **** (Name of Concessionaire), hereby certify that the Tests specified in Article 14 have been successfully undertaken to determine compliance of the Project and mandatory Project Facilities with the provisions of the Agreement, and I am satisfied that the Project and mandatory Project Facilities can be safely and reliably placed in commercial service of the Users thereof.

- 2 It is certified that, in terms of the aforesaid Agreement, all works forming part of mandatory Project Facilities have been completed, and the mandatory Project Facilities are hereby declared fit for entry into commercial operation on this the *** day of *** 20**.

SIGNED, SEALED AND
DELIVERED

For and on behalf of
INDEPENDENT ENGINEER
by:

(Signature)
(Name)
(Designation)
(Address)

FORMAT FOR PROVISIONAL CERTIFICATE

- 1 I, **** (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated *** (the "**Agreement**"), for construction and development of "*****" (the "**Project**") on Design, Build, Finance, Operate and Transfer (DBBOT) basis/ the Ginning Unit on the Additional Land provided to the Concessionaire by the Authority subject to terms and conditions of the separate lease deed executed in this regard through **** (Name of Concessionaire), hereby certify that the Tests specified in Article 14 have been undertaken to determine compliance of the Project and the Project Facilities with the provisions of the Agreement.

- 2 Construction Works that were found to be incomplete and/or deficient have been specified in the Punch List appended hereto, and the Concessionaire has agreed and accepted that it shall complete and/or rectify all such works in the time and manner set forth in the Agreement. [Some of the incomplete works have been delayed as a result of reasons attributable to the Authority or due to Force Majeure and the Provisional Certificate cannot be withheld on this account]. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Concessionaire, I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the Project Facilities, pending completion thereof. .

- 3 In view of the foregoing, I am satisfied that the Project and Project Facilities can be safely and reliably placed in commercial service of the Users thereof, and in terms of the Agreement, the Project and the Project Facilities are hereby provisionally declared fit for entry into commercial operation on this the *** day of *** 20**.

ACCEPTED, SIGNED, SEALED
AND DELIVERED
For and on behalf of
CONCESSIONAIRE by:
by:

SIGNED, SEALED AND
DELIVERED
For and on behalf of
INDEPENDENT ENGINEER

(Signature)
(Name and Designation)
(Address)

(Signature)
(Name and Designation)
(Address)

SCHEDULE J
(See Clause 23.1)

SELECTION OF INDEPENDENT ENGINEER

1 Selection of Independent Engineer

The Authority shall appoint a suitable organization with consulting engineering expertise of not less than 5 years, to be the independent consultant under this Agreement (the "Independent Engineer"). The appointment shall be made no later than 270 (two hundred seventy) days from the date of this Agreement and shall be for a period till the expiry of 6 (six) months from the Project Completion Date

2 User Charges and expenses

In determining the nature and quantum of duties and services to be performed by the Independent Engineer during the Compliance Period and Construction Period, the Authority shall endeavour that payments to the Independent Engineer on account of fees and expenses do not exceed 2% (two per cent) of the Total Project Cost. Payments to the Independent Engineer shall be borne equally by the Authority and the Concessionaire in accordance with the provisions of this Agreement

SCHEDULE K

(See Clause 23.2.1)

TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1 Scope

- 1.1 These Terms of Reference for the Independent Engineer (the "**TOR**") are being specified pursuant to the Concession Agreement dated *** (the "**Agreement**"), which has been entered into between the Authority and **** (the "**Concessionaire**") for construction, operation and maintenance of Project facility ("**Project**") on Design, build, finance, operate and transfer (DBBFOT) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.
- 1.2 This TOR shall apply to only construction supervision and monitoring of the Project.

2 Definitions and interpretation

- 2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.
- 2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
- 2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

3 Role and functions of the Independent Engineer

- 3.1 The role and functions of the Independent Engineer shall include the following:
- (i) review of the Drawings and Documents as set forth in Paragraph 4;
 - (ii) review, inspection and monitoring of Construction Works as set forth in Paragraph 5;
 - (iii) conducting Tests on completion of construction and issuing Completion/Provisional Certificate as set forth in Paragraph 5;
 - (iv) undertaking all other duties and functions in accordance with the Agreement.

The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Compliance Period

- 4.1 During the Compliance Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and other investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys. The Independent Engineer shall complete such review and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 4.2 The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- 4.3 The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.
- 4.4 Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Facilities, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

5 Construction Period

- 5.1 In respect of the Drawings&Documents received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, *mutatis mutandis*.
- 5.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.

- 5.3 The Independent Engineer shall inspect the Construction Works and the Project once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "**Inspection Report**") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project. The Inspection Report shall also contain a review of the maintenance of the Project in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
- 5.4 The Independent Engineer may inspect the Project more than once in a month if any lapses, defects or deficiencies require such inspections.
- 5.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance.
- 5.6 The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice.
- 5.7 In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
- 5.8 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.

- 5.9 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- 5.10 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 5.11 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
- 5.12 The Independent Engineer shall carry out, or cause to be carried out, all the Tests and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph 5.12 and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of Article 14.
- 5.13 Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.
- 5.14 The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

7 Determination of costs and time

- 7.1 The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
- 7.2 The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

8 Assistance in Dispute resolution

- 8.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.
- 8.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

9 Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

10 Miscellaneous

- 10.1 The Independent Engineer shall notify its programme of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.
- 10.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.
- 10.3 The Independent Engineer shall obtain, and the Concessionaire shall furnish in two copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send one of the copies to the Authority along with its comments thereon.
- 10.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
- 10.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished in micro film form or in such other medium as may be acceptable to the Authority.

SCHEDULE L

LEASE DEED

This lease deed is made on this ____ day of ____, 20**, at ____, Orissa.

By and Between

Odisha Spinning Mills Federation Ltd. (SPINFED), and having its principal office at _____, Orissa (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of **First Part**;

AND

2 _____, a company incorporated under the provisions of the Companies Act, 2013, and having its registered office at _____ (hereinafter referred to as the "**Concessionaire**" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the **Second Part**.

(Each of the parties of the FIRST and SECOND PARTS are hereinafter, as the context may admit or require, individually referred to as a "**Party**" and collectively as the "**Parties**").

WHEREAS:

- A. **Odisha Spinning Mills Federation Ltd. (SPINFED)** is the absolute owner of the land admeasuring about ____ **acres** situated at _____, Orissa more particularly described in **Annex-I** hereto.
- B. The Authority invited bids for the development of Integrated Film City at _____ on design, build, finance, operate and transfer ("DBFOT") basis, vide its Request for Proposal (hereinafter the "**RFP**") dated _____. The bid offered by _____ (the "Selected Bidder") was adjudged most responsive in terms of RFP and has been accordingly accepted by the Authority vide its Letter of Award no. _____ dated _____ ("LOA") on the terms and conditions set forth therein.
- C. Pursuant to the Selected Bidder fulfilling all terms and conditions of LOA, the Authority has vide the Concession Agreement dated _____ (hereinafter "**Concession Agreement**") granted Concession to M/s _____ (the "Concessionaire" or the "Lessee" herein) for implementing the Project at the Site inter-alia including the rights/privileges to design, develop, invest, construct,

operate and maintain the Project at the Site.

- D. Pursuant to and under the terms of the Concession Agreement the Authority is required to deliver possession to the Lessee, the Demised Premises, comprising the Site along with all rights relating thereto under a valid and binding Land Lease Deed for the purpose of implementing the Project.
- E. Being the owner of the Site; having a good and marketable title thereto and having lawful possession thereof, the Lessor is desirous of demising the Demised Premises unto the Lessee, on the terms and conditions hereinafter contained.

NOW THIS INDENTURE OF LEASE WITNESSETH AS FOLLOWS:

1. The capitalized words used in this Lease Deed but not defined herein shall, unless the context otherwise requires, have the meaning assigned to them respectively in the Concession Agreement.
2. In this Lease Deed, unless the context otherwise requires, the rules of interpretation as specified in clause 1.2 of the Concession Agreement shall apply.
3. The following terms shall, except where the context otherwise requires, have the meaning as hereunder:
 - (a) **Commercial Operation date** shall have the same meaning as ascribed to it under the Concession Agreement;
 - (b) **Concession Agreement** shall mean the Concession Agreement dated _____ entered into between the Authority (the 'Lessor' herein), the Concessionaire (the 'Lessee' herein) and the Selected Bidder (confirming party);
 - (c) **Concession Period** means the period specified under clause 3.1.1 of the Concession Agreement;
 - (d) **Demised Premises** means the land parcel admeasuring about ___ acres comprising the Site; as more particularly delineated in **Annex I** hereto, in respect of which Lessor hereby grants leasehold rights to Lessee in terms of the Lease Deed.
 - (e) **Lease Deed** means this lease deed, schedules to it, as amended or modified by the Parties in accordance with the provisions hereof,
 - (f) **Lease Term** shall have the meaning ascribed to it in clause 4 hereto;

- (g) **Lessor** means the Authority;
 - (h) **Lessee** means the Concessionaire;
 - (i) **Project Assets** shall have the same meaning as ascribed to it under the Concession Agreement;
 - (j) **Annexure** means any of the Annexes and supplements hereto; and
 - (k) **Site** shall have the same meaning as ascribed to it under the Concession Agreement;
4. The Lessor hereby demises the Demised Premises unto the Lessee under the terms of this Lease Deed with effect from the Appointed Date for the Lease Term.

For the purposes of this Lease Deed the capitalized term “Lease Term” shall mean as follows:

[The lease in pursuance of this Lease Deed shall be for a term of 30 years from the Appointed Date (the “**Lease Term**”)]

provided however that: (i) the Lease Term shall always be coterminous with the Concession Period, and this Lease Deed shall terminate automatically with the expiry or early termination of the Concession Agreement, as the case may be, without requiring any act, deed or thing on part of either Party.

5. In consideration of the covenants set out herein, and the Lessee agreeing to pay the Annual Lease Rent in respect of the Demised Premises in terms hereof, the Lessor hereby demises unto the Lessee on an “as is where is basis” and effective from the Appointed Date for the Lease Term, the lease hold rights in respect of the Demised Premises without interruption or interference, free from encumbrances and together with the full and free right and liberty of way and passage, easements, right of way/way leaves and other rights in relation thereto with delivery of Vacant Possession thereof.
6. As a part of and in consideration of the covenants and warranties on the part of the Lessee herein, the Lessor, in accordance with the terms and conditions set forth herein, hereby, demise to the Lessee, commencing from the Appointed Date, the leasehold rights in all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Demised Premises more particularly, delineated and shown in the **Annex-I** hereto to hold the said Demised Premises, together with all and singular rights, liberties, privileges, easements, appurtenances and encumbrances whatsoever to the said Demised Premises, hereditaments or premises or any part thereof belonging to or in anyway

appurtenant thereto or enjoyed therewith on an “*as is where is*” basis, throughout the Lease Term for the sole purposes set forth in the Concession Agreement and the Lessee’s obligations thereunder, and for such other purposes as are permitted under this Lease Deed. Provided that the Lessee shall at its cost be required to remove the utilities including power transmission lines and structures at, over or under the Demised Premises as per the provisions of the Concession Agreement and the Lessor shall render the necessary facilitation in this behalf.

It is hereby expressly understood and agreed between the Parties hereto that mining rights cannot, and do not, form part of the lease granted to the Lessee under this Lease Deed and the Lessee hereby acknowledges that it does not, and shall not, have any mining rights under this Lease Deed or any interest in the underlying minerals, if any, ownership and legal possession in respect of which shall always deemed to be vested in the Lessor.

7. In consideration of the grant of leasehold rights in respect of the Site by the Authority pursuant to and in accordance with the Lease Deed [as per the format set forth in **Schedule L** hereto], the Concessionaire shall, with effect from the Appointed Date, and within 15 (fifteen) days of date of expiry of each consecutive period of twelve months [commencing from Appointed Date] during the Concession Period (the “**Due Dates**”), pay to the Authority the advance annual lease rent (“**Annual Lease Rent**”) in terms hereof and as more particularly set out in Lease Deed. The Annual Lease Rent payable during the first three years of the Concession Period shall be equivalent to the amount of Rs. _____ (_____ only); The Annual Lease Rent for the first year of the Concession Period shall be paid on or before the signing of the Lease Deed. The Annual Lease Rental shall be subject to escalation @ 10% at the expiry of three years during the Concession Period.
8. For securing the payment of the Annual Lease Rentals, the Concessionaire shall along with the Annual Lease rentals for the first year of the Concession Period provide a rolling bank guarantee for an amount equivalent to the applicable Annual Lease Rental, which shall have a validity period of not less than 14 months from the date of its issuance.
9. Each such bank guarantee security for securing the Annual Lease Rental payment (the **Lease Rent Security**), shall be kept valid, enforceable and subsisting for a period of fourteen (fourteen) months from the respective date(s) thereof and the Concessionaire shall ensure that the same is annually / periodically renewed [in aforesaid manner], from time to time and the renewed Lease Rent Security is furnished to the Authority at least 30 days prior to the expiry of the validity of the existing Lease Rent Security; so as to ensure that the Lease Rent Security remains valid, enforceable and subsisting throughout the Concession Period.

10. In the event of a delay in payment of the Annual Lease Rentals beyond 15 days from the Due Date, the Authority shall be entitled to invoke and appropriate the Lease Rent Security
11. In the event of the Authority invoking the Lease Rent Security for recovery of any delinquent amounts, the Concessionaire shall forthwith and in any case not later than 15 days from the date of the said invocation by the Authority replenish, in case of partial appropriation, to its original level of the bank guarantee, and in case of appropriation of the entire bank guarantee a fresh bank guarantee, as the case may be, and the Concessionaire shall, within the time so granted replenish or furnish fresh bank guarantee as aforesaid failing the same shall amount to and be construed as a Concessionaire Default.
12. In the event of any delay in payments towards the Annual Lease Rent, the Concessionaire shall be liable to pay interest on the outstanding amount at a rate equal to 5% (five per cent) above the prevailing Bank Rate for the period commencing from the due date until date of actual payment, subject to a maximum delay of 15 days.
The Annual Lease Rent payable during the Lease Term shall be, as more particularly set forth in **Annex-II** hereto.
13. On expiry of the Lease Term or early termination of this Lease Deed, for any reason whatsoever, the Demised Premises, together with all the Project facilities, Project Assets, buildings, utilities and services, fixtures, all or any singular rights, liberties, privileges, easements and appurtenances whatsoever to the Site, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, shall revert to the Lessor and be treated in the manner set forth in the Concession Agreement.
14. The Lessor hereby demises the Demised Premises with the Lessee under the terms of this Lease Deed only for the purpose of implementing the Project, including the design, finance, construction, provision and operation and maintenance of the Project and the development, operation and maintenance of the Optional Facilities, in accordance with the terms and conditions of the Concession Agreement and the applicable development guidelines.
15. The Lessee shall procure at its cost all Applicable Permits from the relevant competent authorities as are required, from time to time, for the development, construction, implementation, completion, commissioning and the operation and maintenance of the Project unconditionally or if subject to conditions then all such conditions shall have been satisfied in full and such Applicable Permits are in full force and effect.

16. The Lessee shall comply with all the specifications and conditions set forth in the RFP, its bid, this Lease Deed, the Concession Agreement, any addendums, clarifications issued, the applicable law, the Applicable Permits and good industry practice and shall construct and complete the Project and Project Facilities within the stipulated time.
17. Upon the occurrence of a Concessionaire's Event of Default under the Concession Agreement, the Parties shall in consultation with the Lenders and in accordance with the provisions of the Concession Agreement have the right to replace the Lessee by the Nominated Company for performing the Lessee's obligations hereunder. Upon appointment of the Nominated Company, the Nominated Company shall be deemed to be the Lessee for all the purposes and shall be entitled to all the rights and be bound by all the representations, covenants and obligations of the Lessee under this Lease Deed.
18. In the event of termination of the Concession Agreement by efflux of time or otherwise, this Lease Deed shall be terminated and the lease of the Demised Premises and concessions and rights in relation to the Project Facilities shall be determined shall, unless otherwise decided by the Lessor (in terms of the Concession Agreement) hand over the vacant possession of the Demised Premises to the Lessor or its nominated agency in terms hereof and more particularly the Concession Agreement and forthwith vacate the Demised Premises without any demur or delay.
19. The Lessor hereby covenants with the Lessee as under:
 - (a) That it shall not interfere with or impede in any manner or otherwise limit, restrict or impose conditions in relation to: (i) the complete, free and full enjoyment of the Demised Premises by the Lessee for the purpose of the implementation of the Project and the Optional Facilities and all rights related thereto; (ii) the design, construction, operation and maintenance of the Project Facilities and the Optional Facilities and the right to appropriate and the right to appropriate Revenues therefrom in accordance with the provisions of the Concession Agreement; and (iii) the possession, control and use by the Lessee of the Demised Premises, the facilities constructed thereon and any other facilities developed in the course of implementation of the Project; provided that the same are in compliance with the terms and conditions of the Concession Agreement and this Lease Deed.
 - (b) That it shall not terminate this Lease Deed, except upon the due and valid termination of the Concession Agreement in accordance with the provisions thereof or upon any breach of any of the terms and conditions of this Lease Deed by the Lessee; and

- (c) That there are no litigations, claims, demands or any proceedings pending before any authority in respect of acquisition of the Demised Premises or in respect of any other land-dispute, and that the Lessee shall have complete, lawful and uninterrupted possession, control and use of the Demised Premises.

20. The Lessee hereby covenants with the Lessor as follows:

- (a) That it shall develop, establish, design, construct and operate and maintain the Project Facilities at the Demised Premises as per its obligations under the Concession Agreement, in accordance with the Applicable Laws and in accordance with Good Industry Practice;
- (b) That it shall operate and maintain the Project or cause it to be operated and maintained in accordance with the Concession Agreement;
- (c) That it shall observe and perform all terms, covenants, conditions and stipulations of this Lease Deed;
- (d) That it shall keep the Demised Premises free from encroachments during the Concession Period and operate and maintain and carry out repairs in accordance with the provisions of the Concession Agreement;
- (e) That in respect of the Demised Premises/built up areas thereat/its business activities thereat/relating to the Project it shall pay all municipal rates, levies, taxes, rents, including penalties etc for late payment, at the applicable rates from time to time, to the concerned Government Authorities and be liable for payments of all rates and charges for the use of utilities and services at the Demised Premises; and
- (f) The Concessionaire shall not create any Encumbrance [including sub-lease/license/entering into franchising arrangement] save and except as otherwise provided in clause 12 of this Lease deed and / or permitted under the Concession Agreement, in respect of the whole or any part of the Demised Premises, leased to it by Lessor under this Lease Deed, to any person in any form or under any arrangement, device or method. This is an essential condition of this Agreement, the breach of which shall constitute a Lessee's event of default under the Lease Deed.

21. Each Party hereto represents and warrants that:

- a) It has full rights, title, power and authority to execute, deliver and perform its obligations under this Lease Deed and to carry out the transactions contemplated hereby;

- b) It has taken all necessary actions to authorise the execution, delivery and performance of this Lease Deed; and
- c) This Lease Deed constitutes its legal, valid and binding obligations that shall be enforceable against it in accordance with the terms hereof.

22. The Parties agree that

- (a) The failure of the Lessee to perform its obligations under this Lease Deed and any breach of covenants or undertakings given and provided for in this Deed by the Lessee shall amount to a Concessionaire's Default under the Concession Agreement.
- (b) Any dispute, controversy or claim arising out of or in relation to this Lease Deed or the interpretation of any of its provisions shall be settled in accordance with the provision of the Concession Agreement.
- (c) The stamp duty and registration charges for the execution and registration of this Lease Deed shall be borne by the Lessee.
- (d) In case of ambiguities, conflicts or discrepancies between the Concession Agreement and this Lease Deed, the provisions of the Concession Agreement shall prevail.
- (e) All notices under the terms of this Lease Deed shall be sent either by hand, facsimile or courier to the following addresses:

Lessor : _____,
 SPINFED,

 Orissa

Lessee :

23. Dispute resolution

The Parties hereby agree and confirm that the procedure stipulated for dispute resolution under the Concession Agreement shall *mutatis mutandis* apply to this Lease Deed.

24. Governing Law and jurisdiction

This Lease Deed shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at -----, Orissa shall have exclusive jurisdiction over all matters arising out of or relating to this Lease Deed.

25. Amendment

No variation, waiver, amendment or modification of any of the terms of this Lease Deed shall be valid unless in writing and signed by both Parties.

26. Severability

The invalidity or enforceability, for any reason, of any part of this Lease Deed shall not prejudice or affect the validity or enforceability of the remainder. For abundant caution, it is expressly clarified that if any provision of this Lease Deed is declared to be invalid, unenforceable or illegal by any competent arbitral tribunal or court, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this Lease Deed, which shall continue in full force and effect.

IN WITNESS WHEREOF the Parties have executed and delivered this Lease Deed by their duly authorized representative on the date first above written:

<p>SIGNED, SEALED AND DELIVERED For and on behalf of SPINFED (“Lessor”) by</p> <p>Sign and Seal: Name: Designation:</p>	<p>SIGNED, SEALED AND DELIVERED For and on behalf of _____ (“Lessee”) by</p> <p>Sign and Seal: Name: Designation:</p> <p>pursuant to Resolution dated of its Board of Directors</p>
---	---

In the presence of Witnesses:

1. 2.

**Annex-I
Demised Premises**

List of Assets & other fixtures to be handed over to the developer by the Authority.

Konark Cotton Growers Co-Operative Spinning Mills Ltd. Kesinga , Kalahandi

1. Details Of factory Building & Other Civil Constructions

SI No	Particulars	Measurement (In Sq. Ft.)
1	Main Factory Building	709 X 199=141091.00
2	Cotton Godown	247 X 55=13585.00
3	Cement Store	34.6 X 19.3=667.78
4	Sub Control Room	13.10 X 9.10=119.21
5	Stock Yard	93.7 X 93.7=8779.69
6	Secirity Post(2 Nos)	7 X 7=49 X2=98.00
7	Bachelore Berek	44.4 X 29=1287.60
8	Canttten (under construction)	12.6 X 9.3=234.18
9	B Type Quarters (4 Nos) (Under Construction)	25.10 X 29 X 4=2911.60
10	M.D Bunglow	47.6 X 37.6=1789.76
11	Guarage	19 X 10.6=201.40
12	Guarage	23.6 X 17=401.20
13	Attainder Quarter (MD)	20 X 14.6=292.00
14	Pump House(3 Nos)	10.6 X 6.6 X3=209.88
15	B type Quarters (6 Nos)	41.6 X 27x6 =6739.20
16	Senior Staff Quarters(4 Nos)	65 X 30 X4=7800.00
17	Tube Well	2 Nos.
18	Open Well	2 Nos.
19	D.G.Room	34.6 X 13.6 =470.56
20	Overhead Wiring of L.T Line inside the mill campus	Cement Pole- 16 Nos. (2 Nos. Damaged) Iron Pole- 7 Nos.

2. Physical Verification of Humdity Plant Materials As on Dt.31.03.14

SI No	Particulars	Serial No	Quantity (in Nos.)
-------	-------------	-----------	-----------------------

Motors and Water Pump			
1	3 Phase Electric Motor-25 Hp	ABB592551	1
		ABB586812	1
		ABB586813	1
		ABB599295	1
		ABB596736	1
		ABB593466	1
2	3 Phase Electric Motor-15 Hp	595506	1
		594027	1
3	3 Phase Electric Motor-10 Hp	599707	1
		597672	1
		597742	1
		No Number	1
		597736	1
		601891	1
4	Water Pump(Beacon)	9110862	1
		9112153	1
		9112161	1
		9112165	1
		9112166	1
5	M.S Suction		80
6	M.S Dumper Cover		15
7	M.S Door Shutter		1
8	Brass Jali With Frame		36
9	Jalli Frame (Open)		5
10	Shutter Roll		3
11	Humidity Fan		8
12	Dumper Channel		21
13	M.S Angale(Long)		10
14	M.S Angale(Small)		60
15	M.S Flange(open)		6
16	Brass Bolt		1 Pocket
17	G.I.Pipe Humidity		2
18	G.I Flange		5
19	M.S Flange		1
20	Nut Bolt		1 Pocket
21	Ventelator Frame		85
22	Ventelator Grill		19

23	Vee Belt B-134		24
24	Vee Belt B-50		1
25	Vee Belt B-42		1

3. Physical Verification of False Ceiling As On Dt.31.03.14

Sl No	Particulars	Quantity	Remark
1	Alluminium T	190 Bundle	Each bundle -25 Nos
2	Alluminium T	1 Bundle	One Bundle-21 Nos
3	Alluminium Angale	3 Bundle	Each bundle -50 Nos
4	Alluminium Angale	1 Bundle	One Bundle-28 Nos
5	Alluminium T Cut Piece	6 Bundle	Each bundle -50 Nos
6	M.S Rod 6 MM	1 Bundle	14 Piece
7	G.I Hook	15 Bag	
8	A.C. Sheet for Ceiling (Including Damaged Piece)	8550	Including Broken piece

Annexure II

Schedule of payment of Annual Lease rent

Years	Amount of Annual Lease Rent
Year 1	X
Year 2	X
Year 3	X
Year 4	1.1 x X
Year 5	1.1 x X
Year 6	1.1 x X
Year 7	1.21 x X
Year 8	1.21 x X
Year 9	1.21 x X
Year 10	1.331 x X
Year 11	1.331 x X
Year 12	1.331 x X
Year 13	1.4641 x X
Year 14	1.4641 x X
Year 15	1.4641 x X
Year 16	1.6105 x X
Year 17	1.6105 x X
Year 18	1.6105 x X
Year 19	1.7716 x X
Year 20	1.7716 x X
Year 21	1.7716 x X
Year 22	1.9487 x X
Year 23	1.9487 x X
Year 24	1.9487 x X
Year 25	2.1436 x X
Year 26	2.1436 x X
Year 27	2.1436 x X
Year 28	2.3579 x X
Year 29	2.3579 x X
Year 30	2.3579 x X

Note: 10% Increase of Annual Lease Rent in every 3 year is being considered for the entire Concession Period

SCHEDULE M
(See Clause 35.4)

VESTING CERTIFICATE

- 1 The SPINFED(the "**Authority**") refers to the Concession Agreement dated *** (the "**Agreement**") entered into between the Authority and **** (the "**Concessionaire**") for construction, operation and maintenance of ***** (the "**Project**") and the optional Ginning Unit as the case may be on Design, build, finance, operate and transfer ("DBFOT") basis.
- 2 The Authority hereby acknowledges compliance and fulfillment by the Concessionaire of the Divestment Requirements set forth in Clause 35.1 of the Agreement on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Concessionaire in or about the Project/ Ginning Unit as the case may be, shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.
- 3 Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed **or** interpreted as waiving the obligation of the Concessionaire to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Concessionaire in any manner of the same.

Signed this *** day of ***, 20** at ____, Orissa.

AGREED, ACCEPTED AND SIGNED
For and on behalf of
CONCESSIONAIRE by:

(Signature)
(Name)
(Designation)
(Address)

SIGNED, SEALED AND DELIVERED
For and on behalf of
SPINFED:

(Signature)
(Name)
(Designation
) (Address)

In the presence of:

1.

2.

SCHEDULE N
(See Clause 37.3.1)

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the *** day of *** 20**

AMONGST

- 1 **The SPINFED** (hereinafter referred to as the "**Authority**") which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns);
- 2 **** [name and particulars of concessionaire], a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at ****, (hereinafter referred to as the "**Concessionaire**" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);
- 3 **** [name and particulars of Lenders' Representative] and having its registered office at ****, acting for and on behalf of the Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes);

WHEREAS:

- A) The Authority has entered into a Concession Agreement dated *** with the Concessionaire (the "**Concession Agreement**") for construction, operation and maintenance of **** on design, build, finance, operate and transfer basis (DBFOT), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
- B) Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- C) Lenders have requested the Authority to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Nominated Company in accordance with the provisions of this Agreement and the Concession Agreement.

- D) In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Authority has agreed and undertaken to transfer and assign the Concession to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

NOW IT IS HEREBY AGREED as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Substitution Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"Agreement" means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

"Financial Default" means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in debt service by the Concessionaire for a minimum period of 3 (three) months;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"Nominated Company" means a company, incorporated under the provisions of the Companies Act, 1956, selected by the Lenders' Representative, on behalf of Lenders, and proposed to the Authority for assignment/transfer of the Concession as provided in this Agreement;

"Notice of Financial Default" shall have the meaning ascribed thereto in Clause 3.2.1; and

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually.

1.2 Interpretation

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Lenders.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2 ASSIGNMENT

2.1 Assignment of rights and title

The Concessionaire hereby assigns the rights, title and interest in the Concession to, and in favour of, the Lenders' Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing provided/ to be provide by the Lenders under the Financing Agreements.

3 SUBSTITUTION OF THE CONCESSIONAIRE

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders' Representative shall be entitled to substitute the Concessionaire by a Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2 The Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Nominated Company selected by the Lenders' Representative in accordance with this Agreement. (For the avoidance of doubt, the Lenders or the Lenders' Representative shall not be entitled to operate and maintain the Project as Concessionaire either individually or collectively).

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice to the Concessionaire (the "**Notice of Financial Default**") along with particulars thereof, and send a copy to the Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3 At any time after the Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project in accordance with the provisions of Article 33 of the Concession Agreement, and upon receipt of such notice, the Authority shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The aforesaid Suspension shall be revoked upon substitution of the Concessionaire by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.3 Substitution upon occurrence of Concessionaire Default

3.3.1 Upon occurrence of a Concessionaire Default, the Authority shall by a notice inform the Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen) days time to the Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Nominated Company.

3.3.2 In the event that the Lenders' Representative makes a representation to the Authority within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Authority shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.4 Procedure for substitution

- 3.4.1 The Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Authority under Clause 3.3.2, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Concession to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Concessionaire towards the Authority under the Concession Agreement and towards the Lenders under the Financing Agreements.
- 3.4.2 To be eligible for substitution in place of the Concessionaire, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for shortlisting the bidders for award of the Concession; provided that the Lenders' Representative may represent to the Authority that all or any of such criteria may be waived in the interest of the Project, and if the Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.
- 3.4.3 Upon selection of a Nominated Company, the Lenders' Representative shall request the Authority to:
- (a) accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Concession Agreement;
 - (b) endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and
 - (c) enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.
- 3.4.4 If the Authority has any objection to the transfer of Concession in favour of the Nominated Company in accordance with this Agreement, it shall within 7 (seven) days from the date of proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Authority, the Nominated Company shall be deemed to have been accepted. The Authority thereupon shall transfer and endorse the Concession within 7 (seven) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Authority, the Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated Company in place of the Concessionaire.

The Parties herein expressly agree, (in the event of acceptance/ deemed acceptance of the Nominated Company) to execute such agreements and documents as may be necessary to give effect to the Substitution as contemplated herein.

All stamp duty and other applicable charges as are applicable on any amendment of the Concession Agreement and/ or the Lease Deed or for the execution of new Concession Agreement and/ or the Lease Deed, for the purpose of the aforesaid Substitution, shall be to the account of the Nominated Company (new Concessionaire)

3.5 Selection to be binding

The decision of the Lenders' Representative and the Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Lenders or the Authority taken pursuant to this Agreement including the transfer/assignment of the Concession in favour of the Nominated Company. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Authority or the Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders' Representative.

4 PROJECT AGREEMENTS

4.1 Substitution of Nominated Company in Project Agreements

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Nominated Company's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

5 TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination under and in accordance with the provisions of Article 34 of the Concession Agreement.

5.2 Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Authority is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders' Representative is entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement.

6 DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

- (a) Termination of the Agreement; or
- (b) no sum remains to be advanced, or is outstanding to the Lenders, under the Financing Agreements.

7 INDEMNITY

7.1 General indemnity

- 7.1.1 The Concessionaire will indemnify, defend and hold the Authority and the Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

- 7.1.2 The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority to fulfill any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.
- 7.1.3 The Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8 DISPUTE RESOLUTION

8.1 Dispute resolution

- 8.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee each of the Authority, Concessionaire and the Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "**Rules**") or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

8.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be ____, Orissa and the language of arbitration shall be English.

9 MISCELLANEOUS PROVISIONS

9.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the Courts at ____, Orissa shall have jurisdiction over all matters arising out of or relating to this Agreement.

9.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;
- (c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
- (d) consents generally in respect of the enforcement of any judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

9.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

9.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

9.5 Waiver

9.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

- (a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- (b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- (c) shall not affect the validity or enforceability of this Agreement in any manner.

9.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

9.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

9.7 Survival

9.7.1 Termination of this Agreement:

- (a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- (b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

9.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

9.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreement or otherwise.

9.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile. The address for service of each Party and its facsimile number are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

9.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

9.12 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

9.13 Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED, SEALED AND DELIVERED For and on behalf of Concessionaire:	SIGNED, SEALED AND DELIVERED For and on behalf of AUTHORITY: (Signature) (Name) (Designation) (Address) (Fax No.) (e-mail address)
SIGNED, SEALED AND DELIVERED For and on behalf of LENDERS by the Lenders' Representative: (Signature) (Name) (Designation) (Address) (Fax No.) (e-mail address)	

Techno Economic Viability Report

For

Proposed

**Konark Cotton Growers Cooperative Spinning
Mills Ltd (KCGCSML)**

at

Kesinga , Odisha

March -2014

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1.0 Introduction

1.1 Preface

Odisha Industrial Infrastructure Development Corporation (IDCO) and IL&FS Infrastructure Development Corporation Ltd. (IIDC) are assisting **Odisha Spinning Mills Federation Ltd. (SPINFED)** to select an Entrepreneur who should be a reputed textile player of the country on Public Private Partnership (PPP) module to run spinning unit functioning under SPINFED namely “**Konark Cotton Growers Cooperative Spinning Mills**” (herewith called KCGSML in this document). KCGSML is already having main production hall, support buildings, raw material godown, finished good godown and quarters for technical staff at Kesinga, Odisha with built-up area of 1,00,000 Sq. Ft.

IIDC (IL&FS Infrastructure Development Corporation) has appointed the globally known Management Consultancy firm, Technopak Advisors Pvt. Limited., as the consultant to prepare the Techno-Economic Feasibility Report. The product-mix for the project has been arrived based on the requirement of the current manufacturing facilities availability of raw material in nearby area, present market scenario, discussions with proposed buyers and technology providers.

On the availability of the required information, such as specifications and production plan, etc. necessary planning of process has been worked out. While planning, the following factors have been considered:

- Sequences of the process to be adopted
- Production machinery and equipment
- Types of Machines Required
- Number of Machines Required
- Labor requirement
- Utility requirement
- Marketing Strategy
- Sourcing strategy

The specified machines and auxiliary requirement are state-of-the-art concept, functional and have been selected to achieve production of international quality standards at optimum efficiency.

The Feasibility Study prepared by Technopak Advisors Pvt. Ltd. is technologically sound and highlights the economic viability of the proposed project. Details of the project are enumerated in the following sections.

1.2 Company Summary

Odisha Spinning Mills Federation Ltd. (SPINFED) is the Apex organization in the Co-operative sector of the state to plan and implement cotton processing programs in their entirety, including manufacture of quality cotton yarn and its marketing. Under the aegis of SPINFED nearly 7 co-operative spinning mills were functioning and most of them have been stopped functioning and are under liquidation except the Konark Cotton Growers Coop. Spinning Mills, Kesinga, Kalahandi (Konark Spin) where ginning activities are being undertaken. The capacity of Ginning & Pressing mill is 6000 bales (30,000 quintals) per month which are suitable for spinning of average 50s count yarn cotton. Due to inadequate capacities in the State, most of the raw cotton grown from the State is sold to neighboring states. Considering the cotton grown in the region, land & infrastructure available with SPINFED at Kesinga, SPINFED has decided to set up a 25,000 Spindle Spinning Unit through Private Sector Investment.

The objective of this project is to select a competent entrepreneur to develop spinning & other upstream industry in value chain of cotton industry in the State. The requisite land & infrastructure under the possession of Konark Spin shall be handed over to the selected party on as is where basis for a long term period for implementation of the project.

2.0 Consultant Details

Odisha Industrial Infrastructure Development Corporation (IDCO) has appointed **IL&FS Infrastructure Development Corporation Ltd. (IIDC)** to find the suitable partner for the IDCO to make Konark Cotton Growers Co-operative Spinning Mills Limited operational and work in Public Private Partnership mode (PPP). IIDC has entered into a contract with a management consulting firm of international repute -Technopak Advisors Pvt. Ltd.

2.1 Odisha Industrial Infrastructure Development Corporation (IDCO)

The Odisha Industrial Infrastructure Development Corporation (IDCO) was established in the year 1981 with the specific objective of creating infrastructure facilities in the identified Industrial Estate/Areas for rapid and orderly establishment and growth of Industries, trade and commerce. It has been declared as the Nodal Agency for providing industrial infrastructure in the State of Odisha

The Odisha Industrial Infrastructure Development Corporation (IDCO) was established in the year 1981 with the specific objective of creating infrastructure facilities in the identified Industrial Estate/Areas for rapid and orderly establishment and growth of Industries, trade and commerce. It has been declared as the Nodal Agency for providing industrial infrastructure in the State of Odisha

This Corporation is at present playing a pivotal role in bringing in private capital for development of infrastructure projects in the state. Requisite escort services are being provided to investors/developers for implementation of infrastructure and industrial projects.

Services provided by IDCO:

- Allotment of developed plots and built-up sheds to entrepreneurs on long term leasehold basis
- Allotment of commercial shops
- Creation, improvement and maintenance of infrastructural facilities
- For the projects in large & medium sectors which cannot come up in the existing Estates, IDCO helps them in identifying and acquiring the identified land, both government and private, for the industry

2.2 IL&FS Infrastructure Development Corporation Ltd. (IIDC)

IIDC Limited is one of India's pioneering infrastructure development company extending services from Project conceptualization to Project commissioning. IIDC is the infrastructural wing of IL&FS serving a wide array of sectors throughout the country.

IIDC has benchmarked infrastructure development in India through innovative structuring of projects in Public Private Partnership format. Over the past decade, IL&FS has not only taken forward and completed a number of project initiatives across an array of infrastructure sub-sectors, but has also established replicable project prototypes as well as specific products and services.

IIDC has over the years developed strong expertise in advising and partnering with Governments in infrastructure project development and implementation processes across sectors.

2.3 Technopak Advisors Pvt. Ltd. - Corporate Profile

India's foremost consulting firm, with an experience of working with multiple organizations across various sectors. Founded on the principle of "concept to commissioning" we partner our clients to identify their maximum –value opportunities, provide solutions to their key challenges and help them create a robust and high growth business models. We have the ability to be the strategic advisors providing customized solutions during the ideation phase , implementation guides through start-up assistance and be a trusted advisor overall.

Drawing from the extensive experience of more than 150 professionals, Technopak focuses on 4 major divisions, which are Fashion-Textile & Apparel, Retail & Consumer Products, Education and Food Services & Agriculture

Our clients are leading Indian and international businesses, entrepreneurs, investment houses, multilateral development bodies and governments. Our 600+ clients include Aditya Birla Group, AEPC, Alok Industries, Apollo Hospitals, Arvind Limited, Asian Development Bank, Asian Paints, Essar, GMR Group, Godrej Group, Gujarat Government, Hindustan Unilever Limited, Hospital Corporation of America, ICICI Limited, International Finance Corporation, ITC LRBD, Lenovo International, Madura Garments, Mahindra Group, Marks & Spencer, Ministries of Food Processing, Textiles & Commerce, Mother Dairy Foods, National Textile Corporation, Raymond, Reliance Industries, Samsung, Sequoia Capital, Starwood (Sheraton), Tata Group, Temasek Holdings, United Nations Development Program, Vardhman, Walt Disney, Warburg Pincus and many other Indian and international leaders.

2.4 Key services

Business Strategy - Assistance in developing value creating strategies based on consumer insights, competition mapping, international benchmarking and client capabilities.

Start-Up Assistance - Leveraging operations and industry expertise to 'commission the concept' on turnkey basis.

Performance Enhancement - Operations, industry & management of change expertise to enhance the performance and value of client operations and businesses.

Consumer Insights - Holistic consumer & shopper understanding applied to offer implementable business solutions.

2.4.1 Business Strategy

- Business Strategy & Planning
- Strategic Industry Studies
- Future projections and trend analysis
- Market Feasibility Study
- Market Entry Strategy

2.4.2 Start-Up Assistance

- Technology Selection
- Design Building and Utilities
- Plan Machinery Layouts
- Project Management Consultancy (PMC)
- Construction Management Consultancy (CMC)

2.4.3 Performance Enhancement

- Process Audit & Benchmarking
- Performance monitoring tools
- Process Improvement & Optimization

2.4.4 Consumer Insights

- Market Entry Strategy
- Strategic Alliances
- Mergers & Acquisitions
- Due diligence exercise of current businesses

3.0 Project Detail

3.1 Scope of the Project

The project comprises of the setting up of 27,360 spindles spinning unit in Kesinga, Odisha. Considering the cotton grown in the region, land and infrastructure available with Konark Spin it is desirable to set up spinning unit through Private Sector Investment. The requisite land & infrastructure under the possession of Konark Spin shall be handed over to the Selected Party on *as is where basis* is for a long term period for implementation of the project. Konark spin which operates a Cotton Ginning & Pressing Unit (automation system) with a capacity of 6,000 bales per month in the same premise shall make available requisite on priority for the proposed Spinning Unit. The spinning mill is located in Kesinga, Odisha which is approx. 80 kms from Bolangir (which is having largest cotton production in Odisha)

The project will start as soon as the developer/PSP is selected through bidding process

Table 1-Capacity

Process	Unit	Capacity
Spinning	Spindles	27,360

Source: TEV Report

The summary of the project cost is as follows

Table 2-Project Cost

Project Cost	Total (Rs Cr.)
Land & Site Development	1.00
Plant Building Cost	2.25
Machinery Cost	44.55
Misc. Fixed Assets	14.57
Contingencies	2.91
Preliminary and Pre-operative Expenses	11.16
Margin Money for Working Capital	5.16
Total	81.61

Source: TEV Report

3.2 Financial Projections of the project

Table 3-Financial Projections

(Rs in Cr.)	2015-16	2016-17	2017-18
Net Sales Realization	34.17	78.03	101.47
Profit Before Tax(PBT)	3.13	14.06	26.33
Profit After Tax(PAT)	0.03	10.68	17.38
Net Cash Accruals	3.96	14.60	21.31
Closing of Cash & Bank Balance	0.89	8.45	23.19
Break Even Sales at Capacity Utilization (Net Profit) in %	73.25%	51.99%	36.42%
Cash Break Even Point (%)	45.32%	39.16%	27.17%
DSCR	31.93%		

Source: TEV Report

3.3 Advantages for the Project

3.3.1 Ginning Unit by Konark Spin at Kesinga

Ginning is the first mechanical process involved in processing of cotton. In ginning process separation of lint and seed from farm cotton is done. This process facilitates processing and improves fiber quality.

The mill at Kesinga is currently having a ginning factory with a capacity to produce around 6,000 bales (30,000 quintals) per month which are suitable for spinning of average 50s count yarn. Apart from this 3 more private modern ginning units are located near to the mill having similar capacities of Konark spin. These ginning facilities are advantageous for reducing the lead time and monitoring the quality at ginning stage. This cotton production of the district will meet minimum 1, 00,000 spindles on an average spinning of 50's yarn

3.3.2 Location Advantage

In the Textile segment, Odisha has been one of the important cotton growing states in the country. Out of the total cotton cultivation area of Odisha, 80% of the cotton is grown in the Kalahandi-Bolanagir-Koraput (KBK) region and Kesinga lies in Kalahandi district of Odisha. In the KBK area cotton is grown on approx., around 1, 30,000 hectares out of which 42,000 hectares are covered cotton crops. The kapas yield of Kalahandi alone is around 5lacs quintal every year. The project is located in Kesinga, which is approximately at a distance of around 80 Kms from Bolangir where very good quality of cotton is easily available.

Table 4 Spindle Capacity in Odisha

State	No. of Mills	Installed Capacity		Workers on Roll
		Spindles	Rotors	
Odisha	3	32229	920	428

Source: Office of Textile Commissioner

Table 5 Weaving Mills in Odisha

State	No. of Mills	No. of Non-Auto Looms	Workers on Roll
Odisha	4	452	54

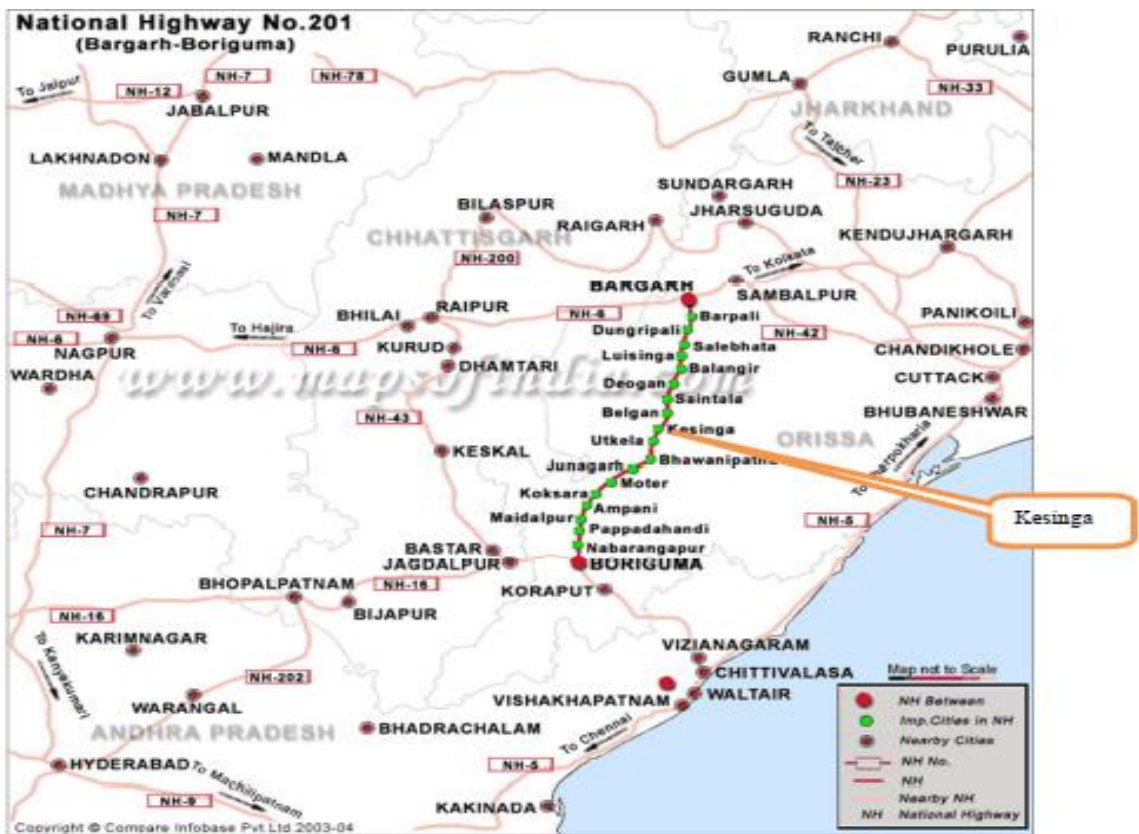
Source: Office of Textile Commissioner

3.3.3 Trade & Logistics

Road

- Kesinga is connected by NH-201 which connects it with Bargarh & Raipur on North and Vizianagaram on south. Kesinga is well connected through roads as well as railways through Vizianagaram, Vishakapatnam, Rayagada, Sambalpur, Jharsuguda and Rourkela
- Further the Project location is well connected with NH-201, approx. at a distance of 1 km. the following map shows the access to the project site from NH-201

Figure 1-Location of Spinning Unit



Rail

- Kesinga falls in East Coast Railway zone and on a major train route connecting major cities of Odisha, Andhra Pradesh with west & north bound trains. More than 20 Mail/Express trains have stoppages at Kesinga

Air Linkage

- Nearest airports are at Raipur which is at distance of approx. 278 km. Also Vishakhapatnam airport is accessible at an distance of around 350 km through NH-201

3.3.4 Government Subsidy

The requisite land and infrastructure under the possession of Konark Spin shall be handed over to the selected party at a very nominal price so as to develop existing area which lies in the backward region. Tufts subsidy which is Central Govt. scheme will also be available

3.3.5 Marketing

Spinfed already has good linkages in market and is already supplying cotton to leading yarn manufacturer so marketing will not be problem for proposed spinning mill

3.4 Marketing Approach & Strategy

The marketing strategy given below is indicative only and the selected party may follow their own strategy

The marketing approach will be sales and service driven and will be facilitated through developing linkages based on existing customers and new customer development. The emphasis will be on developing long term partnership with customers through focus on good quality product along with reliable customer service.

A company's positioning and differentiation strategy must change as the product, market, and competitors change over time. Product sales pass through distinct stages, each posing different challenges, opportunities and problem to the seller. Profits rise and fall at different stages of the product life –cycle. As the Konark Cotton Growers Cooperative Spinning Mills product will be at Introduction stage promotional expenditure will be at their highest ratio to sales because of the need to

- 1) Inform potential consumers
- 2) Induce product trial
- 3) Secure distribution

KCGCSM has to focus on those buyers who are the readiest to buy. Prices tend to be high because costs are high. As the Yarn Market is a mature market so, KCGCSM will focus on superior technology and quality product. By spending money on product improvement, promotion, and distribution, it can capture a dominant position. To dominate the industry one has to be a quality leader, a service leader and a cost leader

3.4.1 Marketing Communication

Marketing communication will primarily comprise presentations of company credentials to customers. Communication through website, e-mails will be used to constantly update the customers on new developments etc. The following will be the key elements highlighted as part

Marketing Communication:

- Company values, strengths and vision
- Manufacturing capabilities – Capacities / Technology
- Infrastructural strengths – Highlighting strong support infrastructural set up and Compliances
- Product capabilities – Variety, volumes etc.
- Quality assurance : Highlighting strong product quality through quality assurance systems and procedures
- Delivery Reliability : Timely execution and delivery of orders
- Service oriented : Prompt communication and problem solving

3.4.2 Marketing & Sales Process

The marketing and sales process will consist of marketing team approaching new customers through presentations on company credentials and product samples. Prompt communication will be maintained throughout the entire sampling and order delivery process. After sales service will ensure that the customers are satisfied with the product and remain long term partners.

Figure 2-Marketing & Sales Process



3.4.3 Product – Price Mix

Pricing will be competitive with market values. The emphasis would be on delivery of superior quality at competitive prices with superior services and provide value for money to the customer. Product will be customized as per requirement of the customer and manufacturing capability.

3.4.4 Target market

Product will be sold to both domestic and export customers. In **domestic market** the following will be the key customers:

- Fabric manufacturers
- Fabric exporters
- Fabric traders / wholesalers in domestic and export markets

3.4.5 Marketing team

Marketing team will consist of marketing professionals with strong educational background and industry experience. Marketing team will be headed by a marketing head and supported by executives who will communicate with clients for new business as well as maintaining accounts.

Marketing department will work closely with the production department to ensure timely delivery of order along with maintaining quality. Prompt communication will be maintained with the buyers to update them on status of existing orders and new developments and offerings.

3.6 Future outlook of the Company

A modern resurgent textile industry is in the making. Government initiative to boost Textile Industry and Post-quota regime, the Indian Textile Industry is poised for a quantum leap and leverage its competitive advantage. Investment climate in textile industry has drastically improved. Entrepreneurs are expanding capacities and adopting strategies addressed to growing consuming class.

Indian economy's growth at around 5.5% and focus on development of infrastructure augurs well for the growth of industry. Bilateral and multilateral trade agreements will facilitate better trade. Pragmatic approach by the Government in supporting the textile industry and close co-operation with the industry will generate employment and growth.

The company will be well poised to capitalize on the extended opportunities in textiles and clothing in the domestic space, due to having State-of-the-art plant and equipment's , strong R&D Cell in unit, good marketing network and a large pool of technical and managerial talent.

The Company will be fully seized of all the developments in domestic market and will be fully leveraged to take advantage of the changing scenario and opportunities which are freely accessible. To capitalize on the unfolding opportunities and face the challenges stretched by expiry of quota regime, level of technology, scale of operations and integration would matter.

The Company will soar higher and higher, energized by expansion, forward integration, modernization, up gradation of technology, product development, value addition and such other initiatives.

4.0 Technical Details of the Project

The machinery has been selected after detailed in-house discussions, discussions with machine suppliers, visits to various industrial houses & also on the basis of current performance of the machines, running in the various plants. The cost of machinery has been worked out on the basis of valid data from Suppliers and Technopak's Book of knowledge.

The utilities needed for the proposed project are as under: -

- Humidification
- Compressed air for process and instrumentation
- Water Treatment
- Firefighting & hydrant system
- Electrical Distribution

In the spinning unit, the consumption of water is in Humidification Plant, Cooling Towers & Domestic use. Therefore the company proposes to avail underground water as a source of supply and accordingly Bore-wells will be constructed for the same.

The requirement of Humidification for Spinning Unit will be met by installing industrial Humidification system.

For sewerage treatment, the company has to install a Sewerage Treatment Plant, as the only source of generation of waste water is sewerage.

4.1 Land Details

50.21 acre of land is under possession of Konark Spin out of which 8.00 acres of land has been earmarked for cotton ginning and pressing unit where modern ginning and pressing unit is functioning. Remaining 42 acres of land has been earmarked for spinning industry, ancillary infrastructure other value added industries. Main Production building and other ancillary building for spinning unit has been constructed which is at present not being utilised. Few residential quarters for the employees of spinning unit has also been constructed. The land for transfer to private party is in tune of approximately 18-20 Acres. The total land of the mill is 82 acres out of which 52 acres lease hold and 30 acres is free hold

4.1.2 Land & Site Development Cost

The spinning and residential building was constructed in the year 1993 and all the industrial building require significant amount of repair

50.21 acres of private land has been acquired through land acquisition process and out of which 8 acres of land has been earmarked for cotton ginning & pressing unit which are functioning. Remaining land is for spinning purpose. Site development cost includes Landscaping, repairing of roads, footpaths etc.

Table 6-Site Development Cost

					(Rs. in Crores)
S. No.	Particulars	Units	Area	Price/Unit	Amount
1.	Land Cost-One Time				0.50
2	Site Development		LS	-	0.50
Total					1.00

Source: TEV Report

4.2 Building Details

Factory building –For the purpose of blow room, yarn go down, cotton go down and other ancillary purpose for the Spinning Unit, approx. 1,00,000 sq. ft. has been constructed since June 1993.

Below is the detail of Residential Building which has been already constructed:

- 1 No. MD quarter
- No's of Sr. Officers Quarter
- No's of Supervisor's Quarter
- 1 No. of Bachelor Barrack

Looking at the residential facility available in the vicinity, It is also recommended to construct a hostel for approximately 200 workers (G+2 structure) in the residential area of the plot

4.2.1 Building Cost

The structural stability of the building needs to be checked and accordingly the modification and repairing should be carried out. As the construction of building was done a long back therefore it needs

modification/repairing of air trenches. False ceiling needs to be done although some unused false ceiling material is lying in the plant and it can be used after checking the condition of the same. Plastering and painting are required in the production as well as humidification area. 75% of the equipment's are already acquired for Humidification plant. These are kept in dismantling condition to avoid damage.

Roofing sheet is in very bad shape and needs to be repaired. Complete production hall needs full repairing

Table 7-Details of Building already constructed

S. No	Area Constructed	Size in Sq. Ft.
1.	Cotton Godown No.1	2,397
2.	Cotton Godown No.2	4,131
3.	Cotton Godown No.3	5,814
4.	Blow Room	11,857
5.	Preparatory Room	22,294
6.	Ringframe Area	25,050
7.	Winding	8,350
8.	Yarn Godown No.1	1,250
9.	Yarn Godown No.2	5,700
10.	Yarn Godown No.3	1,250

Source: TEV Report

Table 8-Building Cost

S. No.	Particulars	Area in (Sq. Ft.)	Rate Per Unit (Rs/ Sq. ft.)	Total Cost (Rs in Cr.)
1	Repair & Maintenance of Existing Set-up	LS	LS	2.25
	Total			2.25

Source: TEV Report

4.3 Plant & Machinery

The machinery has been selected after detailed in-house discussions, discussions with machine suppliers, visits to various industrial houses & also on the basis of current performance of the machines, running in the various plants. The cost of machinery has been worked out on the basis of valid data from Suppliers and Technopak's Book of knowledge. The detail list of machines and price are mentioned in the tables below

Table 9 Details of imported/indigenous plant & machinery items

Type of Machinery With Particulars	Imported / Indigenous	Name of Supplier/Vendor (Model No)	Quantity	Total Cost(Rs Crores)
Autoconer	Imported	Schalfrost	10	23.70
Total				23.70
Landing Cost				0.24
Erection charges etc.				0.59
Total			10	24.53
Blow room Line	Indigenous	Truetzschler	1	0.90
Carding	Indigenous	Truetzschler	6	1.80
Lap Former	Indigenous	LMW	1	0.30
Combers	Indigenous	LMW	7	2.10
Breaker Draw frame	Indigenous	LMW	2	0.29
Finisher Draw frame	Indigenous	LMW	4	0.77
Speed Frame	Indigenous	LMW	4	2.20
Ring Frame	Indigenous	LMW	15	10.50
Overhead cleaners for S/F, R/F & A/C	Indigenous	LMW	29	0.29
CST				0.38
Erection charges etc.				0.49
Total			69	20.02
Grand Total			79	44.55

Source: TEV Report

4.4 Basis of Selection of Machines/Suppliers

The company has selected the machinery suppliers after detailed in-house discussions, visits to various industrial houses & also on the basis of current performance of the machines, running in the Plant. The detail of machine selection is as follows

Table 10 Basis of Selection of Machine Suppliers

Machine Name	Potential Suppliers	Selected Supplier	Reasons	Remarks
Blow Room & Card	<ul style="list-style-type: none"> • Truetzschler • Reiter • LMW 	Truetzschler	According to technical analysis Rieter & Truetzschler were rated same. As cost of Reiter machines are very much on higher side, so decided to go with Truetzschler. In case of LMW, it is still in the development stage and technical issues are there.	One of the reputed Textile machinery suppliers in the world
Comber	<ul style="list-style-type: none"> • Rieter • LMW 	LMW	Reiter has no comparison with any manufacturer in the world but the machines cost are very much on higher side and therefore LMW has been finalised	One of the best Textile machinery suppliers in the world
Draw Frame	<ul style="list-style-type: none"> • LMW • Rieter • Trumac 	LMW	Reiter was ruled out because of higher cost. So LMW was selected. With reference to performance of LMW machines	Most successful Draw Frames in Spinning industry
Speed Frame	<ul style="list-style-type: none"> • LMW • Electrojet • Zinser 	LMW	Zinser and Electrojet are rated same but their cost is on higher side as compared to LMW	One of the best Textile machinery suppliers in India
Ring Frame	<ul style="list-style-type: none"> • LMW • Rieter • KTTM 	LMW	Reiter was ruled out because of higher cost. So LMW was selected. With reference to performance of LMW machines,	One of the largest R/Frame manufacturers in India.
Auto Coner	<ul style="list-style-type: none"> • Savio • Schlafhorst • Murata 	Schlafhorst	Schlafhorst is selected over others because it is more cost effective and quality is also up to the mark	One of the most reputed supplier in the world market.

Source: TEV Report

4.5 Manpower

As the location of plant is in Kalahandi district of Odisha, according to the official census of 2011 the total population of Kalahandi district is estimated to be 15.7 Lac of which 7.87 Lac are Male and 7.89 Lac are Female. Average literacy rate of Kalahandi district is 59.22 which is a good indication.

Kalahandi is primarily known as agricultural district as 87% of the work force derives their livelihood from agriculture and 70% of the population lives under poverty line. Known for recurrent drought, Kalahandi came into national focus for many deaths due to famine. There is low level of industrial base in the district and it is utmost necessity for the district to have industrial activities so as to bring employment opportunities to the people and they are able to earn their livelihood

Kalahandi has large labor force which is untapped and there should be productive use of rural population. This can be only done by industrialization which will bring employment opportunities to the rural population existing in the district

4.5.1 Proposed Manpower Requirement

The manpower requirement is calculated on basis of Industry norms of workload. The manpower will be available in the Kalahandi area of Odisha and some expert technicians will be hired for smooth erection and commissioning of the plant. KCGCSM will also recruit the local labor and trained them for its operations. The detailed section wise and activity wise manpower is listed below in table.

Table 11-Manpower Requirement

Spinning					
Blow Room					
Shift	I - Shift	II - Shift	III – Shift	Total	Skill Level
Liner	1	1	1	3	Semi-Skilled
CCS	1	1	1	3	Semi-Skilled
Magnet operator	1	1	1	3	Semi-Skilled
Lay down	1	1	1	3	Semi-Skilled
Mixing	8	3	3	14	Semi-Skilled
Total				26	

Preparatory					
Preparatory Helper	2	2	2	6	Semi-Skilled
Reliever	2	2	2	6	Skilled
Card	1	1	1	3	Skilled
Br.D/F	1	1	1	3	Skilled
Lap Former	1	1	1	3	Skilled
Comber	1	1	1	3	Skilled
RSB	2	2	2	6	Skilled
Speed Frame	1	1	1	3	Skilled
Speed Frame D/C	1	1	1	3	Skilled
Preparatory F/C	1	1	1	3	Skilled
B/R & Card Filter	2	2	2	6	Skilled
Comber filter	1	1	1	3	Skilled
Total				48	
Ring Frame					
Ring frame Helper	2	2	2	6	Skilled
Sider	15	15	15	45	Skilled
Shift	6	6	6	18	Skill Level
Gaiter	6	6	6	18	Skilled
Bobbin Feeder	3	0	0	3	Semi-Skilled
Ring Traveller	1	1	1	3	Semi-Skilled
Ring Frame F/C	1	1	1	3	Semi-Skilled
Bobbin Carrier	1	1	1	3	Semi-Skilled
Total				96	
Winding					
Link Coner	10	10	10	30	Skilled
Link Coner Helper	2	2	2	6	Semi-Skilled
Link Coner Reliever	2	2	2	6	Skilled
Total				42	
Maintenance					
B/R & Card	10	2	1	13	Skilled
Preparatory	6	1	1	8	Skilled
Ring Frame	10	2	2	14	Skilled
Link Coner & Pkg.	4	1	1	6	Skilled
Total				41	
Engineering					
Electrical	8	1	1	10	Skilled
Electronics	3	0	0	3	Skilled
Civil	2	0	0	2	Skilled
Humidity Plant	10	2	2	14	Skilled
Compressor	3	1	1	5	Skilled
Power House.	3	1	1	5	Skilled
Total				39	

Other					
Store	3	0	0	3	Semi-Skilled
Loading	13	0	0	13	Semi-Skilled
Unloading	10	0	0	10	Semi-Skilled
Security	10	8	8	26	Semi-Skilled
Peon	4	0	0	4	Semi-Skilled
Total				56	
Semi-Skilled Labour required				121	
Skilled Labour required				227	
Grand Total				435	

Source: TEV Report

4.5.2 Labor Cost Assumption for New Project

Based on above labor requirement the wages component for first three year is shown in below table

Table 12-Labor Cost

(Rs in Crores)	2015-16	2016-17	2017-18
Year	1st Year	2nd Year	3rd Year
Semi-Skilled Labour Cost /Annum	1.36	1.41	1.47
Skilled Labour Cost /Annum	3.54	3.68	3.83
Total Cost /Annum	4.90	5.10	5.30

Source: TEV Report

4.5.3 Technical Staff Requirement and Salary Component

On basis of Industry norms and long experience in textile industry the detail requirement of technical staff is calculated and the details are mentioned with designation wise for the successfully running of the plant in table below.

Table 13-Staff Requirement & Salary

Technical Staff			
Description	No. of Employee	Average monthly Salary (Rs.)	Monthly Salary
Unit Head	1	100000	100000
G.M. Prod'	1	70000	70000
SPG. Master	1	40000	40000
Shift Incharge	4	30000	120000
Finishing Master	1	40000	40000
Finishing Supervisor.	3	25000	75000
G.M. Maintenance	1	70000	70000
Maint. Manager	1	60000	60000
Foreman	4	20000	80000
G.M. Engineering	1	60000	60000
Electrical Manager	1	45000	45000
Electronics Manager	1	40000	40000
Mechanical Manager	1	40000	40000
Electronics Engineer	1	30000	30000
Electrical Engineer	1	30000	30000
Mechanical Engineer	1	30000	30000
Foreman	3	20000	60000
G.M. R&D	1	60000	60000
R&D Manager	1	40000	40000
Investigator & Wpg. Boy	6	20000	120000
Total	35		1210000
Administrative Staff			
G.M. Commercial	1	70000	70000
MIS Manager	1	40000	40000
Costing Staff.	1	20000	20000
Account Manager	1	40000	40000
Account Staff.	4	20000	80000
Excise.	2	20000	40000
G.M. Personal	1	60000	60000
Personal Manager	1	40000	40000
Trainee Manager	1	30000	30000
Trainee Master	5	20000	100000
Store Manager	1	40000	40000
Store Staff	4	20000	80000
Total	23		640000
Grand Total	58		

Source: TEV Report

Table 14-Salary Cost for Technical & Administrative Staff

	2015 - 16	2016 - 17	2017 - 18
Year	1st Year	2nd Year	3rd Year
Salary Cost for Technical Staff /Annum	1.57	1.69	1.83
Salary Cost for Administrative Staff /Annum	0.83	0.90	0.97
Total Cost /Annum	2.40	2.59	2.80

Source: TEV Report

4.6 Product Range & Production Program

KCGCSM will be producing high quality Yarn of following quantity with daily production capacity as mentioned in the table

Table 15-Product Range

S. No.	Product Quality	Yarn Production in Kg (Per day)
1	40s Combed	3232
2	50s Combed	1717
3	60s Combed	1793
	Total	6742

Source: TEV Report

4.7 Production Plan, balancing of Machines

4.7.2 Spin Plan

The objective of the spin plan is to fulfill the major planning required for the operation of the unit. With the help of spin plan we are able to calculate the machinery & material requirements and on the basis same we are able to calculate:

- Capital Investment required
- Financial & Human Resources
- Business Requirements
- Land & Building required
- Skilled & experienced people required for performing the tasks

Spin plan is the most important part for preparation of any project

Table 16-Spin Plan

(Production in Kg)

Sr. No	Parameters/Count	Combed			Total
		40cb	50 cb	60 cb	
	Ring Frame				
1	Requirement of Yarn at Auto coner	3200	1700	1775	6675
2	Requirement of yarn at Ring Frame (add 1%)	3232	1717	1793	6742
3	T.M.	4.1	4.2	4.3	
4	TPI	25.93	29.70	33.31	
5	Spindle speed rpm	18200	18700	18700	
6	100% prodn/Spindle/shift in gms	126.34	90.67	67.37	
7	Efficiency %	97	97	97	
8	Utilisation	90%	90%	90%	
9	Expected prodn/Spindle/Shift (gm)	110.29	79.16	58.82	
10	Total R/F Prodn./spindle/Day (kgs)	0.33	0.24	0.18	
11	No of Spindles Required	9768	7230	10160	27159
12	No of Spindles/Machine	1824	1824	1824	
13	No of Machines required	5.36	3.96	5.57	14.89
14	Actual No of machines allotted	5.36	3.96	5.57	15.00
15	Yarn production/day (Kg)	3232	1717	1793	6742

Table 17-Spin Plan

	Speed Frame	40cb	50 cb	60 cb	
16	R/F waste %	1%	1%	1%	
17	R/F waste in kgs	32.32	17.17	17.93	67
18	Speed frame prodn kgs/day	3264	1734	1721	6720
19	Roving Hank	1.2	1.4	1.4	
20	Spindle Speed rpm	1050	1050	1050	
21	T.M.	1.35	1.35	1.35	
22	TPI	1.48	1.60	1.60	
23	100% prodn./spindle/shift in kgs.	4.26	3.38	3.38	
24	Efficiency	85%	85%	85%	
25	Utilisation%	90%	90%	90%	
26	Expected prodn/spindle/shift in kgs	3.26	2.59	2.59	
27	Total prodn/Spindle/Day in kgs	9.78	7.76	7.76	
28	No of spindles required	334	224	222	
29	No of spindles/machines	200	200	200	
30	No of machines required	1.67	1.12	1.11	3.90
31	Total no of machines allotted				4.00

	Draw Frame – Finisher	40cb	50 cb	60 cb	
32	S/F waste (%)	1%	1%	1%	
33	Draw frame production req. per day	3297	1752	1738	6787
34	Sliver Hank	0.14	0.14	0.14	
33	Delivery speed mtr./min	450	450	450	
34	100% production/del/shift in kgs	910	910	910	
35	Efficiency (%)	85%	85%	85%	
36	Utilisation%	90%	90%	90%	
37	Expected prod/del/shift in kgs	696	696	696	
38	Total prodn/del/day in kgs	2088	2088	2088	
39	No of deliveries req.	1.58	0.84	0.83	3.25
38	Total no of deliveries req.				4.00

Table 18-Spin Plan

	Comber	40cb	50 cb	60 cb	
39	Finisher D/F waste (%)	0.5%	0.5%	0.5%	
40	Comber Production req./day in kgs	3313	1760	1747	6821
41	Lap weight – Gm./Mt.	75	75	75	
40	Feed /Nip – MM	5	5	5	
41	Nips / Min	375	375	375	
42	No. of Heads / Mc.	8	8	8	
41	Noil waste - %	20%	20%	20%	1248
42	Efficiency %	88%	88%	88%	
43	Utilisation%	90%	90%	90%	
44	Production/ comber - Kg/Day	1027	1027	1027	
45	No. of Comber Required	3.22	1.71	1.70	6.64
46	Total Combers Required				7.00

	Lap Former	40cb	50 cb	60 cb	
47	Waste at comber(noil)%	22%	22%	22%	
48	Production Reqd. - Kg./ Day	4042	2148	2131	8321
49	Hank	0.135	0.135	0.135	
50	Delivery Speed – MPM	125	125	125	
51	Efficiency%	75%	75%	75%	
52	Utilisation%	90%	90%	90%	
53	Production / Day - kg.	9112.5	9112.5	9112.5	
54	No. of Machine Reqd.	0.44	0.24	0.23	0.91
55	No of Lap Formers allotted				1.00

Table 19-Spin Plan

	Draw Frame – Breaker	40cb	50 cb	60 cb	
56	Finisher D/F waste %	0.5%	0.5%	0.5%	
57	Draw Frame production req/day	4063	2158	2142	
58	Sliver Hank	0.135	0.135	0.135	
59	Del speed mtrs./min	525	525	525	
60	100% prod/del/shift in kgs	1101	1101	1101	
61	Efficiency (%)	75%	75%	75%	
62	Utilisation	90%	90%	90%	
63	Expected prodn/del/shift in kgs	743	743	743	
64	Total prodn/del/day in kgs	2229	2229	2229	
65	No of del. Required	1.82	0.97	0.96	
66	Utilisation	95%	95%	95%	
67	Actual no of Breaker del. Req.	1.91	1.02	1.01	3.94
68	Total no of Breaker del. Req.				4.00
69	No of Deliveries/machine				2
70	No of machines required				2

	Carding	40cb	50 cb	60 cb	
71	Breaker D/F waste (%)	1.0%	1.0%	1.0%	
72	Carding production required/day	4103	2180	2163	
73	Sliver Hank	0.08	0.08	0.08	
74	100% Production/card/Hr in kgs	90	90	90	
75	Efficiency %	90%	90%	90%	
76	Utilisation	90%	90%	90%	
77	Expected Production/Card/Hr in kg	72.9	72.9	72.9	
78	Total production/Card/Day in kgs	1640.25	1640.25	1640.25	
79	No of cards required	2.50	1.33	1.32	
80	Utilisation	95%	95%	95%	
81	Actual No of card required	2.63	1.40	1.38	5.41
82	Total no of card required				6

Table 20-Spin Plan

	Blow Room	40cb	50 cb	60 cb	
83	Card waste %	7.0%	7.0%	7.0%	
84	B/R production req/day in kgs	4390	2332	2315	
85	Production/hr/100 % eff	500	500	500	
86	at 95% eff & 95 % utilisation for 24 hours	9720	9720	9720	
87	No of Blow room Lines	0.45	0.24	0.24	
88	Blow Room Waste @ 5%	4610	2449	2431	9490
89	Actual no of Blow room Lines	0.47	0.25	0.25	0.98
90	Total No of Blow room Required				1

	Auto Cone winding	40cb	50 cb	60 cb	
91	Yarn	3200	1700	1775	6675
92	Hard waste %	0.5%	0.5%	0.5%	
93	Material to be wound on cone/day	3216	1709	1784	6708
94	Winding speed mtrs/min	1400	1400	1400	
95	100% production/Drum/Shift in kgs	9.32	7.46	6.21	
96	Efficiency %	85%	85%	85%	
97	Utilisation %	90%	90%	90%	
98	Expected prodn/drum/shift in kgs	7.13	5.70	4.75	
99	Expected prodn/drum/day in kgs	21.39	17.11	14.26	
100	No of drums required	150.38	99.86	125.12	
101	Utilisation %	95%	95%	95%	
102	Actual no of drums req	157.89	104.85	131.37	
103	No of machines required	3.76	2.50	3.13	9.38
104	No of machines allotted	3.76	2.50	3.13	10.00

		KG
105	Total cotton Required for Mixing	9489.57
106	Total cotton required	9489.57

Source: TEV Report

5.0 Raw Material

The raw material for the project is Cotton.

5.1.1 Cotton

The main areas under cotton cultivation in Odisha are - Kalahandi, Bolangir, Rayagada & Koraput. The area, production and yield of cotton in Odisha has seen as significant growth in last 10 years. The CAGR of production and yield of cotton in Odisha has seen as significant growth in last 10 years. The CAGR of production being 13% and yield being 3%, during 2003-04 the area under cotton cultivation was 0.51 lakh/hectares, production as 1 lakh bales, and yield being 333 kgs / hectare. In 2012-13, the area was 1.19 lakh hectares, production as 3 lakh bales and yield being 429 kgs / hectares.

There are more than 20 cooperative spinning and power-looms along with an apex body of Spinning Mills/Power-looms called SPINFED (The Odisha State Co-operative Spinning Mills Federation Ltd.).

District wise program, achievement and anticipated production during 2011-12 is as follows:-

Table 21 District wise Production in Odisha

S. No	District	Expected Production (‘000 bales)
1	Bolangir	128.73
2	Sonepur	9.13
3	Kalahandi	120.27
4	Nuapada	9.38
5	Koraput	0.66
6	Rayagada	64.76
7	Ganjam	2.69
8	Gajapati	2.59
9	Bargarh	2.04
10	Phulbani	0.10
11	Boudh	0.11
	Total	340.46

Source: TEV Report

Around 42,000 hectares of land in current year is covered under cotton cultivation in the district of Kalahandi and the yield is 4.5-5.00 lacs quintals per year. The total coverage area at present is about 1 lakh hectares in KBK area (each bale contains 170 kg clean cotton). At present Konark Spin is processing 25,000 bales in each cotton season which can meet the raw material requirement of 2 Nos of spinning mills of 25,000 spindle capacity each

Table 22- Area, Production & Yield of Cotton in Kalahandi & Nuapada Districts

Sl. No.	Year	Kalahandi			Nuapada			Range Total		
		Area in Ha.	Prodn. (in qtl)	Productivity (In qntl/ha)	Area in Ha.	Prodn. (in qntl)	Productivity (In qntl/ha)	Area in Ha.	Prodn. (in qntl)	Productivity (In qntl/ha)
1	1995-96	2223	19,853	8.79	30	277	9.23	2253	20,130	9.01
2	1996-97	2077	15,144	7.29	165	1336	8.09	2242	16,480	7.69
3	1997-98	3109	24,904	8.01	440	3960	9.00	3549	28,864	8.51
4	1998-99	5675	39,400	6.94	943	6150	6.52	6618	45,550	6.73
5	1999-00	8978	82,059	9.14	1380	9950	7.21	10,358	92,009	8.18
6	2000-01	15,510	1,18,650	7.65	1470	10,070	6.85	16,980	1,28,720	7.25
7	2001-02	24,012	56,114	2.33	2651	8098	3.05	26,663	64,212	2.69
8	2002-03	10,720	65,832	7.57	782	3522	4.50	11,502	69,354	6.04
9	2003-04	12,012	87,573	8.67	551	4777	8.66	12,563	92,350	8.67
10	2004-05	14,750	1,22,293	7.29	481	3987	8.28	15,231	1,26,280	8.29
11	2005-06	16,023	1,25,433	7.87	770	6807	8.84	16,793	1,32,240	8.36
12	2006-07	20,638	1,68,200	8.15	1312	11,925	9.09	21,950	1,80,125	8.62
13	2007-08	17,798	1,74,599	9.81	1602	15,988	9.98	19,400	1,90,587	9.90
14	2008-09	19,349	2,06,468	10.67	1786	23,074	12.92	21,135	2,29,542	10.86
15	2009-10	18,292	1,63,346	8.93	2050	18,450	8.99	20,342	1,81,797	8.94
16	2010-11	26,315	3,94,980	16.02	2433	33,900	15.93	28,748	4,28,880	15.98
17	2011-12	36,639	4,39,668	12.00	3142	37,704	12.00	39,781	4,77,372	12.00

(Source: SPINFED)

5.1.1.1 Sourcing Arrangement for Cotton

Direct procurement from farmers and KCGCSM will offer various incentives to the farmers like 100% cash payment on the same day

Direct purchase from ginning mill opposite to spinning facility

There are many cotton mandis & ginning mills in Odisha where good quality of cotton is easily available. Various cotton Mandis in Odisha are given below:

1. Jogimunda (Kantabanji)
2. Karlapada (Bhawanipatana)
3. Utkela (Kesinga)
4. Gunupur, Ramnaguda and Muniguda (Gunupur)

5. Rayagada under Rayagada
6. Digapahandi
7. Parlakhemundi

Production of cotton in the peripheral districts (within 120 Kms) is available

5.1.2 Major Varieties Grown in Odisha

Table 23-Major Varieties Grown in Odisha

Variety	District/Tracts of Growth
MCU-5	Rayagada Area
JKHY-1	Rayagada Area

Source: Cotton Corporation of India

MCU-5

MCU-5 has good staple length, luster, absorption and strength and is used to produce fine counts. Odisha has good production of this kind of cotton

Staple Length-32-34 mm

Micronaire Value- 3.5-3.7

Spinning Counts-50s to 80s

JKHY-1

Fibre Properties:

- 2.5% Span Length: 27 to 28 mm
- Micronaire: 3.2 to 3.8
- Bundle Strength:
 - (i) 1000 Lbs./Sq.Inch: 90 to 95
 - (ii) 1/8" Gauge - G/Tex.: 19 to 22
- Spinning Counts: 40's to 50's

5.1.2.1 Annual Average price for MCU-5

Table 24-Average Price of Cotton

Year	Price in Rs per Quintal
2011-12	3500

Source: Cotton Corporation of India

5.3 Waste and Yarn Realization

In the production economics of a spinning mill, yarn realization plays a significant role. Yarn realization (YR) is largely governed by the level of trash in cotton, expected yarn quality and type of machinery. Even a 1% improvement in yarn realization can lead to lot of savings in terms of capital expenditure. Comber Yarn realization is 68-72% and carded yarn realization is 84-86%.

Different types of waste in spinning mill

1. Ginning Waste-Non-useable
2. Comber Noil- Non-Useable
3. Other Hard Waste- Non-Useable

Ginning Waste is sold in the market and is used to produce cotton seed oil and comber noil waste and hard waste are consumed by industry producing open-end and coarse counts and also by recycle indust

Waste % taken at different stages of Yarn Production

Table 25-Waste %

Spinning Process	Combed		
	40	50	60
Ring Frame Waste %	1%	1%	1%
Speed Frame Waste %	1%	1%	1%
Finisher Draw Frame Waste %	0.5%	0.5%	0.5%
Waste at Comber (noil) %	22%	22%	22%

Breaker Draw Frame waste %	1%	1%	1%
Card Waste %	7.0%	7.0%	7.0%
Auto-Cone Winding Hard Waste%	0.5%	0.5%	0.5%

Source: TEV Report

5.3.1 Waste Realization

It is significant that every mill and manufacturing unit should pay utmost attention to waste control. One of the major factors contributing the loss or near breakeven is the uncontrolled waste caused in different processes. Amount of waste generated and waste sales realizations are given in the below tables:

Table 26-Waste Weight/Annum

In Kgs	2015 - 16	2016 - 17	2017 - 18
Type of Waste	1st Year	2nd Year	3rd Year
Comber Noil	327647	349491	371334
Other Hard Waste	230062	245400	260737

Source: TEV Report

Table 27-Sales Realization/Annum

Rs in Cr.	2015 - 16	2016 - 17	2017 - 18
Type of Waste	1st Year	2nd Year	3rd Year
Comber Noil	0.93	1.00	1.07
Other Hard Waste	0.21	0.23	0.24
Total	1.14	1.22	1.31

Source: TEV Report

5.3.2 Utilities

The main utility for the spinning is power, water and compressed air. Power is available with mill having its own 650 KVA transformer and also local Power Distribution Company has agreed to supply power of operation. Ample ground water is available at the site and air compressors are planned in the machinery. Cost of Power is taken at the rate Rs 7.0 /unit and for water it is taken at the rate of Rs 10/KLD.

5.3.2.1 Power

The Power requirement for the proposed project is detailed in below table:

Table 28-Power

S. No.	Name of the Machine	No. of Machines	Total Load (MW)
3	Blow Room Line	1	0.10
4	Carding	6	0.11
5	Lap Former	1.00	0.01
6	Comber	7.00	0.10
7	Breaker Draw Frame	2	0.02
8	Finisher Draw Frame	4.00	0.04
9	Speed Frame	4.00	0.04
10	Ring Frame	15.00	0.30
11	Parallel Winding		0.00
12	Auto coner	10.00	0.05
17	Humidification Plant		0.38
18	Compressor, ETP,STP Pumps, Street Lightning etc.		1.20
19	Housing Colony		0.10
20	Mill Lightning		0.20
21	Total connected load in MW		2.64
22	Power Factor		95%
23	Load Factor		70%
24	Power Unit consumption per day		42110.46

Source: TEV Report

5.4.2 Availability of Power

- Area Lightning-One 100 KV transformer and overhead lines along with own electrical pools for area lighting purpose have been utilized.
- Apart from this mill is having its own 650 KVA (400 KVA+250 KVA) transformer for its ginning plants.
- The WESCO (Local Power Distribution Company) has agreed to supply 2 MVA power for operation of Spinning unit

5.5 Water Requirements

Water consumption per annum for the first year is 19,687 KLD and at the cost of Rs 0.02 crore

The ground water has been the source to meet the water demand for the complex

- The mill is currently having 2 no's of 8" dia. bore well and pump house which meets the water requirement of the ginning and spinning unit
- For residential area a separate bore well of 7" dia. has been installed and in operation
- To meet the further water requirement for the Spinning unit, NOC has been obtained from competent authority for additional bore well within the campus

Also, civil work for the humidification plant has been completed

5.5.1 Water Requirement Break-Up

Water requirement for all the processes per day is 75 KLD. The break-up for the same is provided below:

Table 29-Water Requirement

Process	Quantity (KLD)
Humidification Plant for Spinning	49.5
Human Consumption	22.5
Miscellaneous	3.0
Total	75

Source: TEV Report

5.6 Operating Costs Estimates

5.6.1 Raw Material Consumption and Cost

The raw material i.e. cotton for the proposed mill is available in and around the location of the proposed spinning unit. The raw material consumption and cost is mentioned in the below table:

Table 30-Raw Material Consumption & Cost

In Tons	2015 - 16	2016 - 17	2017 – 18
Raw Material Consumed (tons)	1st Year	2nd Year	3rd Year
Cotton	2491.01	2657.08	2823.15
Total	2491.01	2657.08	2823.15

Raw Material Cost			
Cotton	35.22	37.95	40.72
Total	35.22	37.95	40.72

Source: TEV Report

5.6.2 Power Cost

Power cost for the proposed project is taken as Rs 7.0/unit and the total units consumed are taken on the basis of units consumed by individual machines and other utilities. The total units consumed and power costs are mentioned in below table:

Table 31-Power Cost

In Cr	2015 - 16	2016 - 17	2017 - 18
	1st Year	2nd Year	3rd Year
Unit Consumed / Annum	11053996	11790929	12527862
Power Cost / Annum (Crore Rs.)	8.05	8.93	9.86
Power Cost after Subsidy / Annum (Crore Rs.)	6.94	7.75	8.61

Source: TEV Report

5.6.3 Water Cost

Water cost for the proposed project is taken as Rs 10 per KLD and water requirement for all the processes per day is calculated as 75 KLD and on the basis of this water consumption and water cost is taken and mentioned in the below table:

Table 32-Water Cost

In Cr	2015 - 16	2016 - 17	2017 - 18
	1st Year	2nd Year	3rd Year
Water Consumed / Annum (KLD)	19687.5	21000	22312.5
Water Cost / Annum (Crore Rs.)	0.02	0.02	0.02

Source: TEV Report

5.6.4 Cost of Production

This is the cost incurred by a business when manufacturing a good or producing a service. To figure out the cost of production per unit, the cost of production is divided by the number of units produced. The cost of production for the proposed project is mentioned in the below table:

Table 33-Cost of Production

Rs in Cr	2015 - 16	2016 - 17	2017 - 18
OPERATING YEARS	1st Year	2nd Year	3rd Year
A. Raw Material, Consumable Etc.			
Raw Material	35.22	37.95	40.72
Stores & Spares	1.31	1.41	1.51
Packing Material	0.13	0.14	0.15
Total (A)	36.66	39.50	42.39
B. Utilities			
Power	6.94	7.75	8.61
Water	0.02	0.02	0.02
Water Treatment	0.02	0.02	0.02
Total (B)	6.98	7.79	8.65
C. Wages & Salaries			
Labour Wages	4.90	5.10	5.30
Technical Staff	1.57	1.69	1.83
Total (C)	6.47	6.79	7.13
D. Overheads			
Miscellaneous Expenses	0.25	0.25	0.25
Insurance @ 0.42 %	0.12	0.15	0.16
Contingency on D @ 2.5 %	0.01	0.01	0.01
Total (D)	0.38	0.41	0.42
TOTAL (A + B + C + D)	50.49	54.49	58.59

Source: TEV Report

5.6.5 Domestic Selling Price of Combed Yarn Fabric

As per Technopak findings following prices of Combed Yarn have been figured out. The prices taken in the below table are subjective only and are taken as per current market rate and for new entrant in the market. As the company will be producing fine yarn count, so they will be able to get very good prices for their product.

Table 34-Yarn Selling Price

Yarn Type	Rs/Kg of Yarn
40s Combed	230
50s Combed	255
60s Combed	305
Comber Waste (Noil)	28
Dropping waste/Flat Waste / Others	9.00

Source-Technopak BOK

6.0 Government Consents

6.1 Central Government Consents – TUFs

The Technology Up gradation Fund Scheme (TUFs), which is the “flagship” Scheme of the Ministry of Textiles, is the scheme for modernization and technology up gradation in the textile sector. The Scheme aims at making available funds to the domestic textile industry for technology up gradation of existing units as well as to set up new units with state-of-art technology so that its viability and competitiveness in the domestic as well as international markets may enhance.

The TUFs Scheme in 12th plan shall continue leveraging investments in technology up gradation in the Textile sector to enable them to face global competition with focus on balanced development across the value chain by

- (a) Addressing the issues of fragmentation and promoting forward integration.
- (b) Promoting investments with smaller investment in MSME sectors
- (c) Introduction of Hire Purchase Financing Model for weaving sector

In 12th Five year Plan- 2% Interest Reimbursement will be given for new standalone spinning machinery. For standalone spinning a value cap of Rs 250 Cr is there (Standalone Spinning with project cost above Rs 250 Cr will not be eligible for subsidy)

6.2 Odisha Government Consents

1. **Land and existing infrastructure at nominal cost-** The spinning unit will be handed over to the entrepreneur at a very nominal price so as to utilize infrastructure already available and for peripheral development of cotton growing areas to create assured market for 12,500 hectares of cotton area and also to provide quality raw material for rural skilled artisans.
2. **Easy availability of power:** Odisha Govt. will help in construction of dedicated power distribution lines in coordination with local power distribution company
3. **Support of local administration:** Facilitation & support required for obtaining necessary approvals & clearances required for operationalization of the project

4. **Support of Spinfed for running the plant:** There will be full support of Govt. of Odisha & Spinfed for running the plant successfully as the handloom and power loom weavers of the State will be highly benefitted in fulfilling the backward linkage as the raw material will be available at reasonable price
5. Long term agreement can be done for preferential supply of ginned cotton from ginning factory operated by Spinfed- It will ensure supply of cotton to the Partner on mutually agreed terms & conditions

6.3 Incentives under Odisha Industrial Policy Resolution-2007(Thrust Sector

- **Power Subsidy**-100% exemption of electricity duty up to a contract demand of 5 MW for a period of 5 years form the date of availing power supply for commercial production
- **Reimbursement of 75% of VAT** paid for a period of ten years from the date of starting commercial production limited to 200% of fixed capital investment
- **100% exemption from payment of Entry Tax** on purchase of raw materials for a period of five years from the date of starting commercial production subject to a ceiling of 100% of fixed capital investment on case to case basis with the approval of the Cabinet.
- **100% exemption from payment of Entry Tax** on acquisition of plant & machinery on a case to case basis with the approval of the Cabinet.
- **CST at concessional rate exceeding 2%** shall be levied on sale of finished products for a period of 10 years form the date of starting commercial production subject to total maximum limit of 100% of fixed capital investment

6.4 Policy Comparison of Different States

	Maharashtra	Gujarat	Madhya Pradesh	Rajasthan	West Bengal	Punjab	Karnataka
	The scheme remains in force up to 31/03/17 and linked with Centrally Sponsored TUFS Scheme. Newly set up textile units in the State as well as modernisation /expansion/rehabilitation of existing textile units are eligible	The scheme remains in force for five years (i.e. up to 04/09/2017). Newly set up textile units in the State as well as modernization/ expansion/ Diversification of existing textile units are eligible.	The scheme remains in force for five years. Newly set up textile units in the State as well as modernization / expansion/ Diversification of existing textile units are eligible.	The scheme remains in force for five years. Newly set up textile units in the State as well as modernization/ expansion/ Diversification of existing textile units are eligible.	The scheme remains in force for five years(2013-18)		Government of Karnataka launched Suvarna Vastra Neethi for period from 2008 – 2013.

	Maharashtra	Gujarat	Madhya Pradesh	Rajasthan	West Bengal	Punjab	Karnataka
Interest Subsidy	Either 12.5% or Banks' prime lending rate or the rate of interest actually charged, whichever rate is less, will be taken as applicable rate of interest.	7% interest subsidy for spinning and garment / made - ups unit, 6% interest subsidy for Technical Textile units and 5% interest subsidy for other activities / process like Weaving, Dyeing & Processing, Knitting etc. within the Textile value chain.	Interest subsidy @2% for a period of 5 years on long term loan linked to the centrally sponsored TUFs subject to maximum limit of Rs 5 crores. Interest subsidy on loans taken from financial institutions/banks on plant and machinery as applicable under TUFs for capital investment of Rs 25 crores or more @ 5% for 5 years 7% interest subsidy for 5 years without any cap for Composite Textile Projects.	Interest Subsidy shall be at the rate of 5% per annum. An additional interest subsidy of 1% shall be available to enterprises making fixed capital investment of more than rupees 25 crores Interest Subsidy shall be at the rate of 7% per annum for the new enterprise in Technical Textile category	Interest subsidy on term loan Micro & Small Enterprise Subvention of 6% For all units and 7.5% To units set up in C& D Zone districts for 5 years Medium Enterprise Zone B & C -25% of Total Term Loan Interest subject to Ceiling of Rs 175 Lakh Per year for 5 years Zone D-25% of total Term Loan interest Subject to ceiling of Rs 175 lakh per year for 7 years	NA	NA

	Maharashtra	Gujarat	Madhya Pradesh	Rajasthan	West Bengal	Punjab	Karnataka
Capital Subsidy	10% capital subsidy of the eligible capital investment will be given to new textile units set up in Vidarbha, Marathwada and North Maharashtra “	NA	NA	NA	<p>Micro & Small Enterprise Zone A-15% Zone B-20% Zone C-30% Zone D-40%</p> <p>Small Enterprise Zone A-10% Zone B-15% Zone C-25% Zone D-30%</p> <p>Ceiling of Rs 50 Lakh for small Enterprise 20% additional subsidy For all enterprises wholly owned by women, SC/ST & minority community entrepreneur’s</p>	NA	<p>A credit linked capital investment subsidy will be provided to the units during the plan period as follows: Zone 1: 20% capital investment subsidy on the value of fixed assets or Rs 15 lakhs per unit, whichever is less. Zone 2 : 15% capital investment subsidy on the value of fixed assets or Rs 15 lakhs per unit, whichever is less Zone 1 & 2 : An additional value of fixed assets or Rs 5 lakhs per unit, whichever is less, in case of units being promoted by SC/ST/Person with Disabilities/Minority/Ex Servicemen/Women Entrepreneurs Zone 3 : No Capital Subsidy</p>
	10% capital subsidy shall be in addition to all the benefits available from all sources [i.e. Centrally sponsored TUFs, Industries Department’s policy etc.]						

	Maharashtra	Gujarat	Madhya Pradesh	Rajasthan	West Bengal	Punjab	Karnataka
Power Tariff Subsidy	40% Power Tarrif Subsidy to power loom industry.	New enterprises or existing enterprises (for expansion / diversification only) with or without second hand eligible imported machineries are eligible for Power tariff subsidy @ Rs. 1 per unit in the billed amount.	NA	NA	100% electricity Duty waiver for 4years For Zone A & B, for 6 years for Zone C & D For micro & small Enterprise-Subsidy of Rs 1/Kwh for units in A Zone Subsidy of Rs 1.5/Kwh For B,C & D For 5 years to a ceiling of Rs 30 Lakh for small enterprises, Rs 40 lakh for medium enterprises and Rs 100 Lakh for spinning mills	100% exemption from payment of Electricity Duty on Power, including Captive Power consumed by the same unit or exported to PSPCL, shall be available to new Integrated Textile Units.	The Readymade Garment units will be reimbursed the cost of power paid @ Rs. 1.00 per unit. The Powerloom units having power connection above 20 HP and which have installed TUFs compliant shuttle less looms will be reimbursed the cost of power paid @ Rs. 1.00 per unit. The Spinning units will be reimbursed the cost of power laid @ Rs. 1.00 per unit

	Mah aras htra	Gujarat	Madhya Pradesh	Rajasthan	West Bengal	Punjab	Karnataka
VAT Conces sion/ Tax Conces sion		Refund of VAT paid by the unit on purchases of intermediate product / Raw Material. Remission of tax collected on end product / intermediate product with in the Textile value chain.	Entry tax exemption for a period of 7 years to new units with a fixed capital investment of more than Rs 100 crores.	Incentive will be provided to the enterprise in terms of reimbursement of 60% of VAT paid under Rajasthan Value Added Tax Act, 2003 on purchase of yarn for use in manufacture of goods for sale Exemptions The enterprise shall be entitled to avail the following exemptions subject to the eligibility:- 100% exemption from payment of luxury Tax for seven years 50% exemption from payment of Electricity Duty for seven years 50% exemption from payment of Land Tax for Seven years 50% exemption from payment of Mandi Fee for seven years	Micro & Small Enterprise 100% for Districts in Zone D, 75% for Zone C, 50% for Zone B & 25% for Zone A Medium Enterprise B,C & D Zone refund @75% Of Stamp Duty	80% VAT + 80% CST of FCI with cumulative ceiling of 80% of FCI. Eligibility period is 11 Yr. from date of application 90% VAT + 80% CST with cumulative ceiling of 90% of FCI. Eligibility period is 13 Yr. from date of application Stamp Duty Exemptions 100% exemption from payment of Stamp duty as levied in Schedule 1-A of Indian Stamp Duty Act on purchase/lease of land is available from the date of submission of application with Nodal Agency. However, any other charges	Stam Duty Reimbursement would be made on the basis of actual payments made by the entrepreneurs / SPV subject to the following: Zone 1 : Reimbursement of full amount paid towards stamp duty Zone 2 : Reimbursement of 50% of the amount paid towards stamp duty Zone 3 : No reimbursement provided

				on purchase or lease of 50% exemption for payment of Stamp Duty on purchase or lease of land and construction /improvement of such land 50 % exemption from payment of Conversion Charges for change of land use.		collected such as Social Security Cess shall not be exempted	
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7.0 Indian Cotton Outlook

7.1 World cotton Consumption & Production

Considering a medium growth of population by approx. 1 billion by 2025 and per capita consumption of cotton by 11 -12 kg per capita by 2025, the additional fiber consumption comes out to be 20 million tons as shown in the graph below:

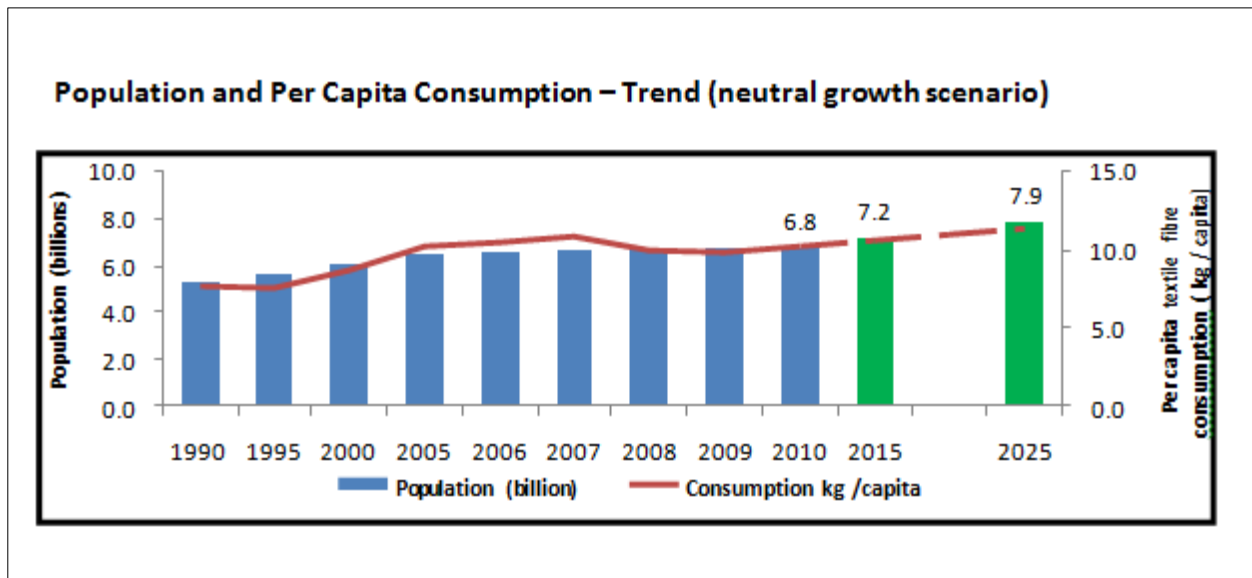


Figure 3 Population & Per Capita Consumption

Source: Textile Intelligence, Technopak Analysis

7.2 Cotton Indian Scenario

Cotton is an important agricultural commodity, traded all over the world. India has progressed substantially in improving both production and productivity of cotton over the last five years, transforming from a net importer of cotton, to becoming one of the largest exporters, shipping 5.5 million bales in 2010-11 second only to the USA.

Cotton cultivation is very important part of the Indian agrarian landscape and provides sustainable livelihood to a sizeable population in India. Cotton is cultivated in about 10.31 million hectares in the country, which accounts for 30% of the global cotton area and contributes to 22% of the global cotton produce. It is estimated that more than 5.8 million farmers cultivate cotton in India and about 40-50 million people are employed directly or indirectly by the cotton industry. Government initiatives like the

Technology Mission on Cotton and Technology Up gradation Fund Scheme have improved the marketability of the farm produce and helped in modernizing and upgrading the ginning and pressing factories. About 70% of the global cotton production comes from 4 countries, which include China (27%), India (22%), USA (13%) and Pakistan (8%). In the year 2011-12, out of total world cotton production. India is a major producer of cotton and is also the 2nd largest exporter after the USA. India's cotton production has increased at a CAGR of 8.5% from 2003 to 2010. In 2001 India was a net importer of cotton. Within 7 years, five million Indian cotton farmers have made India the world's second largest producer and second largest exporter of cotton (ahead of USA, behind China), by doubling India's cotton production. The rising prices of cotton, resulting in the subsequent difficulty in remaining competitive in the global apparel market, has been one of the major trends of 2010. Incidentally, sharp fluctuation in cotton prices has been a global phenomenon and all manufacturing destinations have been impacted by this. While the prices have shown a downward trend recently the volatility in prices has become an even bigger concern.

Cotton, which is a basic raw material for the apparel industry, can now be used as an example to define a scarce resource in any economic context. Due to this unprecedented increase in cotton prices, apparel manufacturers and exporters are in a tight spot (the recent price drop notwithstanding). Overseas buyers - especially in the United States and the European Union - are still emerging out of the worst economic recession in 70 years and are thus unwilling to pay higher prices. This can have a significant impact on the way cotton is perceived and used in the overall textile and apparel value chain and shape the future of textile and fashion industry.

7.3 Cotton Price Trend

Cotton has been on an upward spiral, with prices of the benchmark Shanker-6 variety surging from Rs 37,700 per candy on October 1, 2010, to Rs 61,500 per candy on March 31, 2011, a rise of 63%. During the same period, prices of other varieties have increased by 64-95%. However with the fresh crop arrivals the prices have cooled down by 10-26% for various qualities in April 2011.

The domestic price rise in different varieties of cotton is illustrated in the chart below:

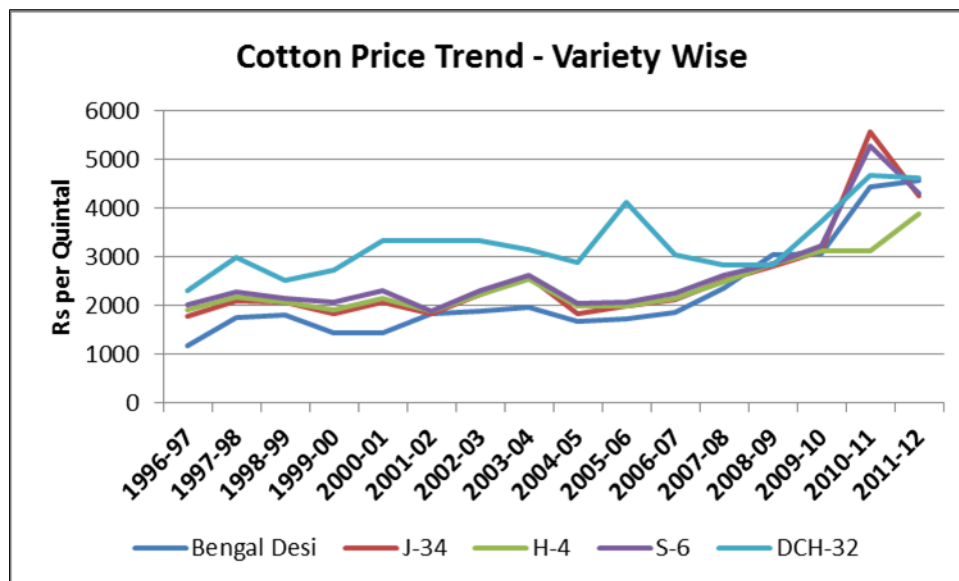


Figure 4 Cotton Price Trend-Variety Wise

Source: Cotton Advisory Board of India / Technopak Analysis

The Average price of Shankar 6 for the year 2011-12 is Rs 43 per Kg.

7.4 Indian Scenario-Area under Cotton Production and Yield per Hectare

Table 35 Area under Cotton Production

Fiscal Year (April to March)	Area (Lakhs Hectare)	Production in Lakh Bales	Yield (Kg / Hectare)
2000-01	85.76	140.00	278
2001-02	87.30	158.00	308
2003-04	76.67	136.00	302
2004-05	87.86	243.00	470
2005-06	86.77	241.00	472
2006-07	91.44	280.00	521
2007-08	94.14	307.00	554

Fiscal Year (April to March)	Area (Lakhs Hectare)	Production in Lakh Bales	Yield (Kg / Hectare)
2008-09	94.06	290.00	524
2009-10	103.10	305.00	503
2010-11	111.42	325.00	496
2011-12	121.78	353	493
2012-13	116.14	334	489

Source: Cotton Advisory Board (India)

Over the past 10 years, Indian cotton production grew with a CAGR of 7% to reach 33.4 million bales in 2012-13. In 2001 India was a net importer of cotton and as a result of a range of initiatives, such as better technology, seeds, nutrient management, irrigation and governmental initiatives, five million Indian cotton farmers have made India the world's second largest producer and second largest exporter of cotton (ahead of USA, behind China) by doubling India's cotton production.

Approximately 65% of India's cotton is produced on rain-fed areas. India is the only country to grow all four species of cultivated cotton.

7.5 State -Wise Area under Cotton Production

Area in Lakh Hectares/Production in Lakh Bales

Table 36 State-wise Area under Cotton Production

State	2008-09		2009-10		2010-11		2011-12*	
	Area	Prod	Area	Prod	Area	Prod	Area	Prod
Punjab	5.27	17.5	5.11	13	5.3	18.5	5.6	18.5
Haryana	4.56	14	5.07	15.25	4.92	17	6.41	25
Rajasthan	3.02	7.5	4.44	12	3.35	10.1	4.7	17
North Total	12.85	39	14.62	40.25	13.57	45.6	16.71	60.5
Gujarat	23.54	90	26.25	98	26.33	106.2	29.62	120
Maharashtra	31.42	62	35.03	65.75	39.32	87.75	41.25	74
Madhya Pradesh	6.25	18	6.11	15.25	6.5	17.7	7.06	18
Central Total	61.21	170	67.39	179	72.15	211.65	77.93	212

State	2008-09		2009-10		2010-11		2011-12*	
	Area	Prod	Area	Prod	Area	Prod	Area	Prod
Andhra Pradesh	13.99	53	14.75	54.5	17.84	59.5	18.79	56
Karnataka	4.08	9	4.55	12.25	5.45	11.1	5.54	14
Tamil Nadu	1.09	5	1.04	5	1.22	7.2	1.33	6.5
South Total	19.16	67	20.34	71.75	24.51	77.8	25.66	76.5
Orissa	0.84	2	0.54	1	0.74	2.05	1.02	2
Others			0.21	1	0.45	2	0.46	2
Total	-	278	-	293		339.1		353
Loose Lint	-	12	-	12				
Grand Total	94.06	290	103.1	305	111.42	339.1	121.78	353

Source: Cotton Advisory Board dated 04-10 2012

About 76% of total cotton production is contributed by 3 states: Gujarat (33%), Maharashtra (26%) and Andhra Pradesh (17%), whereas 70% of cotton is consumed by spinning mills located in Tamil Nadu (43%), Maharashtra (17.5%) and Punjab (8.5%).

Maharashtra has the largest area under cotton cultivation i.e around 41.25 lakh hectares while Gujarat has the maximum production of cotton i.e around 120 lakh bales/annum.

7.6 Costs of Cotton Production

The direct costs of cotton production have increased in the last 10 years. Fertilizer prices have grown 10 times in the last 5 years. Fertilizers represent around 20% of the total cost. Relatively high use of pesticides also means cotton is more affected than other crops by changes in oil prices.

Seed cotton production costs have increased by more than 25% in the last 5 years. Lint costs net of rent have risen by 20% in the same time period. The biggest factors in rising costs are rises in fertilizer costs and weed control costs.

THIS AGAIN LEAVES PLAYERS WITH NO CHOICE BUT TO INCREASE THE PRICES OF COTTON.

India and China together form more than one-third of the world's total population. The steadily growing population in India and China (and other similar developing countries), with rising incomes will accelerate demand for essential items like food, clothing, housing etc. As a result, the price index

of the essential food items is constantly increasing, and the increment in 2011 as compared to 2009 has been 46%. The current food price inflation would drive the need for increased food supply to feed the growing population. Hence, in the near future, land acreage would be diverted to food, which in turn will constrain the cotton supply.

As a result, land area for cotton cultivation is likely to be limited to around **34 Million hectares (or even lower)** by 2025. Specific government intervention for food crops will further constrain availability of acreage for cotton.

7.7 Conclusion- Cotton Trend

An unavoidable projected gap of ~10 million tons is created due to the global cotton supply limitations. **Growing population along with increased per capita fibre consumption coupled with limited growth in cotton supplies would be the major factors contributing to this huge demand-supply gap.** This, in the most likelihood would cause cotton prices to remain firm in the longer term, until and unless there is a drastic change in consumer preferences and increased supplies of alternative products.

As far as India is concerned, the total disappearance (domestic consumption plus exports) has been outpacing production and the carry forward stock levels have been on the decline. Such a scenario presents a high price regime for cotton in the near future.

Even in the near future, that is, the current cotton season of October 2010 to September 2011, the cotton prices are likely to remain firm around Rs 4000 per manud for Punjab & Haryana cotton, well above the previous season, due to the huge international demand-supply gap and untimely rains in major cotton producing states in India.

Cotton has been the preferred fibre of choice for the end consumers, and would ideally be in demand owing to its inherent properties of comfort and skin friendliness. More so, the cotton players would adopt futuristic strategies to enable cotton to hold its forte as the preferred choice. Hence, the onus lies on the supply side to meet the demand. And when there is a positive gap in demand-supply, the prices would logically be firm.

However cotton prices would also be subject to volatility in the short to medium term with a firm long term trend.

8.0 Overview of Textile and Apparel Industry

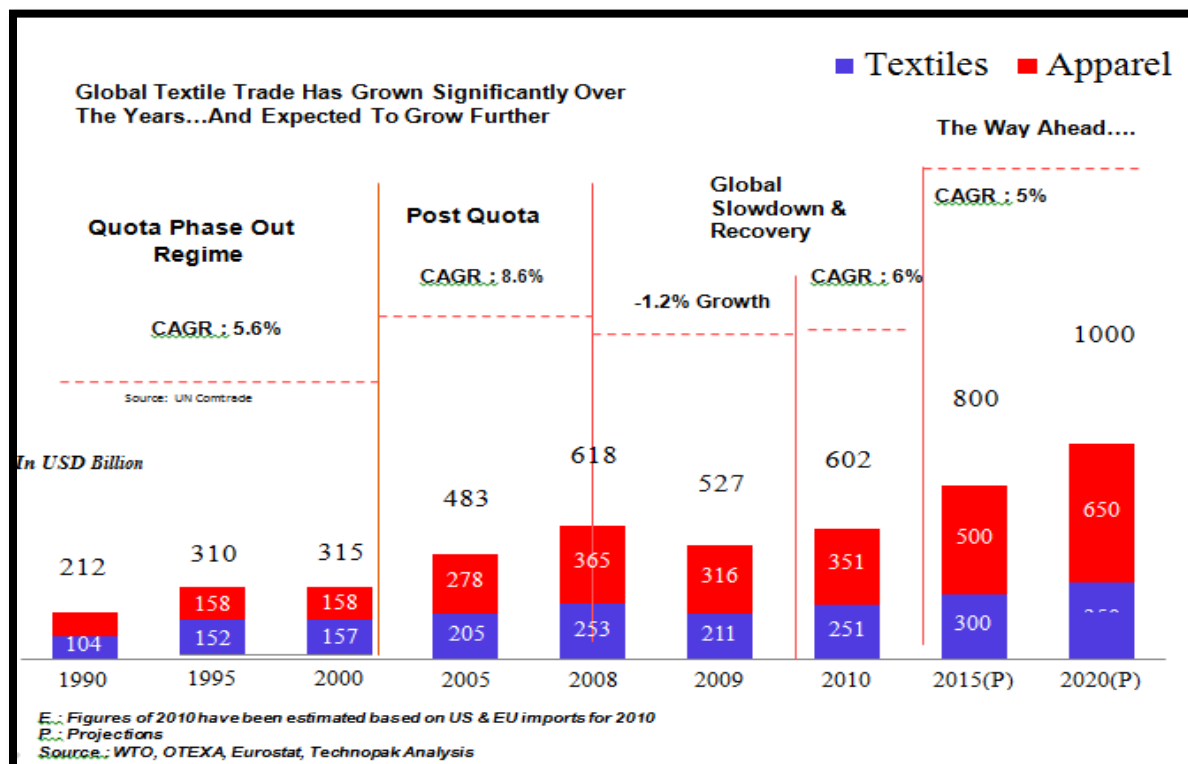
8.1 Global Scenario in Textiles & Clothing

8.1.1 Global Textiles and Apparel Market

Global Textiles and Apparel market is witnessing distinct growth stories in developed economies and emerging nations. Developed economies like the US, Europe, Japan etc. are worst hit due to recessionary market sentiments and Textile sector is no exception. Consumers of developed economies have become more cautious in their spending in Clothing and Apparel. At the same time, they are more demanding in terms of quality and style, but at a lower price. Apparel retail market is expected to grow at a moderate rate of 2-3% in these developed economies.

On the other hand emerging economies have opened up plethora of opportunities for Textile and Apparel manufacturers. Brazil, Russia, India and China (BRIC) are emerging as new consumption hubs for Apparel. These markets enjoy the advantages of favorable demographics, increasing income and spending power coupled with better economic growth. Apparel market of emerging nations could grow at an encouraging year -on-year growth rate of 8-9% for next decade

Figure 5 Global Textiles & Apparel Market



In the year 2011, global apparel market had to struggle hard owing to poor market sentiments and volatile raw material prices. High volatility of cotton prices coupled with frequent export policy changes by major cotton exporting countries made retailers and manufacturers to shift towards blends and man-made fibers. The trend continued in 2012 as market players are yet to regain their confidence on cotton.

8.1.2 Textile and Apparel Trade

With a CAGR of 5% from 2006, global apparel trade increased to USD 352 bn in the year 2011. Knitted apparel performed far better compared to woven apparel in global trade, especially in the categories like T-shirts and dresses. Trade of women's apparel was higher than that of men's apparel and unisex apparel.

In 2011 Global textile trade that includes fibers, yarns, fabrics and home textiles stood at USD 321 bn. As textile manufacturing is increasingly getting consolidated in locations of apparel manufacturing, it is expected that growth of textile trade will get slower due to local fabric use which will reduce the lead times

8.1.3 Textile and Apparel Production

China, India, Bangladesh and Turkey have emerged as the major producer and exporters of textiles and apparel in the world. While China and India have the advantage of upstream integration that covers entire gamut of activities of apparel and textile manufacturing coupled with strong supply of raw fibers; Bangladesh has successfully managed to leverage its cost competitive labor force in garment manufacturing. Turkey on the other hand has managed to reap the benefit of its proximity to European market. In addition to short lead time, Turkey also offers high end product manufacturing with advance technologies.

8.1.4 Dominance of China

China continues to dominate global textile and apparel trade with a share of around 50% in global apparel production, 40% in fabric production, 65% in yarn production and 40% of fiber production. Undoubtedly, China will continue to maintain its *numero uno* position in global textile and apparel industry in the years to come. At the same time growing domestic market, increasing wage rate and energy costs have emerged as challenges to China's export competitiveness. The industry has

already started witnessing shift of production away from China to other cost competitive Asian countries like Bangladesh, Vietnam, Cambodia etc. This shift is constrained due to concerns over the working conditions, worker safety and adherence to social compliance norms in these countries. Recent incidences of death of more than 250 workers in September in Pakistan and more than 100 workers last week in Bangladesh have exposed the vulnerable environment of these destinations

8.2 Indian Textile Industry

8.2.1 Textile and Apparel Market in India

Following its rich heritage, Textile & Apparel sector in Indian continues to contribute 5% to India's GDP, 14% to India's industrial production, 2% percent to the GDP, and 11% to the country's export earnings and is the second largest employer after agriculture as it employs 35 million people in India.

Table 37-Index of Industrial Production

Item	2008-09	2009-10	2010-11	2011-12	2012-13	CAGR%
Textiles	120.1	127.4	135.9	134.0	142.0	3.41%
Growth (%)		6.08%	6.67%	-1.40%	5.97%	
Wearing Apparel; Dressing and dyeing of Fur	134.6	137.1	142.2	130.1	143.6%	1.30%
Growth (%)		1.86%	3.72%	-8.51%	10.38%	

Source: Ministry of Textiles

India's total textile and apparel industry size that includes both domestic and exports market, is estimated to be Rs 4,18,000 crores (USD 89 billion) in 2011 out of which domestic textile and apparel market is worth Rs 2,73,350 Crores (USD 58 billion). Apparel contributes 69% to the domestic textile and apparel market, home textiles and technical textiles contribute the rest 31%. The Rs 18,400 Cr (USD 4 billion) home textiles market is expected to grow at annual rate of 8% and the technical textiles market that stands at INR 64,650 Crores (USD 14 billion) is expected to grow at a CAGR of 10%.

8.2.2 Textile and Apparel Exports from India

Owing to slowing demand from developed economies growth rate of India's textile and apparel exports has decreased in 2012. As per Apparel Exports Promotion Council (AEPC) apparel exports from India for the first six months (Apr-Sep) for the financial year 2012/13 has decreased to USD 6.2 billion from USD 6.9 billion in 2011/12 for the same period. However, due to depreciation of rupee, Indian players managed to witness an increase in exports value in rupee terms. On a positive note, India's textile sector that includes fiber-yarn-fabric has further strengthened in 2012 as India's exports of textiles to apparel producing countries have increased.

In the year 2011, USA was the biggest export destination for India with a share of 18% of total textiles and apparel exports value of India. China was the second largest importing country with a share of 9% due to increase in imports of cotton fiber, yarn and fabric. Other major importing countries were UAE, UK, Germany and France. Apparel contributed 41% to exports value followed by 15% by yarn, 14% by fabric, 13% by fiber, 9% by home textiles and rest 8% by other textile items.

8.2.3 The Key Advantages of the Indian Textile Industry

- India is the second largest producer of raw cotton with the largest area under cotton cultivation in the world. It has an edge in low cost cotton sourcing compared to other countries. India is the largest producer of jute, the second-largest producer of cotton yarn, cellulosic yarn, silk and fifth largest producer of synthetic fibers/yarn.
- India is known for producing fine varieties of cotton that assist in making fine count yarns suitable for manufacturing high thread count bed sheeting fabrics and fine quality apparels, which in turn leads India as a Textile hub for supplying niche fabrics.
- Technical workforce is abundantly skilled and average wage rates in India are 50-60 per cent lower than that in developed countries, thus enabling India to benefit from global outsourcing trends in labor intensive businesses such as garments and home textiles.

- Design and fashion capabilities are key strengths that will enable Indian players to strengthen their relationships with global retailers and score over their Chinese competitors.
- Production facilities are available across the textile value chain, from spinning to garments manufacturing. The industry is investing in technology and increasing its capacities that should prove a major asset in the years to come.
- Large Indian players such as Arvind Mills, Welspun India, Alok Industries and Raymond have established themselves as 'quality producers' in the global market. This recognition would further enable India to leverage its position among global retailers.
- Fragmented structure has increased competition in the industry thus forcing firms to continuously innovate and also increase their productivity.
- India has gathered experience in terms of working with global brands and this should benefit Indian vendors.

8.2.4 SWOT Analysis of Indian Textile Industry

8.2.4.1 Strengths

India has a vibrant textile and clothing industry which has played a key role in the country's economic development. In particular, the industry is especially important as a generator of export earnings and employment opportunities. The industry is able to tap into India's abundant domestic sources of raw materials, notably cotton.

India has a vast and growing domestic market for textiles and clothing which acts a driving force of the industry. Labor costs are highly competitive in international terms. There are only a few Asian countries where labor costs are lower, notably Bangladesh, Vietnam, Cambodia, Pakistan and Sri Lanka. The country has a highly skilled workforce, and one of the world's largest concentrations of scientists, engineers, technicians and managers. A rising proportion of the country's expertise is to be found in high technology industries such as communications and information technology. India is home to a number of world respected textile training institutes, and a large number of students pursue courses in a wide

variety of disciplines which are of relevance to the textile and clothing industry. The Indian textile industry is renowned for its traditional skills and exquisite designs. Moreover, producers have mastered the ability to make items which combine traditional art with contemporary design, stemming from the wide variety of power loom fabrics available and the creativity of the handloom sector.

Table 38: SWOT Analysis of Indian Textile and Apparel Industry

<p>Strengths</p> <ul style="list-style-type: none"> • Abundant supply of raw cotton • Adequate skilled labour supply at relatively low wages • Supportive Government Policies • Good managerial manpower availability • Design & product capabilities • Flexibility in production – can execute small orders as well 	<p>Weaknesses</p> <ul style="list-style-type: none"> • Fragmented Industry • Lack of investments in technology and innovation • Weak processing industry • Infrastructural bottlenecks
<p>Opportunities</p> <ul style="list-style-type: none"> • Growing domestic market • Growing international trade • Government subsidy and other promotional schemes • Increased sourcing from India • FTA with EU 	<p>Threats</p> <ul style="list-style-type: none"> • Location disadvantage to major markets like EU /US -long transit times. • Competition from neighbouring low cost countries like Bangladesh, Cambodia etc. • Increasing costs of raw material and manufacturing • Trade blocks and technical barriers

8.2.4.2 Weaknesses

The textile and clothing industry suffers continually, in common with other manufacturing activities, from India's inadequate and, in some instances, crumbling infrastructure.

Power outages are a particular problem, and there are many stories of the problems which these cause. In the recent years, for example, there were reports that power outages were causing severe problems for textile mills in the state of Tamil Nadu, which is the center of India's spinning industry. Continuous power outages of up to seven hours a day were typical, and demand for electricity in the state is estimated to be 25% greater than generating capacity.

The level of scale of most enterprises in the industry is a cause for concern. It is estimated that no less than 90% of manufacturing is concentrated in small fragmented production units and the industry is in need of rationalization in order to improve its efficiency.

8.2.4.3 Opportunities

Looking ahead, there is an opportunity for the industry to attract much more foreign investment—given its export potential, its potentially huge domestic market, and the prospect of sharply rising incomes in India. India has a long history as a significant trading nation and has business links with almost every country. Important trading partners include China, the EU, Japan and the USA.

India also has strong links with countries in the Asean trading bloc, which comprise Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. These links provide Indian textile and clothing companies with opportunities for boosting exports. FTA with Japan has also helped the country to boost its exports. FTA with EU is expected to open up new opportunities for Indian textiles and apparel industry.

A further attraction for foreign investors is the development of special economic zones (SEZs), which provide tax incentives, freedom from some of the bureaucratic and administrative issues that characterize so much of doing business in India, and access to reliable infrastructure.

8.2.4.4 Threats

One of the biggest threats to the textile and clothing industry in India is that of competition in international markets from other textile and clothing supplying countries. Competition is especially fierce in the case of the country's Asian neighbors.

China continues to present a formidable challenge. Although its costs are rising, the country has an extremely large textile and clothing industry which is capable of producing a wide range of high quality products at competitive prices.

Some experts believe that the migration of production from North America and Europe towards low cost Asian producers has run its course and that a proportion of manufacturing will be “repatriated”.

8.3 Textile Industry in Odisha

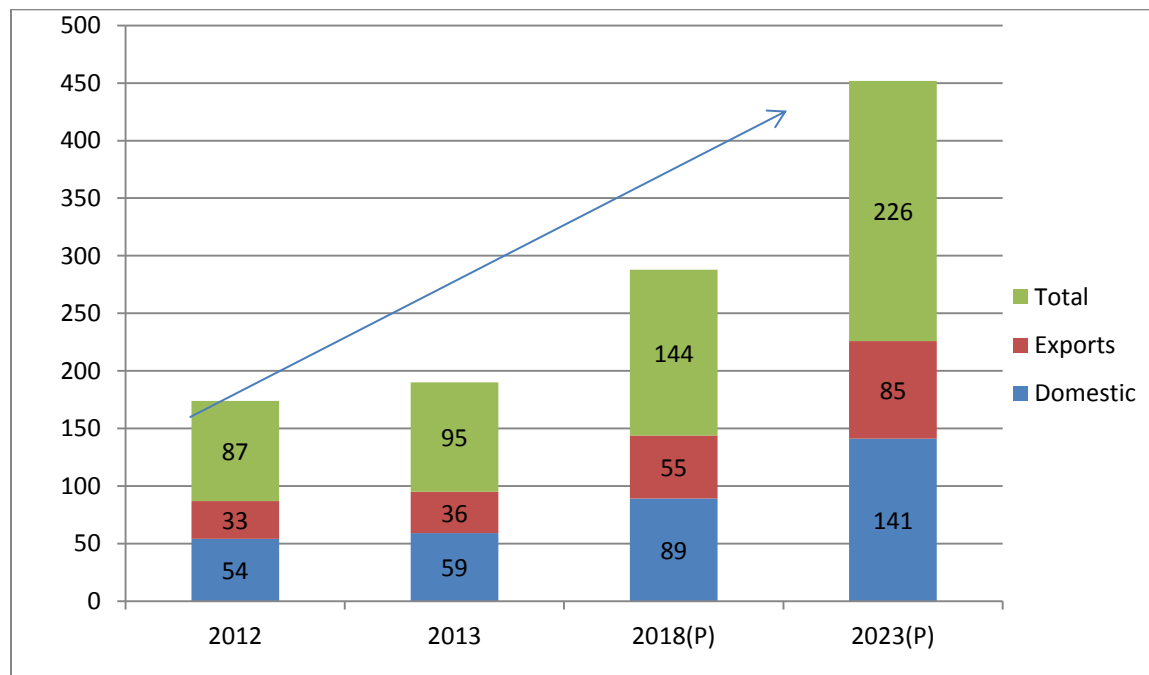
Odisha in the eastern coast of India is one of the major industrialized State in the country. Due to its rich endowment of vast reserves of mineral resources like coal, iron, bauxite etc., along with availability of land, man power, abundance of water, surplus power and a 480 km long coastline with major ports at Paradeep, Gopalpur and Dhamra

The handloom industry is the most important traditional industry of Odisha. Odisha handlooms are mainly available in cotton and silk although the colors, patterns and methods of weaving differ for the two textured materials. These handloom fabrics of Odisha with unique craftsmanship and color combination with traditional design and motifs have established a place of pride in the domestic as well as international market

Odisha’s cotton handlooms and textiles come in patterns of the famous Ikat style of weaving. Odisha is famous for its Ikat weaves created by an intricate process called the “bandha” in which warp and weft threads are tie=dyed to produce the pattern on the loom while weaving.

The textile belt of Odisha comprises of these regions Nuapatna, Barpali, Bolangir, Sagarpalli, Bhubaneswar, Olasing, Barpali, Cuttack etc. Though saris are the best textile heritage of Odisha , these fabrics can also be easily adapted to make suits, carry bags, cushion covers etc.

Figure 6-Odisha Textile Industry Scenario



Source: Spinfed

9.0 Overview of Spinning Industry-Yarn Manufacturing

9.1 Major Product Categories

9.1.1 Spun Yarn

- 100% cotton yarn
- Blended Yarn: Blends of cotton and man-made fibers (MMF)
- 100% non-cotton yarn: synthetic staple fibers, other natural fibers-silk, flax, jute etc.

9.1.2 Synthetic Filament Yarn

- MMFY –Man Made Filament Yarn
- Polyester Filament Yarn
- Viscose Filament Yarn
- Nylon Filament Yarn
- Polypropylene Filament Yarn
- Average cotton counts produced are 30s. Popular counts are 30s, 40s and 20s

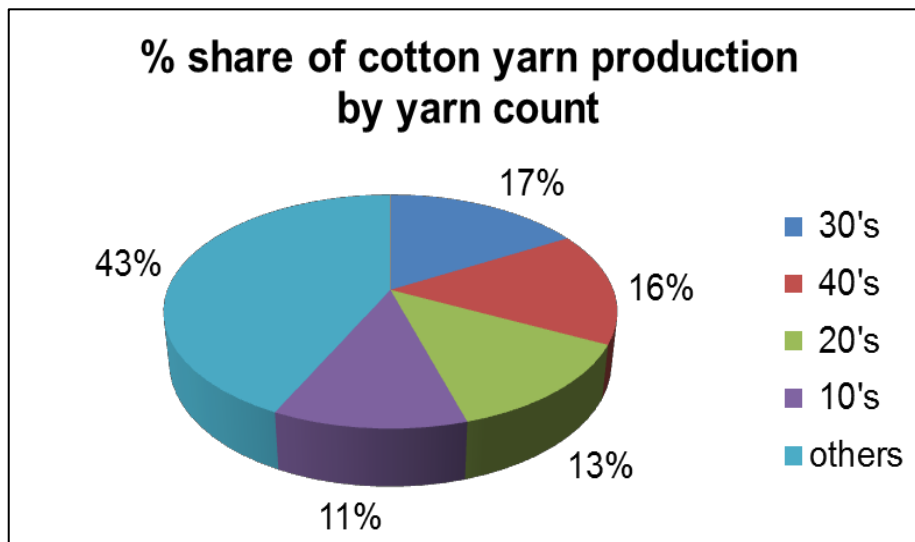


Figure 7: % Share of Cotton Yarn Production by Yarn Count

Source: Office of Textile Commissioner

9.2 Global Yarn Market

- The total yarn traded globally in 2012 was US \$ 53 bn.
- Yarn imports have increased by 31.05% in 2010 compared to 2009.
- China, Bangladesh and Turkey is the biggest yarn importing country followed by Italy
- China & India are major yarn exporting Countries
- Synthetic filament yarn and cotton yarn are the most imported yarn categories globally.

Figure 8-Major Yarn Exporting Countries

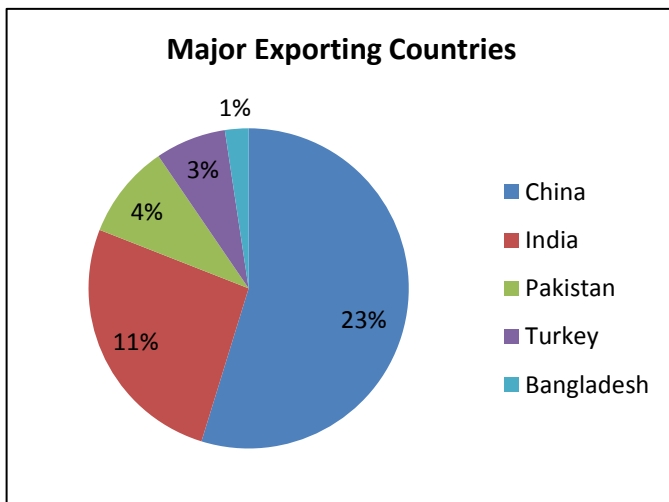


Figure 9-Major Yarn Importing Countries

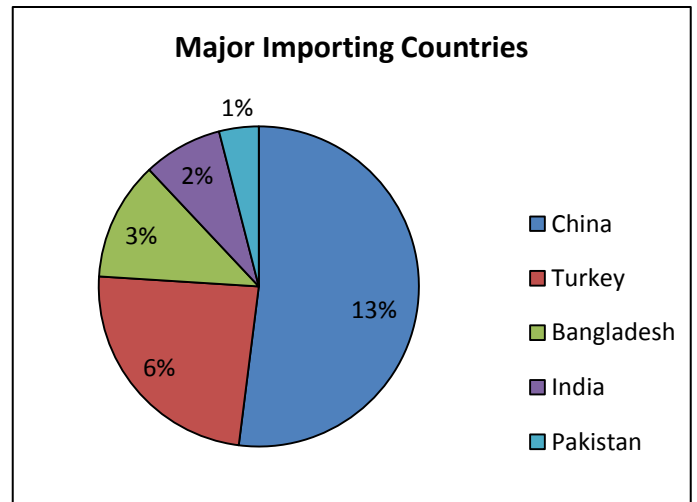
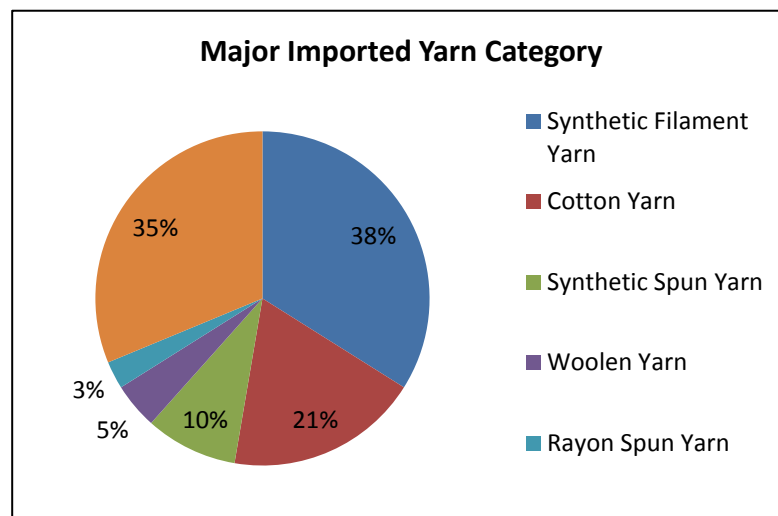


Figure 10-Major Imported Yarn Category



Source: Office of Textile Commissioner

9.3 Indian Yarn Export Market

Table 39-Indian Yarn Export Market

Year	2007-08	2008-09	2009-10	2010-11	CAGR
Silk Yarn	9.11	5.55	4.41	8.11	-4.00%
Cotton Yarn(include sewing thread)	1908.16	1502.98	1610.38	2700.02	12.20%
Flax & Jute	62.1	54.81	37.80	125.21	26%
Man-Made Filament Yarn	550.36	422.02	464.53	865.09	16%
100% Non- Cotton Yarn (including sewing thread)	573.14	459.09	547.86	762.65	10%
Total	3148.73	2487.03	2700.73	4517.31	13%

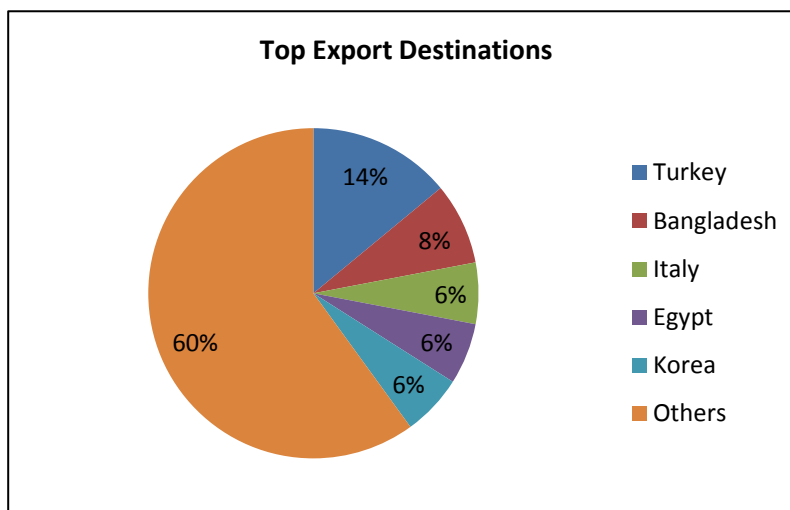
Source: Office of Textile Commissioner, Technopak Analysis

- India exported \$ 4.5 bn of yarn in 2010-11
- Yarn exports have increased by 67.26% in 2010-11 compared to 2009-08.
- From the year 2007-2011 CAGR for export of yarn stands at 13%

9.3.1 Indian Yarn Export Market- Top Export Destinations

- Cotton is the biggest exported category with 60% of exports by value.
- MMFY and Flax & Jute are the fastest growing category in volume and value.
- Biggest export destinations are Turkey and Bangladesh

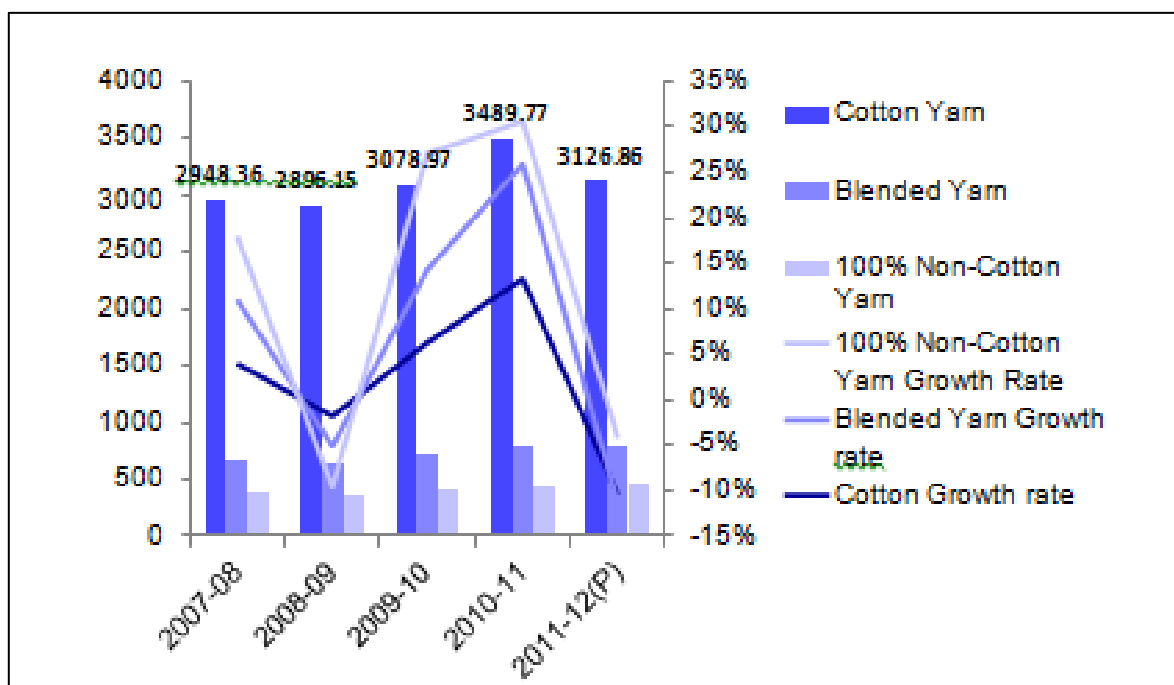
Figure 11-Top Yarn Export Destinations of India



Source: Office of Textile Commissioner

9.4 Spun Yarn Production & Installed Capacity-India

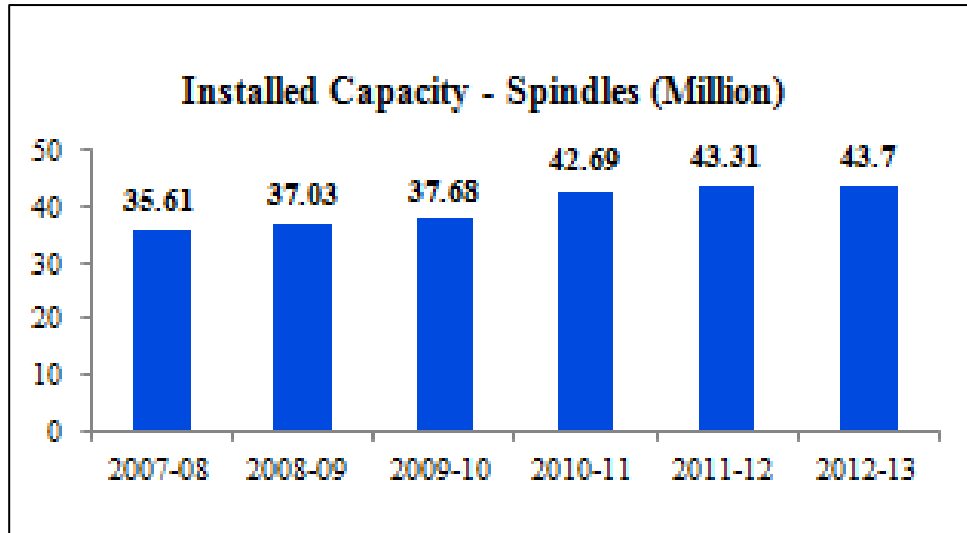
Figure 12-Indian Spun Yarn Production & Installed Capacity



Source: Office of Textile Commissioner

The spun yarn production has increased over the years with a slight dip in production last year due to demand slow down.

Figure 13-Installed Capacity-Spindles



Capacities of spinning have also increased slightly

Source: Office of Textile Commissioner

9.5 Indian Yarn Supply Scenario

India's yarn production is around 6.3 million tons. The yarn production increased at a CAGR of 6% between 2005-06 and 2010-11, 23% of the yarn produced was exported. The most attractive categories for yarn are cotton yarn and polyester filament yarn-especially for export market with high growth, although the market predominantly lies in the domestic market (-80%)

Table 40-Indian Yarn Supply Scenario

Yarn (2010 - 11)	Production	Imports	Exports	Prod. Growth((5 Yr. CAGR)	Imports Growth (5 Yr. CAGR)	Exports Growth (5 yr. CAGR)
	Vol. '000' tons	Vol. '000' tons	Vol. '000' tons	%	%	%
100% Cotton Spun Yarn	3490	4	698	7%	-1%	4.8%
Cotton Blend Spun Yarn	797	32	98	6%	12%	3%
100% Non- Cotton Spun Yarn	426	69	224	4%	27%	8%
Other Spun Yarn	1223	101	322	5%	21%	6%
Total Spun Yarn	4713	206	1020	6%	20%	5%
MMFY*	1549	130	452	6%	-4%	24%
Viscose Filament Yarn	41	13	6	-5%	32%	-10%
Polyester Filament Yarn	1462	19	246	6%	-28%	18%
Nylon Filament Yarn	33	2	2	-2%	-29%	-18%
Other MMFY	13	96	198	0%	16%	44%
Total Yarn	6262	336	1472	6%	3%	9%

All numbers are rounded off, Source MMFY: Man-Made Filament Yarn, Source Ministry of Textiles, Technopak Analysis

9.6 Installed Capacities of Spinning –India and World

The Indian Cotton Spinning Industry is the world's second largest, after China's in terms of installed capacity. It has made vibrant growth especially in the recent years as given in the following table.

Installed Capacity figures in 000' units

Table 41-Installed Capacity–India and World

Country	Ring Spindles 2005	% Share of World	Ring Spindles 2010	% Share of World	Open- End Rotors 2005	% Share of World	Open- End Rotors 2010
China	70600	36%	113600	46%	1160	14%	2198
India	38460	20%	47062	19%	501.1	6%	672
Pakistan	9779	5%	10549	4%	150.7	2%	158
Indonesia	7903	4%	8138	3%	90	1%	117
Turkey	7055	4%	7243	3%	543.3	7%	600
Bangladesh	2484	1%	7291	3%	55.9	1%	187
Brazil	4701	2%	4988	2%	332.8	4%	344
Mexico	3727	2%	1767	2%	100	1%	103
Italy	3956	2%	3862	2%	79.4	1%	72
Thailand	3658	2%	3797	2%	52	1%	48
Rest of the World	43573	22%	36536	15%	4955	62%	3283.3
World	195896		246833		8020		7783

Source: Office of Textile Commissioner/Technopak Analysis Compendium

The current spindle-age is about 19% of the world total. The major countries in the world having spinning capacities are China, India, Pakistan, Brazil, Indonesia, Turkey, and US, Taiwan. It has been observed that the spinning capacities are declining in developed countries and increasing in developing countries, mainly in India, Pakistan, Turkey, and Indonesia.

China's share in installed capacity for spinning has improved substantially in both ring and rotor spinning.

India's share has improved considerably in rotor spinning while Bangladesh's share has improved in ring spinning

9.7 SWOT of Indian Spinning Sector

9.7.1 Strength

- Availability of abundant raw material
- Manufactures a wide range of variable yarn counts from coarsest to the finest
- Good labor skills
- Adequate labor supply at relatively low wages
- Strong presence in export market

9.7.2 Weaknesses

- Too much dependence on Tamil Nadu for yarn manufacturing
- Lack of economies of scale
- Technological obsolescence and lower efficiencies
- Limited suppliers – long machine lead times (up to 18 months)
- Rigid labor policy
- High dependence on power availability and cost
- High exit barriers

9.7.3 Opportunities

- Government subsidy (TUFS) and other promotional schemes
- Presence of growing fabric demand
- Increasing fabric production in neighboring countries like Bangladesh etc.

9.7.4 Threats

- Raw material price pressure – MSP for cotton
- Higher import duties on Man-made fibers vs. cotton
- Cost of power is higher than in many other countries
- Trade blocks and technical barriers
- Exchange rate fluctuation

10.0 SWOT analysis for Konark Cotton Growers Cooperative Spinning Mills –

10.1 Strength

- Land & Building is readily available
- Ginning facility is already present in the premises so it is advantageous in terms of reducing lead time and also cotton quality can be easily monitored.
- Low cost labor easily available in and around Kesinga
- Cotton growing belt very near to spinning facility
- High margins in fine count.
- The Company will manufacture mostly value added products for which there is no import threat.

10.2 Weakness

- Overseas market is highly competitive; however, Indian textile manufacturers have advantages over others on account of their lower operating costs.
- Attention to every minute detail by the promoters may delay short-term focus on the ultimate objective, but on the other hand this very attitude ensures sustainable quality of the finished products.
- Remote location company has to set up balance infrastructure
- Company would be facing stiff competition from already existing established players. The company is experienced in the field of the textile industry and its strategic location near the port would help it garner a bigger export market.

10.3 Opportunities

- The Company has to build its goodwill and finished products acceptability with its customers.
- With the end of Quota system w.e.f. January 1, 2005 the global sourcing from India has become easier with a number of foreign buyers focusing on getting quality products from India for their supply chains.
- The latest technology and scale of production provides edge over the existing players in the market.

10.4 Threats

- Any change in Government policies pertaining to textile industry may affect the viability of the project.
- The domestic demand-supply scenario is expected to balance-even as a number of capacity expansions are expected to be implemented by various companies over the next 5 years.
- Textile mills with lower production costs may be in a position to utilize the capacities optimally.

10.5 Recommendation & Suggestions

- The process of handing over of spinning mill to a private party in PPP model should be expedited
- Area to be leased should be earmarked so as to offer it to the interested parties
- Long term lease for 30 years to be planned.
- One-time fee with lease rental should be finalized; however we have considered Rs 2 cr as one-time fee for Land cost and Rs 0.50 cr as site development cost(considering all the parameters)
- In spin plan 40s, 50s and 60s combed are planned based on type of cotton availability however free hand may be given to interested party to decide on the same.
- Preferential supply of cotton from the ginning mill which is in the same vicinity to reduce the logistics cost and making project more viable.
- State Govt. to facilitate adequate supply of power and water. The electrical substation is only 500 meters from the site & water bore wells exists in the campus(necessary permission may be required)
- We recommend to earmarked the location and area for workers' hostel/staff hostel however the same has not been planned in the TEV report
- We strongly recommend that State should have lucrative textile policy which will attract more and more investments
- We propose that State Govt. should co-ordinate with Ministry of Textiles, GoI to open extension counter of NHDC (National Handloom Development Corporation) to facilitate the yarn selling of the proposed mill to Handloom weavers.
- We suggest conducting Road shows to encourage the maximum participation for the PPP module. The location for Road shows may be Bhubaneswar, Cuttack etc.

10.5 Conclusion

As per the facts and figures proposed in the Techno Economic Viability report the project is Techno-Economically viable with full capacity in operation under Public Private Partnership (PPP) module.

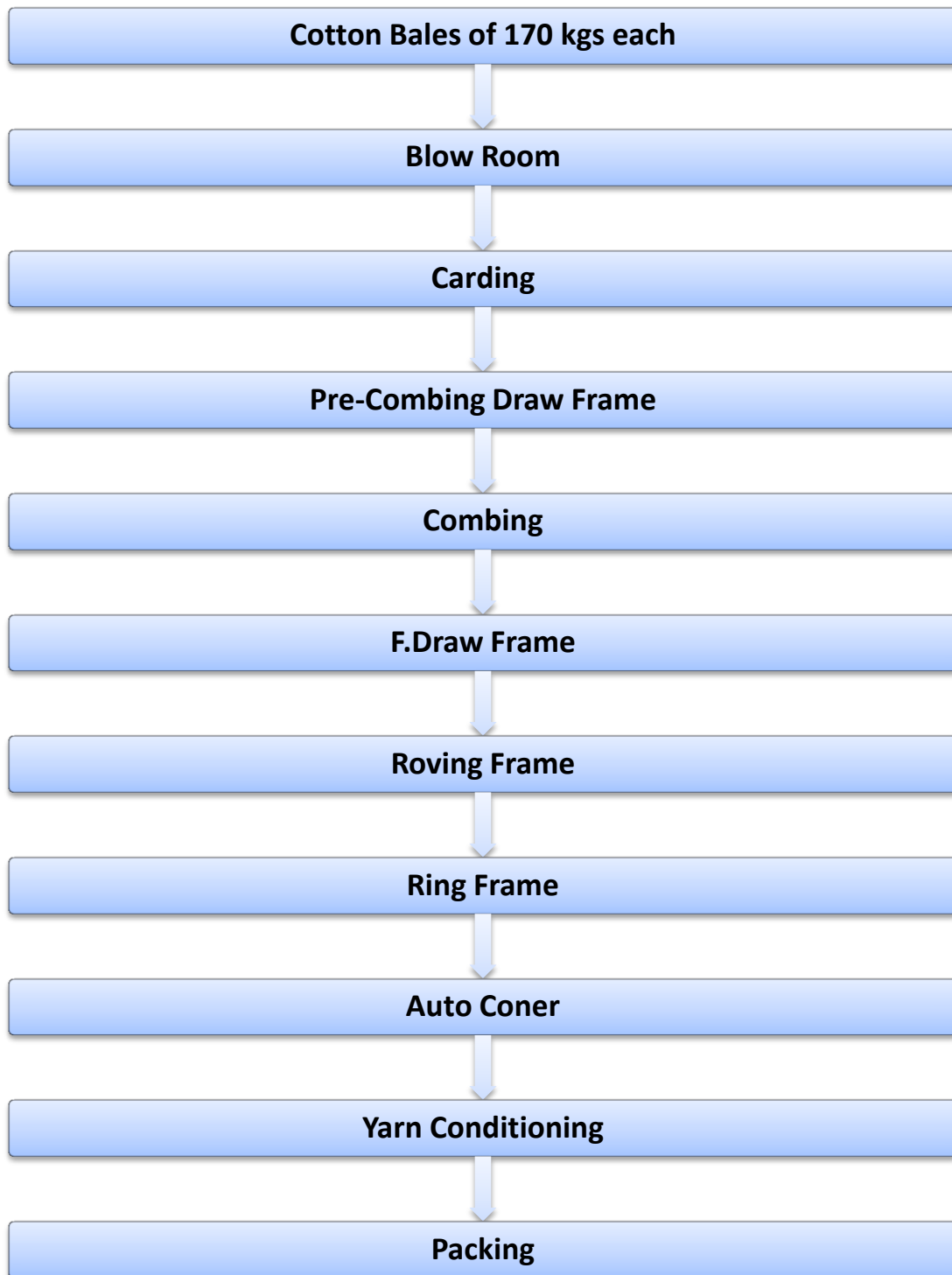
11.0 USP OF THE PROJECT

- Presence of operational ginning unit in vicinity is the major USP of the project as the mill will get quality raw material at nominal prices and lot of money will be saved in terms of logistics, commissions etc.
- Power is available as power substation located at half a distance from the plant and also mill is having its own arrangement for power generation
- Abundant water is available and also they are having 2 bore wells which can easily meet the water requirement
- Factory building is readily available
- Govt. of Odisha is willing to give more land in case entrepreneur wants to scale up the production capacity either at start or in future.
- Odisha has been one of the important cotton growing states in the country. Out of the total cotton cultivation area of Odisha, 80% of the cotton is grown in the Kalahandi-Bolanagir-Koraput (KBK) region and Kesinga lies in Kalahandi district of Odisha where the spinning mill is situated so the raw material is easily available. Quality of cotton produced is fine quality
- Peripheral development of cotton growing areas to create assured market for 12,500 hectares of cotton area
- Kesinga is connected by NH-201 which connects it with Bargarh & Raipur on North and Vizianagaram on south. Kesinga is well connected through roads as well as railways through Vizianagaram, Vishakapatnam, Rayagada, Sambalpur, Jharsuguda and Rourkela. Further the Project location is well connected with NH-201, approx. at a distance of 1 km
- Fully supported forward & backward linkage
- It will be a creation of cotton export house with professional management
- Lot of Employment generation which will lead to overall development of the region

- Assured market of handloom weavers for fine count
- Mill will bridge the gap which exists in Odisha in terms of non-availability of raw material

Annexure 1 Process Description

Spinning Process – Flow Chart



Spinning Introduction

The manufacturing of the cotton yarn from the cotton can be done by ring spinning.

Following is the detailed explanation for the process of SPINNING

1. Blow room

- To open the baled fibers into small tufts which will allow foreign matters to be separated from the fibers and prepare the material for easy carding.
- To clean the fibers by removing the foreign matter as the waste – the foreign matter consists mainly of seeds , seed – coats, leafy matter and sand / dust in the case of cotton and of fused fibers/chips in the case of manmade fibers.
- To mix thoroughly the different component fibers of a mixing so as to give a homogeneous blending.
- To recycle the spinning waste.

2. Carding

- Clean cotton from blow room feed to the carding via Chute feed, where carding has to perform
- Clean the fibers by removing foreign matters as waste. The foreign matter consists mainly of sand/ dust, seed coat fragments, leaf matter in the case of cotton and of fused fibers/ chips in the case of manmade fibers
- Reduce the neps present in the feed material & those formed in carding presumably by disentangling them or by throwing them in waste

3. Draw frames (Breaker Passage)

- The function of draw fame is to achieve parallelization of fibers and to achieve blending of fibers by feeding no. of card cans. The sliver from the card is processed through DRAW FRAME to even out the variations in the sliver by doubling 6/8 slivers into one and to achieve fiber parallelization
- Parallelize the crisscrossed fibers of the card sliver with one another & align them to the axis of the sliver through the process of drafting
- Improve the regularity in weight per unit length over a considerable length of the material through doubling of a number of slivers from different cards
- Thoroughly Mix different types of fiber so as to give a homogeneous blending

4. Lap Former

The function of this machine is blend no. of cans and produce laps which can be fed to combers.

5. Combing

- Remove short fibers below a pre – selected length and thereby reduce length variation in the cotton mixings
- Improve fiber parallelization and fiber to fiber separation and minimize fiber entanglement and Disorientation
- Remove neps and Foreign matter from the cotton

6. Auto-Leveler Draw Frame (Finisher Passage)

The function is to achieve alternative of fibers by drafting to produce perfect quality sliver.

7. Speed Frame

The main function is to impart small twist to material and produce package which suits the next process i.e. ring spinning.

8 Ring Frame Spinning

- To draft the roving to the desired degree of fineness or count of final yarn
- To impart the requisite strength to the yarn by appropriately inserting the required amount of twist
- To produce a yarn acceptable in the yarn market for its quality in terms of uniformity & imperfections
- To wind the twisted strand (yarn) in a form suitable for storage, transportation and further processing

Annexure 2-Assumptions

S. No.		Unit of measure	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year	
			2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24	
1	Plant Working	No. of working days / annum	Number	0	350	350	350	350	350	350	350	350	350
		No. of Months	Number	0	12	12	12	12	12	12	12	12	12
		No. of shifts / day	Number	3	3	3	3	3	3	3	3	3	3
		No. of working hours / shift	Number	8	8	8	8	8	8	8	8	8	8
2	Capacity Utilization	Plant Capacity Utilisation	%	0%	60%	70%	85%	85%	85%	90%	90%	90%	90%
		Rentals		0	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
3	Production Plan	No of Ring Frames	Nos.	0	15	15	15	15	15	15	15	15	15
		Ring Frame Spindles	Spindles / Ring Frame	0	1824	1824	1824	1824	1824	1824	1824	1824	1824
		Yarn Production	Kgs. / Day	0	6742	6742	6742	6742	6742	6742	6742	6742	6742
4	Utilities Cost	Cost of Power (SEB)	Rs / unit	7.0	7.28	7.57	7.87	8.19	8.52	8.86	9.21	9.58	9.96
		Cost of Water	Rs / KLD	10	10.10	10.20	10.30	10.41	10.51	10.62	10.72	10.83	10.94
		Cost of Packing	Rs / Kg. of Yarn	1	1.01	1.02	1.03	1.04	1.05	1.06	1.07	1.08	1.09
		Water Treatment Cost	Rs./ KLtrs.	8.0	8.08	8.16	8.24	8.32	8.41	8.49	8.58	8.66	8.75
5	Labour Wages & Salaries	Increment to Technical & Admin. Staff	%	0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%	8.0%
		Perks & Fringe Benefit for Staff	%	0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%
		Increment to Workers	%	0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%	4.0%
		Skilled Labour	Rs./ month	12500	13000	13520	14061	14623	15208	15816	16449	17107	17791
		Semi-Skilled Labour	Rs./ month	9000	9360	9734	10124	10529	10950	11388	11843	12317	12810

Assumptions

6	Loan Interest Rates	Rupee Loan Interest	%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	
		Working Capital Interest	%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%	14.0%
		TUFS Interest Subsidy from GOI	%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%
7	Sales Price	Average Yarn Sales Price	Rs. / Kg of Yarn											
		40s Combed	Rs. / Kg of Yarn	230.00	232.30	234.62	236.97	239.34	241.73	244.15	246.59	249.06	251.55	
		50s Combed	Rs. / Kg of Yarn	245.00	247.45	249.92	252.42	254.95	257.50	260.07	262.67	265.30	267.95	
		60s Combed	Rs. / Kg of Yarn	295.00	299.43	303.92	308.48	313.10	317.80	322.57	327.40	332.32	337.30	
		Comber Waste (Noil)	Rs. / Kg	28.00	28.28	28.56	28.85	29.14	29.43	29.72	30.02	30.32	30.62	
		Dropping waste/Flat Waste/Others	Rs. / Kg	9.00	9.09	9.18	9.27	9.37	9.46	9.55	9.65	9.75	9.84	
8	Waste Generation	Comber Waste (Noil)	%	22%	22%	22%	22%	22%	22%	22%	22%	22%	22%	
		Dropping waste/Flat Waste/Others	%	13%	13%	13%	13%	13%	13%	13%	13%	13%	13%	
9	Other Expenses													
		Store, Spare & Repair for Spinning	Rs./Spindle/Shift	0.60	0.61	0.61	0.62	0.62	0.63	0.64	0.64	0.65	0.66	
		Administrative Expenses	Rs Crores/Month	0.30	0.30	0.31	0.31	0.31	0.32	0.32	0.32	0.32	0.33	
		Selling Expenses & Commission	% of Total Sales	4%	4%	4%	4%	4%	4%	4%	4%	4%	4%	
10	Purchase Prices	Average cost Cotton	Rs / kg	125	126	128	129	130	131	133	134	135	137	

Assumptions

11	Water Requirement	For the All process / Day	KLD	75
12	Contingency %	Contingency on Pre-Operative Expenses	%	5.0%
		Foreign Currency Fluctuation	%	2.0%
12	Working Capital	Particulars	Inventory Period (Days)	Margin Money (%)
		Work In Progress	180	25.0%
		Finished Goods	30	25.0%
		Factory Over Heads (Utilities & Wages)	30	25.0%
		Debtors / Post Shipment Credit	30	25.0%
14	Depreciation	Land	%	0.0%
		Building	%	3.34%
		Plant and Machinery	%	5.28%
		Misc. Fixed Assets	%	5.28%
15	Indigenous Machineries Duty	Custom Duty	% of machine cost	0%
		Clearing, Forwarding, Local transport, Erection and Insurance charges	% of machine cost	3%
16	Imported Machineries Duty	Landing Cost	% of machine cost	1.00%
		Custom Duty	% of machine cost	0.00%
		Clearing, Forwarding, Local transport, Erection and Insurance charges	% of machine cost	3.00%
17	WIP (Margin Money)	Particulars	Inventory Period (Days)	Margin Money (%)
		Raw Material	180	25%
		Consumables	45	25%
		Work in Progress (WIP)	30	25%
		Finished Goods	30	25%
		Bills Receivables	30	35%
		Sundry Creditors	15	0%

Annexure 3 - Project Cost

(Rs. in Crores)

1	Machine Cost	Spinning	44.55
	Total Machine Cost		44.55
2	Miscellaneous Fixed Asset Cost	Spinning	14.57
	Total Miscellaneous Fixed Asset Cost		14.57
3	Plant Building Cost		2.25
4	Land Site Development Cost		1.00
5	Preliminary and Pre-Operative Expenses		11.16
6	Provision for Contingency		2.91
7	Margin Money for Working Capital		5.16
	Total Project Cost		81.61

Annexure 4-Spin Plan

Sr No	Parameters/Count	Combed			Total
		40 cb	50 cb	60 cb	
	Ring Frame				
1	Requirement of Yarn at Auto coner	3200	1700	1775	6675
2	Requirement of yarn at Ring Frame (add 1%)	3232	1717	1793	6742
3	T.M.	4.1	4.2	4.3	
4	TPI	25.93	29.70	33.31	
5	Spindle speed rpm	18200	18700	18700	
6	100% prodn/Spindle/shift in gms	126.34	90.67	67.37	
7	Efficiency %	97	97	97	
8	Utilisation	90%	90%	90%	
9	Expected prodn/Spindle/Shift (gm)	110.29	79.16	58.82	
10	Total R/F Prodn./spindle/Day (kgs)	0.33	0.24	0.18	
11	No of Spindles Required	9768	7230	10160	27159
12	No of Spindles/Machine	1824	1824	1824	
13	No of Machines required	5.36	3.96	5.57	14.89
14	Actual No of machines allotted	5.36	3.96	5.57	15.00
15	Yarn production/day (Kg)	3232	1717	1793	6742

Spin Plan

	Speed Frame	40 cb	50 cb	60 cb	
16	R/F waste %	1%	1%	1%	
17	R/F waste in kgs	32.32	17.17	17.93	67
18	Speed frame prodn. kgs/day	3264	1734	1721	6720
19	Roving Hank	1.2	1.4	1.4	
20	Spindle Speed rpm	1050	1050	1050	
21	T.M.	1.35	1.35	1.35	
22	TPI	1.48	1.60	1.60	
23	100% prodn./spindle/shift in kgs	4.26	3.38	3.38	
24	Efficiency	85%	85%	85%	
25	Utilisation%	90%	90%	90%	
26	Expected prodn./spindle/shift in kgs	3.26	2.59	2.59	
27	Total prodn/Spindle/Day in kgs	9.78	7.76	7.76	
28	No of spindles required	334	224	222	
29	No of spindles/machines	200	200	200	
30	No of machines required	1.67	1.12	1.11	3.90
31	Total no of machines allotted				4.00

Spin Plan

	Draw Frame - Finisher	40 cb	50 cb	60 cb	
32	S/F waste (%)	1%	1%	1%	
33	Draw frame production req. per day	3297	1752	1738	6787
34	Sliver Hank	0.14	0.14	0.14	
33	Delivery speed mtr./min	450	450	450	
34	100% production/del/shift in kgs	910	910	910	
35	Efficiency (%)	85%	85%	85%	
36	Utilisation%	90%	90%	90%	
37	Expected prod/del/shift in kgs	696	696	696	
38	Total prodn/del/day in kgs	2088	2088	2088	
39	No of deliveries req.	1.58	0.84	0.83	3.25
38	Total no of delivered req.				4.00

	Comber	40 cb	50 cb	60 cb	
39	Finisher D/F waste (%)	0.5%	0.5%	0.5%	
40	Comber Production req/day in kgs	3313	1760	1747	6821
41	Lap weight - Gm/Mt.	75	75	75	
40	Feed /Nip - MM	5	5	5	
41	Nips / Min	375	375	375	
42	No. of Heads / Mc	8	8	8	
41	Noil waste - %	20%	20%	20%	1248
42	Efficiency %	88%	88%	88%	
43	Utilisation%	90%	90%	90%	
44	Production/ comber - Kg/Day	1027	1027	1027	
45	No. of Comber Required	3.22	1.71	1.70	6.64
46	Total Combers Required				7.00

Spin Plan

	Lap Former	40 cb	50 cb	60 cb	
47	Waste at comber(noil)%	22%	22%	22%	
48	Production Reqd - Kg./ Day	4042	2148	2131	8321
49	Hank	0.135	0.135	0.135	
50	Delivery Speed - MPM	125	125	125	
51	Efficiency%	75%	75%	75%	
52	Utilisation%	90%	90%	90%	
53	Production / Day - kg.	9112.5	9112.5	9112.5	
54	No. of Machine Reqd.	0.44	0.24	0.23	0.91
55	No of Lap Formers allotted				1.00

	Draw Frame - Breaker	40 cb	50 cb	60 cb	
56	Finisher D/F waste %	0.5%	0.5%	0.5%	
57	Draw Frame production req./day	4063	2158	2142	
58	Sliver Hank	0.135	0.135	0.135	
59	Del speed mtrs./min	525	525	525	
60	100% prod/del/shift in kgs	1101	1101	1101	
61	Efficiency (%)	75%	75%	75%	
62	Utilisation	90%	90%	90%	
63	Expected prodn/del/shift in kgs	743	743	743	
64	Total prodn/del/day in kgs	2229	2229	2229	
65	No of del. Required	1.82	0.97	0.96	
66	Utilisation	95%	95%	95%	
67	Actual no of Breaker del. Req.	1.91	1.02	1.01	3.94
68	Total no of Breaker del. Req.				4.00
69	No of Deliveries/machine				2
70	No of machines required				2

Spin Plan

	Carding	40 cb	50 cb	60 cb	
71	Breaker D/F waste (%)	1.0%	1.0%	1.0%	
72	Carding production required/day	4103	2180	2163	
73	Sliver Hank	0.08	0.08	0.08	
74	100% Production/card/Hr in kgs	90	90	90	
75	Efficiency %	90%	90%	90%	
76	Utilisation	90%	90%	90%	
77	Expected Production/Card/Hr in kg	72.9	72.9	72.9	
78	Total production/Card/Day in kgs	1640.25	1640.25	1640.25	
79	No of cards required	2.50	1.33	1.32	
80	Utilisation	95%	95%	95%	
81	Actual No of card required	2.63	1.40	1.38	5.41
82	Total no of card required				6

	Blow Room	40 cb	50 cb	60 cb	
83	Card waste %	7.0%	7.0%	7.0%	
84	B/R production req./day in kgs	4390	2332	2315	
85	Production/hr/100 % eff	500	500	500	
86	at 95% eff & 95 % utilisation for 24 hours	9720	9720	9720	
87	No of Blow room Lines	0.45	0.24	0.24	
88	Blow Room Waste @ 5%	4610	2449	2431	9490
89	Actual no of Blow room Lines	0.47	0.25	0.25	0.98
90	Total No of Blow room Required				1

Spin Plan

	Auto Cone winding	40 cb	50 cb	60 cb	
91	Yarn	3200	1700	1775	6675
92	Hard waste %	0.5%	0.5%	0.5%	
93	Material to be wound on cone/day	3216	1709	1784	6708
94	Winding speed mtrs/min	1400	1400	1400	
95	100% production/Drum/Shift in kgs	9.32	7.46	6.21	
96	Efficiency %	85%	85%	85%	
97	Utilisation %	90%	90%	90%	
98	Expected prodn/drum/shift in kgs	7.13	5.70	4.75	
99	Expected prodn/drum/day in kgs	21.39	17.11	14.26	
100	No of drums required	150.38	99.86	125.12	
101	Utilisation %	95%	95%	95%	
102	Actual no of drums req.	157.89	104.85	131.37	
103	No of machines required	3.76	2.50	3.13	9.38
104	No of machines allotted	3.76	2.50	3.13	10.00

		KG
105	Total cotton Required for Mixing	9489.57
106	Total cotton required	9489.57

Annexure 5-Plant & Machinery (Imported)

(Rs. in Crores)

S. No	Description	Currency	Currency Conversion rate	Unit Price in lac	Name of Supplier	No. of M\c Rqd.	Basic Cost Per Machine(Rs. Lac)	Total Basic Cost of Machine
1	Electrical Package & Miscellaneous parts	Dollar	64.00	14.25	Balkan	0	912.00	0.00
2	Autoconer		0.00	2.50	Schalfrost	10	237.00	23.70
3	Total							23.70
4	Landing Cost		1.00%					0.24
5	Custom Duty		0.00%					0.00
6	Erection charges etc.		2.50%					0.59
	Total							24.53

Plant & Machinery (Indigenous)

(Rs. in Crores)

Sr. No.	Machine	Supplier	Model	Qty.	Unit Rate (Crore)	Amount
1	Blow room Line	Truetzschler		1	0.90	0.90
2	Carding	Truetzschler	TC 5-3 with KHC	6	0.30	1.80
3	Lap Former	LMW	LH10	1	0.30	0.30
4	Combers	LMW	LK64	7	0.30	2.10
5	Breaker Draw frame	LMW	LD2	2	0.14	0.29
6	Finisher Draw frame	LMW	LRSB851	4	0.19	0.77
7	Speed Frame	LMW	LF4200A	4	0.55	2.20
8	Ring Frame	LMW	LR9AX	15	0.70	10.50
9	Overhead cleaners for S/F, R/F & A/C			29	0.01	0.29
10	Total					19.15
11	CST			2.00%		0.38
12	Erection charges etc.			2.50%		0.49
	Grand Total					20.02

Annexure 6-MFA Plant & Machinery

(Rs. in Crores)

S. No.	Description	Total Cost of MFA
1	MFA	14.48
	Total	14.48

Annexure 7-Land & Building

LAND & SITE DEVELOPMENT

(Rs. in Crores)

S. No.	Particulars	Units	Area	Price/Unit	Amount
1	Land Cost - One Time	-	-	-	2.00
2	Site development	-	LS	-	0.50
	Total				2.50

PLANT BUILDING & COLONY

(Rs. in Crores)

S. No.	Particulars	Area in (Sq. Ft.)	Rate Per Unit (Rs/ Sq. ft.)	Total
1	Repair & Maintenance of Existing Set-up	LS	LS	2.25
	Total			2.25

Annexure 8-Labor Requirement & Wages

Blow Room

Shift	I - Shift	II - Shift	III - Shift	Total	Skill Level
Liner	1	1	1	3	Semi-Skilled
CCS	1	1	1	3	Semi-Skilled
Magnet operator	1	1	1	3	Semi-Skilled
Lay down	1	1	1	3	Semi-Skilled
Mixing	8	3	3	14	Semi-Skilled
Total				26	

Preparatory	I - Shift	II - Shift	III - Shift	Total	Skill Level
Preparatory Helper	2	2	2	6	Semi-Skilled
Reliever	2	2	2	6	Skilled
Card	1	1	1	3	Skilled
Breaker D/F	1	1	1	3	Skilled
Lap Former	1	1	1	3	Skilled
Comber	1	1	1	3	Skilled
RSB	2	2	2	6	Skilled
Speed Frame	1	1	1	3	Skilled
Speed Frame D/C	1	1	1	3	Skilled
Preparatory F/C	1	1	1	3	Skilled
B/R & Card Filter	2	2	2	6	Skilled
Comber filter	1	1	1	3	Skilled
Total				48	

Labor Requirement & Wages

Ring Frame	I - Shift	II - Shift	III - Shift	Total	Skill Level
Ring frame Helper	2	2	2	6	Skilled
Sider	15	15	15	45	Skilled
Gaiter	6	6	6	18	Skilled
Bobbin Feeder	6	6	6	18	Semi-Skilled
Ring Traveller	3	0	0	3	Semi-Skilled
Ring Frame F/C	1	1	1	3	Semi-Skilled
Bobbin Carrier	1	1	1	3	Semi-Skilled
Total				96	

Winding	I - Shift	II - Shift	III - Shift	Total	Skill Level
Link Coner	10	10	10	30	Skilled
Link Coner Helper	2	2	2	6	Semi-Skilled
Link Coner Reliever	2	2	2	6	Skilled
Total				42	

Maintenance	I - Shift	II - Shift	III - Shift	Total	Skill Level
B/R & Card	10	2	1	13	Skilled
Preparatory	6	1	1	8	Skilled
Ring Frame	10	2	2	14	Skilled
Link Coner & Pkg.	4	1	1	6	Skilled
Total				41	

Labor Requirement & Wages

Engineering	I - Shift	II - Shift	III - Shift	Total	Skill Level
Electrical	8	1	1	10	Skilled
Electronics	3	0	0	3	Skilled
Civil	2	0	0	2	Skilled
Humidity Plant	10	2	2	14	Skilled
Compressor	3	1	1	5	Skilled
Power House.	3	1	1	5	Skilled
Total				39	

Other	I - Shift	II - Shift	III - Shift	Total	Skill Level
Store	3	0	0	3	Semi-Skilled
Loading	13	0	0	13	Semi-Skilled
Unloading	10	0	0	10	Semi-Skilled
Security	10	8	8	26	Semi-Skilled
Peon	4	0	0	4	Semi-Skilled
Total				56	

Semi-Skilled Labour required				121
Skilled Labour required				227
Grand Total				435

Labor Requirement & Wages

Rs in Crores	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Year	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Semi-Skilled Labour Cost Rs. Crore /Annum		1.36	1.41	1.47	1.53	1.59	1.65	1.72	1.79	1.86
Skilled Labour Cost Rs. Crore/Annum		3.54	3.68	3.83	3.98	4.14	4.31	4.48	4.66	4.85
Total Cost /Annum (Lakh Rs.)	0.00	4.90	5.10	5.30	5.51	5.73	5.96	6.20	6.45	6.71

Annexure 9-Technical Staff Requirement & Salary

Description	No. of Employee	Average monthly Salary (Rs.)	Monthly Salary (Rs.)
Unit Head	1	100000	100000
G.M. Prod'	1	70000	70000
SPG. Master	1	40000	40000
Shift In charge	4	30000	120000
Finishing Master	1	40000	40000
Finishing Supervisor.	3	25000	75000
G.M. Maintenance	1	70000	70000
Maint. Manager	1	60000	60000
Foreman	4	20000	80000
G.M. Engineering	1	60000	60000
Electrical Manager	1	45000	45000
Electronics Manager	1	40000	40000
Mechanical Manager	1	40000	40000
Electronics Engineer	1	30000	30000
Electrical Engineer	1	30000	30000
Mechanical Engineer	1	30000	30000
Foreman	3	20000	60000
G.M. R&D	1	60000	60000
R&D Manager	1	40000	40000
Investigator & Wpg. Boy	6	20000	120000
Total	35		1210000

Technical Staff Requirement & Salary

G.M. Commercial	70000	70000
MIS Manager	40000	40000
Costing Staff.	20000	20000
Account Manager	40000	40000
Account Staff.	20000	80000
Excise.	20000	40000
G.M. Personal	60000	60000
Personal Manager	40000	40000
Trainee Manager	30000	30000
Trainee Master	20000	100000
Store Manager	40000	40000
Store Staff	20000	80000
Total		640000

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Salary Cost for Technical Staff /Annum	1.57	1.69	1.83	1.98	2.13	2.30	2.49	2.69	2.90
Salary Cost for Administrative Staff /Annum	0.83	0.90	0.97	1.04	1.13	1.22	1.32	1.42	1.54
Total Cost /Annum	2.40	2.59	2.80	3.02	3.26	3.52	3.80	4.11	4.44

Annexure 10-Power Requirement

S. No.	Name of the Machine	No. of Machines	Total Load (MW)
1	Blow Room Line	1	0.10
2	Carding	6	0.11
3	Lap Former	1.00	0.01
4	Comber	7.00	0.10
5	Breaker Draw Frame	2	0.02
6	Finisher Draw Frame	4.00	0.04
7	Speed Frame	4.00	0.04
8	Ring Frame	15.00	0.30
9	Parallel Winding		0.00
10	Autoconer	10.00	0.05
11	Humidification Plant		0.38
12	Compressor, ETP,STP Pumps, Street Lightning etc.		1.20
13	Housing Colony		0.10
14	Mill Lightning		0.20
	Total connected load in MW		2.64
	Power Factor		95%
	Load Factor		70%
	Power Unit consumption per day		42110.46

Annexure 11-Operating Cost

Raw Material Consumption & Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Raw Material Consumed (tons)	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Cotton	1992.81	2324.95	2823.15	2823.15	2823.15	2989.22	2989.22	2989.22	2989.22
Total	1992.81	2324.95	2823.15	2823.15	2823.15	2989.22	2989.22	2989.22	2989.22

Raw Material Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Raw Material Cost	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Cotton	25.16	29.65	36.36	36.72	37.09	39.66	40.06	40.46	40.87
Total	25.16	29.65	36.36	36.72	37.09	39.66	40.06	40.46	40.87

Cost of Consumables Stores & Spares

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Inventory Cost (Crore Rs.)	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Spinning	1.04	1.23	1.51	1.52	1.54	1.65	1.66	1.68	1.70
Total	1.04	1.23	1.51	1.52	1.54	1.65	1.66	1.68	1.70

Power Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Unit Consumed / Annum	8843197	10317063	12527862	12527862	12527862	13264795	13264795	13264795	13264795
Power Cost / Annum (Crore Rs.)	6.44	7.81	9.86	10.26	10.67	11.75	12.22	12.71	13.22
Power Cost after Subsidy / Annum (Crore Rs.)	5.55	6.78	8.61	9.01	10.67	11.75	12.22	12.71	13.22

Operating Cost

Water Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Water Consumed / Annum (KLD)	15750	18375	22312.5	22312.5	22312.5	23625	23625	23625	23625
Water Cost / Annum (Crore Rs.)	0.02	0.02	0.02	0.02	0.02	0.03	0.03	0.03	0.03

Packing Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Yarn Produced / Annum (Tons)	1416	1652	2006	2006	2006	2124	2124	2124	2124
Packing Cost / Annum (Crore Rs.)	0.14	0.17	0.21	0.21	0.21	0.23	0.23	0.23	0.23

STP & Water Softening Cost

(Rs. in Crores)

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Water Consumed / Annum (KLtrs.)	15750	18375	22312.5	22312.5	22312.5	23625	23625	23625	23625
STP & Water Softening Cost	0.01	0.01	0.02	0.02	0.02	0.02	0.02	0.02	0.02

Annexure 12-Cost of Production

	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
OPERATING YEARS	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
A. Raw Material, Consumable Etc.									
Raw Material	25.76	30.36	37.23	37.60	37.98	40.62	41.02	41.43	41.85
Stores & Spares	1.04	1.23	1.51	1.52	1.54	1.65	1.66	1.68	1.70
Packing Material	0.14	0.17	0.21	0.21	0.21	0.23	0.23	0.23	0.23
Total (A)	26.95	31.76	38.95	39.34	39.73	42.49	42.91	43.34	43.78
B. Utilities									
Power	5.55	6.78	8.61	9.01	10.67	11.75	12.22	12.71	13.22
Water	0.02	0.02	0.02	0.02	0.02	0.03	0.03	0.03	0.03
Water Treatment	0.01	0.01	0.02	0.02	0.02	0.02	0.02	0.02	0.02
Total (B)	5.58	6.81	8.65	9.05	10.71	11.79	12.26	12.75	13.26
C. Wages & Salaries									
Labour Wages	4.90	5.10	5.30	5.51	5.73	5.96	6.20	6.45	6.71
Technical Staff	1.57	1.69	1.83	1.98	2.13	2.30	2.49	2.69	2.90
Total (C)	6.47	6.79	7.13	7.49	7.87	8.27	8.69	9.14	9.61
D. Overheads									
Miscellaneous Expenses	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25
Insurance @ 0.42 %	0.08	0.12	0.15	0.15	0.16	0.17	0.17	0.17	0.18
Contingency on D @ 2.5 %	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01	0.01
Total (D)	0.34	0.38	0.41	0.41	0.42	0.43	0.43	0.43	0.44
TOTAL (A + B + C + D)	39.34	45.74	55.14	56.29	58.73	62.98	64.30	65.67	67.08

Annexure 13-Margin Money for Working Capital

Margin Money for Working Capital										
										(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Raw Material	0.00	13.25	15.61	19.15	19.34	19.53	20.89	21.10	21.31	21.52
Consumables	0.00	0.15	0.18	0.22	0.22	0.23	0.24	0.24	0.25	0.25
Work in Progress (WIP)	0.00	1.64	3.64	4.31	4.77	4.93	5.21	5.45	5.57	5.69
Finished Goods	0.00	1.50	3.47	4.25	4.73	4.91	5.19	5.43	5.56	5.68
Bills Receivables	0.00	2.93	6.69	8.70	9.26	9.46	10.02	10.27	10.44	10.58
Sundry Creditors	0.00	1.10	1.30	1.60	1.61	1.63	1.74	1.76	1.78	1.79
Total Working Capital Required	0.00	18.36	28.28	35.04	36.71	37.43	39.80	40.74	41.35	41.92
Margin Money	0.00	5.16	8.07	10.03	10.51	10.71	11.39	11.65	11.82	11.99
Bank Finance	0.00	13.20	20.22	25.01	26.21	26.72	28.41	29.09	29.52	29.94
Interest on Working Capital	0.00	1.85	2.83	3.50	3.67	3.74	3.98	4.07	4.13	4.19

Annexure 14-Preoperative & Contingency

Contingency					
					<i>(Rs. in Crores)</i>
S. No.	Description	Total Cost	Firm Cost	Non- Firm Cost	Cost including Contingency
1	Site Development	0.50		0.50	0.53
2	Repair & Maintenance of Existing Set-up	2.25		2.25	2.36
3	Plant and Machinery				
	Imported	24.53	24.53		25.02
	Indigenous	20.02		20.02	21.02
4	Miscellaneous Fixed Asset				
	Imported	0.09	0.09		0.09
	Indigenous	14.48		14.48	15.20
5	Pre-Operative Expenses	11.16		11.16	11.72
6	Total	73.04	24.62	48.42	75.95
7	Contingency On Pre-Operative Exp. @ 5 %			0.56	
8	Contingency On Foreign Currency Fluctuation @ 2 %			0.49	
9	Contingency On All Other Non-firm Items @ 5 %			1.86	
10	Contingency on Non-Firm Cost			2.91	
	Total Contingencies			2.91	

Annexure 15-Sales Realization

Sales Realisation												(Rs. in Crores)
				2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Type of Yarn	Count	Type of Yarn	Prod./ Day	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Combed	40s	Combed	3232	15.63	18.42	22.59	22.81	23.04	24.64	24.89	25.14	25.39
	50s	Combed	1717	8.85	10.43	12.79	12.92	13.05	13.95	14.09	14.23	14.37
	60s	Combed	7848	49.01	58.04	71.53	72.61	73.70	79.20	80.39	81.60	82.82
Total Yarn Sales Realisation / Annum				73.49	86.88	106.91	108.34	109.78	117.79	119.37	120.96	122.58

Waste Sales Realisation												
Waste Weight / Annum												
				2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Type of Waste				1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Comber Noil				262118	305804	371334	371334	371334	393177	393177	393177	393177
Other Hard Waste				184050	214725	260737	260737	260737	276075	276075	276075	276075

Sales Realisation /Annum												
												(Rs. in Crores)
				2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Type of Waste				1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Comber Noil				0.74	0.87	1.07	1.08	1.09	1.17	1.18	1.19	1.20
Other Hard Waste				0.17	0.20	0.24	0.24	0.25	0.26	0.27	0.27	0.27
Total				0.91	1.07	1.31	1.33	1.34	1.43	1.45	1.46	1.48

Sales Realization

Total Sales Realisation (Fabric + Waste)												
												<i>(Rs. in Crores)</i>
				2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
				1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Domestic Sales + Waste				56.04	78.03	101.47	107.98	110.40	116.86	119.87	121.82	123.48
Total				34.17	78.03	101.47	107.98	110.40	116.86	119.87	121.82	123.48
												<i>(Rs. in Crores)</i>
VAT on Sales Realisation				1.37	3.12	4.06	4.32	4.42	4.67	4.79	4.87	4.94

Annexure 16-Profit & Loss Statement

Profit & Loss Statement									
									(Rs. in Crores)
	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
OPERATING YEARS	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Cost of Manufacturing	39.34	45.74	55.14	56.29	58.73	62.98	64.30	65.67	67.08
Add. Opening WIP	0.00	20.23	23.52	28.36	28.95	30.20	32.39	33.07	33.77
Less WIP	20.23	23.52	28.36	28.95	30.20	32.39	33.07	33.77	34.50
Cost of Production	19.11	42.45	50.30	55.70	57.47	60.79	63.62	64.96	66.35
Add. Opening Stock of Finish Goods	0.00	1.64	3.64	4.31	4.77	4.93	5.21	5.45	5.57
Less Closing Stock of Finish Goods	1.64	3.64	4.31	4.77	4.93	5.21	5.45	5.57	5.69
Cost of Goods Sold	17.47	40.45	49.63	55.23	57.32	60.51	63.38	64.85	66.24
Rentals	0.600	0.600	0.600	0.900	0.900	0.900	1.200	1.200	1.200
Administrative Staff Salaries	0.83	0.90	0.97	1.04	1.13	1.22	1.32	1.42	1.54
Administrative Expenses	3.64	3.67	3.71	3.75	3.78	3.82	3.86	3.90	3.94
Selling Expenses & commission	1.37	3.15	4.14	4.45	4.55	4.82	4.94	5.02	5.09
VAT Payable	1.37	3.12	4.06	4.32	4.42	4.67	4.79	4.87	4.94
Total Cost of Sale	25.27	51.89	63.11	69.69	72.10	75.94	79.49	81.26	82.94
Total Sales Realization	34.17	78.03	101.47	107.98	110.40	116.86	119.87	121.82	123.48
Gross Operating Profit or PBIDT	8.90	26.14	38.37	38.29	38.31	40.92	40.39	40.56	40.54
Depreciation	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Interest on Rupee Loan	0.00	5.33	4.61	3.89	3.16	2.44	1.72	0.99	0.27
Interest on Bank Borrowing for Working Capital	1.85	2.83	3.50	3.67	3.74	3.98	4.07	4.13	4.19
Total Financial Charges	1.85	8.16	8.11	7.56	6.90	6.42	5.79	5.13	4.46
Profit Before Tax or PBT	3.13	14.06	26.33	26.81	27.48	30.58	30.67	31.51	32.16
% of Operating Profit	9.2%	18.0%	26.0%	24.8%	24.9%	26.2%	25.6%	25.9%	26.0%
Current Year TAX	0.64	1.49	7.54	8.11	8.68	10.03	10.31	10.81	11.21
Deffered Tax	2.46	1.90	1.42	1.01	0.66	0.36	0.11	-0.10	-0.28
Net Profit or PAT	0.03	10.68	17.38	17.70	18.14	20.19	20.25	20.80	21.23
	26%	34%	38%	35%	35%	35%	34%	33%	33%

Annexure 17-Depreciation & Tax

<i>(Rs. in Crores)</i>															
Depreciation Straight Line Method					2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24	
Description	Rate of Depreciation (SLM)	Cost of Assets including Contingencies		Add Proportionate Pre-Operative Expenses including Contingency	Capital Cost of Assets after Apportionment	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Repair & Maintenance of Existing Set-up	3.3 %	2.36	0.54	2.90	0.00	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10	0.10
Plant and Machinery	5.3 %	46.04	10.55	56.59	0.00	2.99	2.99	2.99	2.99	2.99	2.99	2.99	2.99	2.99	2.99
Misc. Fixed Assets	5.3 %	18.87	4.32	23.19	0.00	1.22	1.22	1.22	1.22	1.22	1.22	1.22	1.22	1.22	1.22
Total		67.80	15.53	83.33	0.00	4.31	4.31	4.31	4.31	4.31	4.31	4.31	4.31	4.31	4.31

<i>(Rs. in Crores)</i>											
Depreciation WDV		2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Description		0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Repair & Maintenance of Existing Set-up	10.0%	0.00	0.29	0.26	0.24	0.21	0.19	0.17	0.15	0.14	0.12
Plant and Machinery	15.0%	0.00	8.49	7.22	6.13	5.21	4.43	3.77	3.20	2.72	2.31
Misc. Fixed Assets	15.0%	0.00	3.48	2.96	2.51	2.14	1.82	1.54	1.31	1.12	0.95
Total		0.00	12.26	10.43	8.88	7.56	6.44	5.48	4.67	3.98	3.39

Depreciation & Tax

	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Description	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
PBT	0.00	3.13	14.06	26.33	26.81	27.48	30.58	30.67	31.51	32.16
Add :Depreciation SLM	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Total	0.00	7.05	17.98	30.26	30.74	31.40	34.50	34.60	35.43	36.08
Less: Depreciation WDV	0.00	11.16	9.50	8.09	6.89	5.86	4.99	4.25	3.62	3.09
Net Profit	0.00	-4.11	8.48	22.17	23.85	25.54	29.51	30.34	31.81	32.99
Carry Forward (B /F Loss)	0.00	0.00	-4.11	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Taxable profit	0.00	-4.11	4.38	22.17	23.85	25.54	29.51	30.34	31.81	32.99
Income Tax (MAT/TAX)	0.00	0.64	1.49	7.54	8.11	8.68	10.03	10.31	10.81	11.21
MAT Calculation @ 20.40%	0.00	0.64	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Income Tax Calculation @ 33.99%	0.00	0.00	1.49	7.54	8.11	8.68	10.03	10.31	10.81	11.21
MAT Credit										
Opening Balance	0.00	0.64	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Credit During the Year	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	0.00	0.64	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Less Utilised During the Year	FALSE	FALSE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Closing Balance	0.00	0.64	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

Calculation Of Deferred Tax										
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Dep. As per Co Law	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Dep. As per Income tax	0.00	11.16	9.50	8.09	6.89	5.86	4.99	4.25	3.62	3.09
Excess Dep.	0.00	7.24	5.58	4.16	2.96	1.94	1.07	0.33	-0.30	-0.84

Deferred Tax	0.0	2.5	1.9	1.4	1.01	0.66	0.36	0.11	-0.10	-0.28
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Annexure 18-VAT

VAT Credit										
										(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Opening Balance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VAT on Purchase	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Credit Available	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VAT Payable on Sales	0.00	1.37	3.12	4.06	4.32	4.42	4.67	4.79	4.87	4.94
Closing Balance	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
VAT Payable	0.00	1.37	3.12	4.06	4.32	4.42	4.67	4.79	4.87	4.94

Annexure 19-Cash Flow

Cash flow Statement										
										(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Share Capital	0	33.41	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Profit Before Tax	0.00	3.13	14.06	26.33	26.81	27.48	30.58	30.67	31.51	32.16
Depreciation	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Inc. in Secured Loans	0	42.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Bank Borrowings	0.00	13.20	7.02	4.79	1.20	0.51	1.69	0.68	0.43	0.41
Total	0.00	95.84	25.00	35.04	31.93	31.92	36.20	35.27	35.86	36.50
Capital Expenditure	0	75.95	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Increase in Net Current Assets	0.00	18.36	9.92	6.75	1.68	0.72	2.37	0.94	0.60	0.58
Dec. in Secured Loans	0.00	0.00	6.02	6.02	6.02	6.02	6.02	6.02	6.02	0.00
Taxation	0.00	0.64	1.49	7.54	8.11	8.68	10.03	10.31	10.81	11.21
Total	0.00	94.95	17.44	20.31	15.81	15.42	18.42	17.28	17.44	11.79
Surplus/ Deficit	0.00	0.89	7.56	14.73	16.12	16.49	17.77	17.99	18.42	24.70
Opening Cash Balance	0	0.00	0.89	8.45	23.19	39.31	55.80	73.58	91.57	109.99
Closing Cash Balance	0.00	0.89	8.45	23.19	39.31	55.80	73.58	91.57	109.99	134.69

Annexure 20-Balance Sheet

Balance Sheet											
											(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24	
OPERATING YEARS	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year	
LIABILITIES											
Promoter's Contribution	0.00	33.41	33.41	33.41	33.41	33.41	33.41	33.41	33.41	33.41	33.41
Reserves & Surplus	0.00	0.03	10.71	28.09	45.79	63.93	84.11	104.36	125.16	146.39	
Defferd Tax	0.00	2.46	4.36	5.77	6.78	7.44	7.80	7.91	7.81	7.52	
Term Rupee Loan	0.00	42.17	36.15	30.12	24.10	18.07	12.05	6.02	0.00	0.00	
Bank Borrowing for Working Capital	0.00	13.20	20.22	25.01	26.21	26.72	28.41	29.09	29.52	29.94	
Total	0.00	91.28	104.84	122.40	136.28	149.57	165.79	180.80	195.90	217.26	
ASSETS											
Gross Block	0.00	75.95	75.95	75.95	75.95	75.95	75.95	75.95	75.95	75.95	
Less : Depreciation	0.00	3.92	7.85	11.77	15.69	19.62	23.54	27.46	31.39	35.31	
Net Block	0.00	72.03	68.10	64.18	60.26	56.33	52.41	48.49	44.56	40.64	
Current Assets	0.00	18.36	28.28	35.04	36.71	37.43	39.80	40.74	41.35	41.92	
Cash & Bank Balance	0.00	0.89	8.45	23.19	39.31	55.80	73.58	91.57	109.99	134.69	
Total	0.00	91.28	104.84	122.40	136.28	149.57	165.79	180.80	195.90	217.26	

Annexure 21- Debt Service Coverage Ratio

Debt Service Credit Ratio (DSCR)										
										(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	Total
Profit After Tax	0.00	0.03	10.68	17.38	17.70	18.14	20.19	20.25	20.80	125.16
Depreciation	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	31.39
Deferred Tax	0.00	2.46	1.90	1.42	1.01	0.66	0.36	0.11	-0.10	7.81
Prilimany Expense w/off	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Intt. on Term Loans	0.00	0.00	5.33	4.61	3.89	3.16	2.44	1.72	0.99	22.14
Total (A)	0.00	6.42	21.83	27.33	26.51	25.88	26.91	26.00	25.61	186.50
Repayment of Loans	0.00	0.00	6.02	6.02	6.02	6.02	6.02	6.02	6.02	42.17
Intt. on term loans	0.00	0.00	5.33	4.61	3.89	3.16	2.44	1.72	0.99	22.14
Total (B)	0.00	0.00	11.36	10.63	9.91	9.19	8.47	7.74	7.02	64.32
Debt service coverage ratio	0.00	#DIV/0!	1.92	2.57	2.68	2.82	3.18	3.36	3.65	2.90
Gross Average DSCR		2.90								
Cash Accruals	0.00	3.96	14.60	21.31	21.62	22.06	24.11	24.17	24.72	156.55
Net DSCR			2.42	3.54	3.59	3.66	4.00	4.01	4.10	3.71
Average Net DSCR	3.71									

Annexure 22-Internal Rate of Return

Internal Rate of Return (IRR)										
										(Rs. in Crores)
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	Total
Inflows										
PAT	0.00	0.03	10.68	17.38	17.70	18.14	20.19	20.25	20.80	21.23
Depreciation+Ammortisation	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Deferred Tax Liability	0.00	2.46	1.90	1.42	1.01	0.66	0.36	0.11	-0.10	-0.28
Interest	0.00	1.85	8.16	8.11	7.56	6.90	6.42	5.79	5.13	4.46
NWC										41.92
Salvage Value										40.64
Total Inflow	0.00	8.26	24.66	30.83	30.18	29.63	30.89	30.07	29.75	111.89
Outflows										
Capital Expenditure	0.00	75.95	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Less IDC	0.00	10.12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Add: Outflows due to NWC	0.00	18.36	9.92	6.75	1.68	0.72	2.37	0.94	0.60	0.58
Less: Margin Money for WC	5.16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total out flow	-5.16	84.19	9.92	6.75	1.68	0.72	2.37	0.94	0.60	0.58
Net Inflow	5.16	-75.93	14.73	24.08	28.51	28.91	28.52	29.13	29.14	111.31
IRR	31.93%									

Annexure 23- Break Even

Break Even										
										<i>(Rs. in Crores)</i>
	2014 - 15	2015 - 16	2016 - 17	2017 - 18	2018 - 19	2019 - 20	2020 - 21	2021 - 22	2022 - 23	2023 - 24
Particulars	0 Year	1st Year	2nd Year	3rd Year	4th Year	5th Year	6th Year	7th Year	8th Year	9th Year
Total Income	0.00	56.04	83.32	106.98	109.04	111.81	119.33	120.80	122.64	124.33
(A) Variable Cost										
Raw Material	0.00	25.76	30.36	37.23	37.60	37.98	40.62	41.02	41.43	41.85
Consumables	0.00	1.04	1.23	1.51	1.52	1.54	1.65	1.66	1.68	1.70
Power	0.00	5.55	6.78	8.61	9.01	10.67	11.75	12.22	12.71	13.22
Wages	0.00	4.90	5.10	5.30	5.51	5.73	5.96	6.20	6.45	6.71
Packing Expenses	0.00	0.14	0.17	0.21	0.21	0.21	0.23	0.23	0.23	0.23
Selling Expenses	0.00	1.37	3.15	4.14	4.45	4.55	4.82	4.94	5.02	5.09
VAT	0.00	1.37	3.12	4.06	4.32	4.42	4.67	4.79	4.87	4.94
Intt.on Working Capital	0.00	1.85	2.83	3.50	3.67	3.74	3.98	4.07	4.13	4.19
Total (A)	0.00	41.99	52.74	64.56	66.29	68.84	73.67	75.14	76.52	77.92
Contribution	0.00	14.05	30.58	42.42	42.75	42.97	45.66	45.66	46.12	46.41
(B) Fixed Cost										
Factory Overheads	0.00	0.34	0.38	0.41	0.41	0.42	0.43	0.43	0.43	0.44
Salary & Admn. Overhead	0.00	6.03	6.26	6.51	6.77	7.05	7.34	7.66	8.01	8.38
Intt. on Term Loan	0.00	0.00	5.33	4.61	3.89	3.16	2.44	1.72	0.99	0.27
Depreciation (SLM)	0.00	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92	3.92
Total (B)	0.00	10.29	15.90	15.45	14.99	14.55	14.14	13.74	13.36	13.01
Net Profit	0.00	3.76	14.68	26.97	27.76	28.42	31.52	31.92	32.76	33.40

Break Even at C.U. (Net Profit)	0.00%	73.25%	51.99%	36.42%	35.07%	33.86%	30.97%	30.10%	28.97%	28.04%
Cash Break Even Point	0.00%	45.32%	39.16%	27.17%	25.89%	24.73%	22.38%	21.50%	20.46%	19.58%

Annexure 24- Photographs

Front Side of the Mill



Supply Air Ducts

Blow Room Entry Gate



Humidification Plant-Fan Casing & Dampers



Photographs

Production Hall Man Entrance



Back Side of the Building



Pillars for Fencing at Back Side



Store False Ceiling Material



Photographs

Partially Constructed Quarters



Staff Quarters



Worker Quarters



Annexure 25- Layout of Spinning Mil