



UTTARAKHAND SUGARS

**UTTARAKHAND SAHKARI CHINI MILLS SANGH LTD.  
(UTTARAKHAND SUGARS)**

NEAR- RAILWAY CROSSING, BADRIPUR ROAD,  
JOGIWALA, DEHRADUN- 248001

Telephone : 0135-2974413

E-mail : [uksugars@gmail.com](mailto:uksugars@gmail.com), Website : [www.uttarakhandsugars.com](http://www.uttarakhandsugars.com)

GST No. 05AABFU7713K2Z1

**COMPETITIVE e-Bidding**

**FOR**

**"Setting-UP and Operating Integrated Sugarmill Complex at Sitarganj  
(the Project)"**

e-Bid REFERENCE : 1414/Tech-48(V)/2022-23,  
Dated :- 28.10.2022  
LAST DATE AND TIME FOR : 21.11.2022 upto 06:00 P.M.  
SUBMISSION OF E-Bids  
DATE AND TIME OF OPENING OF ON : 22.11.2022 at 10:30 A.M.  
LINE TECHNICAL e-Bids  
PLACE OF OPENING OF e-Bids : Uttarakhand Sahkari Chini Mills Sangh  
Ltd., Near Railway Crossing, Badripur  
Road, Jogiwala, Dehradun  
ADDRESS FOR COMMUNICATION : Managing Director,  
Uttarakhand Sahkari Chini Mills Sangh  
Ltd., Near Railway Crossing, Badripur  
Road, Jogiwala, Dehradun  
e-Bid EMD : **Rs. 95.00 Lac/- (Rs. Ninety-Five Lac  
only) in the form of Demand DRAFT  
/RTGS/NEFT drawn on any  
Nationalised / Scheduled bank in  
favour of Uttarakhand Cooperative  
Sugar Factories Federation Ltd.  
Payable at Dehradun.**

**This Document Contains -- 118 Pages**

It will be the responsibility of the e-Bidders to check Uttarakhand Government e-Procurement website <http://uktenders.gov.in> for any amendment through corrigendum in the e-tender document. In case of any amendment, e-Bidders will have to incorporate the amendments in their e-Bids accordingly.

**e-tender Document Processing/Cost: Rs. 59,000.00 (18% GST Inclusive)**



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GST No. 05AABFU7713K2Z1

Ref. No. 1414 /Tech-48(V)/2022-23

Date: 28-10-2022

**E-TENDER NOTICE**

Online Tender (e-Tender) is invited by Uttarakhand Sahkari Chini Mills Sangh Ltd. (Uttarakhand Sugars) for **“Setting-UP and Operating Integrated Sugarmill Complex at Sitarganj (the Project)”** at Distt. Udham Singh Nagar - Uttarakhand from eligible and reputed parties on **Develop, Operate, Maintain, and Transfer (DOMT)** basis. Interested parties may submit their proposal latest by 21<sup>st</sup> November, 2022 up to 06:00 P.M. The tender document [including the request for proposal (RFP), bidder information, and other project-related details] is available on the e-Tender Portals [www.uktenders.gov.in](http://www.uktenders.gov.in) & [www.uttarakhandsugars.com](http://www.uttarakhandsugars.com). The particulars of the e-bid schedule, including Earnest money deposit (EMD) details are provided below.

SI No.	PARTICULARS	DETAILS
1	Name of the Department	Uttarakhand Cooperative Sugar Factories Federation Ltd. Near Railway Crossing, Badripur Road, Jogiwala (Dehradun)
2	Procedure for obtaining bid document.	Tender documents can be downloaded from e-tender portal <a href="http://www.uktenders.gov.in">www.uktenders.gov.in</a> & Federation's website <a href="http://www.uttarakhandsugars.com">www.uttarakhandsugars.com</a> .
3	Cost of E-bid document / e-bid processing fee	<b>Rs. 59,000.00 (18% GST Inclusive) in the form of Demand DRAFT/RTGS/NEFT drawn on any Nationalised / Scheduled bank in favour of uttarakhand Cooperative Sugar Factories Federation Ltd. Payable at Dehradun. (Amount is non refundable)</b>
4	e-Bid EMD	<b>Rs. 95.00 Lac/- (Rs. Ninety-Five Lac only) in the form of Demand DRAFT/RTGS/NEFT drawn on any Nationalised / Scheduled bank in favour of Uttarakhand Cooperative Sugar Factories Federation Ltd. Payable at Dehradun.</b>
5	e-Bid submission start date & time.	<b>28-10-2022 at 06:00 PM</b>
6	e-Bid submission end date & time.	<b>21-11-2022 upto 06:00 PM</b>
7	Technical e-bid opening date & time	<b>22.11.2022 at 10:30 AM</b>
8	Financial e-bid opening date & time	<b>22.11.2022 at 03:00 PM</b>
9	Venue of opening of e-bid	Uttarakhand Cooperative Sugar Factories Federation Ltd. Near Railway Crossing, Badripur Road, Jogiwala (Dehradun)

The tender fee (non refundable) and E.M.D. will be deposited in Federation office on or before the date & time specified. E-Tender without E.M.D. shall be rejected. The Administrator reserves the right to cancel any or all bids or the e-bidding process without assigning any reason thereof. The decision of Administrator will be final & binding upon bidders.

**MANAGING DIRECTOR**

## INVITATION FOR e-Bids

### **Online e-Bids are invited for Setting-UP and Operating Integrated Sugarmill Complex at Sitarganj (the Project)"**

Bidders are advised to study the Tender Document carefully. Submission of e-Bid against this Tender shall be deemed to have been done after careful study and examination of the procedures, terms and conditions of the Tender Document with full understanding of its implications.

1. The e-Bid prepared in accordance with the procedures enumerated in ITB **Clause 15** of Section-I should be submitted through e-Procurement website <http://uktenders.gov.in>.
2. The Tender document is available at e-Procurement website <http://uktenders.gov.in> or Federation's website [www.uttarakhandsugars.com](http://www.uttarakhandsugars.com) from 28.10.2022 at **06.00 PM**. Interested bidders may view, download the e-Bid document, seek clarification and submit their e-Bid online up to the date and time mentioned in the table below:

(a)	Date of publication of e-Tender notice & availability of Tender Document	Tender Notice has been published over e-Procurement website <a href="http://uktenders.gov.in">http://uktenders.gov.in</a> and Federation's website <a href="http://www.uttarakhandsugars.com">www.uttarakhandsugars.com</a> and Tender Document will be available from 06.00 <b>P.M.</b> 28.10.2022 at e-Procurement website <a href="http://uktenders.gov.in">http://uktenders.gov.in</a> and Federation's website <a href="http://www.uttarakhandsugars.com">www.uttarakhandsugars.com</a>
(b)	Availability of Tender document on website	28.10.2022 from 06.00 P.M. at e-Procurement website <a href="http://uktenders.gov.in">http://uktenders.gov.in</a> and Federation's website <a href="http://www.uttarakhandsugars.com">www.uttarakhandsugars.com</a>
(c)	Clarification start date & time	28.10.2022 from 06.00 P.M.
(d)	Clarification end date & time	21.11.2022 upto 06.00 P.M.
(e)	e-Bid submission start date & time (Submission of e-Tender fee, EMD and other supporting documents in PDF/XLS format)	28.10.2022 from 06.00 P.M.
(f)	e-Bid submission end date & Time	21.11.2022 upto 06.00 P.M.
(g)	Online technical e-Bid opening date & time	22.11.2022 at 10:30 A.M.
(h)	Online financial e-Bid opening date & time (Only of technically qualified bidders)	22.11.2022 at 03:00 P.M.
(i)	Venue of opening of technical & financial e-Bids	Uttarakhand Sahkari Chini Mills Sangh Ltd., Near Railway Crossing, Badripur Road, Jogiwala, Dehradun
(j)	Contact Officer	Name: Vijay Kumar Panday- Inch. General Manager (M.) :- 99360-59299 Mayank Yadav :- 91493-28329
(k)	Cost of e-Bid document	<b>Rs. 59,000.00 (18% GST Inclusive) (Non-refundable)</b>
(l)	e-Bid Earnest Money	<b>Rs. 95.00 Lac/- (Rs. Ninety-Five Lac Only)</b>
(m)	Earnest Money	<b>Earnest Money &amp; Tender fee deposited in favour of Uttarakhand Sugars, Dehradun through RTGS/NEFT/NETBANKING/D.DRAFT.</b> <b>The Details are as under:</b> <b>Name of Beneficiary: Uttarakhand Sahkari Chini Mills Sangh Ltd. Dehradun</b> <b>Bank Account No.: 1843010100019499</b> <b>IFSC Code No.: PUNB0469500</b> <b>Name of Bank Branch : Punjab National Bank SGVS Subhash Road Dehradun</b>

3. The bidders need to submit the proof/cost of e-Bid document/processing as stated in the above table in Cash in the office or through **Demand Draft/RTGS/NEFT/ NET BANKING** in favour of Uttarakhand Cooperative sugar factories federation ltd, Dehradun. (herein after referred as UTTARAKHAND SUGARS payable at Dehradun. The scanned copy of the Cash Deposit Receipt or Demand Draft /RTGS/NEFT/NET BANKING must be enclosed along with the e-Bids but the original Demand Draft should reach the office of UTTARAKHAND SUGARS at Dehradun before opening of technical e-Bid.
4. All e-Bid must be accompanied by e-Bid Earnest Money Deposit (EMD) in the form of **Demand Draft/RTGS/NEFT/NET BANKING**, drawn in favour of Uttarakhand Cooperative sugar factories federation ltd, Dehradun. The scanned copy of the **e-Bid EMD** must be submitted along with the e-Bid and the original should reach the Federation's office at Dehradun before opening of technical e-Bids. No Interest would be payable on e-Bid (Earnest Money) deposited with the Federation.
5. The e-Bids will be electronically opened in the presence of bidder's representatives, who choose to attend at the venue, date and time mentioned in the above table. An authority letter of bidders' representative will be required to be produced.
6. The Federation reserves the right to cancel any or all the e-Bids/annual the e-Bid process without assigning any reason thereof. The decision of Federation will be final and binding.
7. In the event of date specified for e-Bids opening being declared a holiday for Federation's office then the due date for opening of e-Bids shall be the following working day at the appointed time and place.
8. All the required documents including Price Schedule/BOQ should be uploaded by the e-Bidder electronically in the PDF/XLS format. The required electronic documents for each document label of Technical (Fee details, Qualification details, e-Bid Form) schedules/packets can be clubbed together to make single different files for each label.

**Uttarakhand Sahakari Chini Mills  
Sangh Ltd.**

**GOVERNMENT OF  
UTTARAKHAND**

**Request for Proposal**

**SETTING-UP AND OPERATING  
INTEGRATED SUGAR COMPLEX  
AT SITARGANJ**

**October, 2022**

The information contained in this Request for Proposal (“RFP”) Document or subsequently provided to Bidder, whether verbally or in documentary form by or on behalf of the Uttarakhand Sahakari Chini Mills Sangh Ltd. (“UK Sugars”) or any of their employees or advisors, is provided to the Bidder on the terms and conditions set out in this RFP Document and any other terms and conditions subject to which such information is provided.

This RFP Document is not an agreement and is not an offer or invitation by the UK Sugars to any party other than the Applicants who are qualified to submit the Proposal (Bidders). The purpose of this RFP Document is to provide the Bidder with information to assist the formulation of their proposals. This RFP Document does not purport to contain all the information each Bidder may require. This RFP Document may not be appropriate for all persons, and it is not possible for the UK Sugars, their employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP Document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP Document and where necessary obtain independent advice from appropriate sources. The UK Sugars, their employees and advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP Document.

The UK Sugars may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP Document.

The RFP Document for the integrated complex at Sitarganj consists of three parts as listed below:

<b>Part I</b>	<b>Bid Process Details</b>
<b>Part II</b>	<b>Draft Concession Agreement</b>
<b>Part III</b>	<b>Project Information Memorandum</b>

**Part I**

**Bid Process Details**



## TABLE OF CONTENTS

S. No.	Particulars	Page Nos.
1	Table of Contents	5
2	Schedule of Bidding Process	6
3	Instructions to Bidders	7
4	Criteria for Qualification and Evaluation	20
	<b>Appendix</b>	
Appendix A	Format of Acknowledgement of RFP Document and Notification of Intent to submit Proposal	25
Appendix B	Format for Covering Letter for Proposal cum Project Undertaking	26
Appendix C	Format for draft Letter of Acceptance	27
Appendix D	Format of Acknowledgement of Letter of Acceptance	29
Appendix E	Format for Power of Attorney for Signing of Proposal	30
Appendix F	Format for Power of Attorney for Lead Member of Consortium	32
Appendix G	Format for Bid Security	34
Appendix H	Format for Anti-blacklisting Affidavit	36
Appendix I	Format for Anti-Collusion Certificate	37
Appendix J	Format for Details of Bidder	38
Appendix K	Format for Price Proposal	39
Appendix L	Proposed Investment Plan	43
Appendix M	Eligibility Criteria: Net Worth	45
Appendix N	Undertaking Jointly by Bidder and SPV	47

### **SCHEDULE OF BIDDING PROCESS**

The UK Sugars would endeavor to adhere to the following schedule:

<b>Sr. No</b>	<b>Activity Description</b>	<b>Date</b>
1.	Site Visit	
2.	Last date for receiving queries	
3.	Response to bidder's queries	
4.	Pre-proposal meeting	
5.	Proposal Due Date	
6.	Opening of Other Submissions	
7.	Opening of Price Proposals	

## INSTRUCTIONS TO BIDDERS

### A. Introduction

#### 1.1 Project Background

- 1.1.1 UK Sahakari Chini Mills Sangh Ltd. ("UK Sugars" or "USCMSL") owns a 2,500 TCD Sugarmill at Sitarganj ("Site"), named as Kishan Sahakari Chini Mills Ltd, Sitarganj.
- 1.1.2 With a view to developing the Site as an integrated complex comprising Ethanol Distillery and Co-generation plant, and an emphasis on the production of clean & sustainable fuels and overall socio-economic development of the nearby area (in the vicinity of the plant facility) in partnership with a suitably identified investor, UK Sugars invites EoI cum RFP applications from interested parties to develop the Site as an Integrated Complex (the "Project"), under the Concession structure.
- 1.1.3 UK Sugars would like to develop the Site as an Integrated Complex along with other mandatory facilities in partnership with a suitably identified investor selected through an open and transparent competitive bid process (the "Project").
- 1.1.4 The Estimated Project Cost is Rs. 380 Crore.

#### 1.2 Brief Description of Bidding Process

- 1.2.1 UK Sugars intends to adopt a single stage two bid open transparent, competitive bidding process as per Procurement Rules of Uttarakhand, 2013 for selection of the successful bidder for the Project.
- 1.2.2 The Proposals would be evaluated on the basis of the qualification and evaluation criteria set out in this RFP Document in order to identify the successful bidder.

### B. General

#### 1.3 Scope of Proposal

- 1.3.1 UK Sugars invites detailed proposals (Qualification Submissions and Price Proposal, collectively referred to as the '**Proposal**') from eligible Bidders.
- 1.3.2 The Proposals would be evaluated on the basis of the evaluation criteria set out in this Request for Proposal (RFP) Document (hereinafter referred to as the "**Evaluation Methodology**") in order to identify the successful Bidder for the Project (hereinafter referred to as the "**Successful Bidder**"). The Successful Bidder would then be required to enter into an agreement (hereinafter the "**Concession Agreement**") with UK Sugars as per the draft set forth in Part – II of this RFP Document and perform the obligations as stipulated therein, in respect of the Project.
- 1.3.3 Terms used in this RFP Document which have not been defined herein shall have the meaning ascribed thereto in the draft Concession Agreement.

#### 1.4 Eligible Bidders

- 1.4.1 Bidders for the Project are eligible to submit the Proposal in response to this RFP Document. Bidders shall acknowledge the receipt of this RFP Document and notify their intention to bid for the Project in the format provided as **Appendix A**.

1.4.2 Bidders shall provide such evidence of their eligibility to the satisfaction of UK Sugars, as UK Sugars may reasonably require.

1.4.3 The Bidders should submit a Power of Attorney as per the format enclosed at **Appendix E**, authorising the signatory of the Proposal to commit the Bidder.

1.4.4 The Bidders should submit their details as per the format enclosed as **Appendix J**.

1.4.5 The Proposals submitted by a Consortium should comply with the following additional requirements:

- (a) Wherever required, the Proposal shall contain the information required for each of the members of the Consortium.
- (b) The Proposal shall be signed by the duly authorised signatory of the Lead Member and shall be legally binding on all the members of the Consortium.
- (c) A Bidder who has applied for a Project in its individual capacity or as part of a Consortium cannot participate either individually or as a member of any other Consortium applying for the Project.
- (d) The members of the Consortium shall nominate one member as the Lead Member and the other member/s would be hereinafter referred as Other Member/s.
- (e) The members of the Consortium shall execute a Power of Attorney as per the format enclosed at **Appendix F**.
- (f) All witnesses and sureties shall be persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Proposal documents shall be dated.

1.4.6 Any entity which has earlier been barred by UK Sugars or any other entity of Government of Uttarakhand or under any other applicable law from participating in the bidding process will not be eligible to submit a Proposal, either individually or as a member of a Consortium, if such bar subsists as on the Proposal Due Date. The Bidder should therefore submit an affidavit certifying the aforesaid as per the format enclosed at **Appendix H**.

## **1.5 Change in Consortium Composition**

No change in Consortium will be allowed at any stage during the bidding process.

## **1.6 Number of Proposals**

Each Bidder shall submit only one (1) Proposal for the Project in response to this RFP Document. Any Business Entity, which submits or participates in more than one Proposal for the Project will be disqualified and will also cause the disqualification of Consortium of which it is a member.

### **1.7 Proposal Preparation Cost**

The Bidder shall be responsible, and shall pay for all costs associated with the preparation of its Proposal and its participation in the bidding process. UK Sugars will not be responsible or in any way be liable for such costs, regardless of the conduct or outcome of the bidding process.

### **1.8 Project Inspection and Visit to the Project Site**

It is desirable that each Bidder should submit its Proposal after undertaking Project inspection/ visiting the site and ascertaining the relevant conditions material and necessary for completion of the Project, at its own cost.

### **1.9 Bidders Responsibility**

1.9.1 It would be deemed that by submitting the Proposal, the Bidder has:

- (a) made a complete and careful examination of this RFP Document;
- (b) received all relevant information as it has requested from the UK Sugars;
- (c) made a complete and careful examination of the various aspects of the Project including but not limited to:
  - (i) the Project site
  - (ii) existing plant facilities and structures
  - (iii) the conditions of the access roads and utilities in the vicinity of the Project site
  - (iv) conditions affecting plant facility, availability of raw material, facilities related to procurement, handling, and storage of materials
  - (v) clearances obtained/to be obtained by the UK Sugars for the Project, and
  - (vi) all other matters that might affect the performance of the Bidder under the terms of this RFP Document.

1.9.2 The UK Sugars shall not be liable for any mistake or error or neglect on the part of the Bidder in respect of any of the above.

### **1.10 Pre-Proposal Meeting**

1.10.1 To clarify and discuss issues with respect to the Project and the RFP Document, the UK Sugars may hold Pre-Proposal meeting/s.

1.10.2 Prior to the Pre-Proposal meeting/s, the Bidders may submit a list of queries and proposed deviations, if any, to the Project requirements and/or the draft Concession Agreement. Bidders must formulate their queries and forward the same to the UK Sugars at least seven (7) days prior to the meeting. The UK Sugars may, as may be considered acceptable at its sole discretion, amend the RFP Document based on inputs provided by the Bidders.

1.10.3 Bidders may note that the UK Sugars will not entertain any deviations to the RFP Document at the time of submission of the Proposal or thereafter. The Proposal to be

submitted by the Bidders will be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP Document with all its contents including the terms and conditions of the draft Concession Agreement. Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.

1.10.4 The UK Sugars will endeavor to hold the meeting as per the Schedule of Bidding Process. The details of the Pre-Proposal meeting will be separately communicated to the Bidders.

1.10.5 Attendance of the Bidders at the Pre-Proposal meeting is not mandatory. However, subsequent to the meeting, the UK Sugars may not respond to queries from any Bidder who has not attended the Pre-Proposal meeting.

1.10.6 All correspondence / enquiries should be submitted to the following in writing by fax /post / courier:

SUBJECT           UTTARAKHAND SAHAKARI CHINI MILLS SANGH LTD.  
ATTN. OF:       Managing Director  
ADDRESS:       NEAR RAILWAY CROSSING, JOGIWALA, DEHRADUN,  
                    UTTARAKHAND- 248012

1.10.7 No interpretation, revision, or other communication from the UK Sugars regarding this solicitation is valid unless in writing and is signed by Managing Director, UK Sugars or its authorised representative. The UK Sugars may choose to send to all the Bidders, written copies of the UK Sugars's responses, including a description of the enquiry but without identifying its source to all the Bidders.

#### **1.11 Right to Accept or Reject any or all of the Proposals**

1.11.1 Notwithstanding anything contained in this RFP Document, the UK Sugars reserves the right to accept or reject any Proposal or to annul the bidding process or reject all the Proposals, at any time without any liability or any obligation for such rejection or annulment, without assigning any reasons.

1.11.2 The UK Sugars reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or discovered with respect to such Proposal, or
- (b) the Bidder does not respond promptly and diligently to requests for supplemental information required for the evaluation of any such Proposal.

1.11.3 Rejection of a Proposal by the UK Sugars would lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium would be disqualified / rejected. If such disqualification / rejection occurs after the Price Proposals have been opened and the Rank 1 Bidder gets disqualified / rejected, then UK Sugars reserves the right to:

- (a) either invite the next highest Bidder to match the Price Proposal submitted by the Best Bidder;

OR

- (b) take any such measure as may be deemed fit in the sole discretion of UK Sugars, including annulment of the bidding process.

1.11.4 Based on the outcome of **Clause 1.11.3 (a)** or **Clause 1.11.3 (b)**, the UK Sugars retains the right to declare such Bidder as the Preferred Bidder for the Project.

## **C. Documents**

### **1.12 Contents of RFP Document**

The RFP Document comprises the contents as listed below, and would additionally include any Addenda issued in accordance with Clause 1.13.

Part I	Bid Process Details
Part II	Draft Concession Agreement
Part III	Project Information Memorandum

### **1.13 Amendment of RFP Document**

1.13.1 At any time prior to the Proposal Due Date, the UK Sugars may, for any reason, whether at its own initiative or in response to clarifications requested by any Bidder/s, modify the RFP Document by the issuance of Addenda. Such Addenda would be posted on the website/s .....

1.13.2 Any Addendum thus issued will be sent in writing to all the Bidders who have received and acknowledged the RFP Document and will be binding upon them. Bidders shall promptly acknowledge receipt thereof to the UK Sugars.

1.13.3 In order to provide the Bidders a reasonable time to examine the Addendum, or for any other reason, UK Sugars may, at its own discretion, extend the Proposal Due Date.

## **D. Preparation and Submission of Proposal**

### **1.14 Language, Currency and Communication**

1.14.1 The Proposal and all related correspondence and documents should be written in the English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by certified 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 Proposal, the English language translation shall prevail.

1.14.2 The currency for the purpose of the Proposal shall be the Indian Rupee (INR). If the Proposal is submitted in any other currency, the UK Sugars reserves the right to use a suitable exchange rate for the purpose of uniformly evaluating all Proposals.

1.14.3 All correspondence between the UK Sugars and the Bidders shall be in writing and sent through registered mail or courier.

### **1.15 Validity of Proposal**

The Proposal shall remain valid for a period not less than six (6) months from the submission of the bid (Proposal Validity Period). The UK Sugars reserves the right to reject any Proposal, which does not meet this requirement.

### **1.16 Extension of Validity of Proposal**

1.16.1 Prior to expiry of the original Proposal Validity Period, the UK Sugars may request that the Bidders extend the period of validity for a specified additional period. A Bidder may refuse the request without forfeiture of its Bid Security. A Bidder agreeing to the request will not be allowed to modify its Proposal, but would be required to extend the validity of its Bid Security for the period of extension and comply with **Clause 1.17** of this document in all respects.

1.16.2 The Successful Bidder shall extend the Proposal Validity Period till the date of execution of the Concession Agreement.

### **1.17 Bid Security and Forfeiture of Bid Security**

1.17.1 Applicant/Bidder shall submit Bid Security for an amount that is equal to 0.25% of the project cost (amounting to **INR 95.00 Lakhs only**) in the form of an irrevocable Bank Guarantee (in the format as provided in Appendix G) in favour of 'Uttarakhand Sahakari Chini Mills Sangh Ltd.' payable at Dehradun issued by any Schedule Commercial Bank. The Bid Security shall be kept valid throughout the Proposal Validity Period and would need to be extended if so required by UK Sugars for any extension in the Proposal Validity period. The Bid Security may be released without interest, earlier in the following situations:

- a) For the Successful Bidder (H1): The Bid Security will be returned within a period of 4 weeks after signing the Concession Agreements and receipt of an amount equal to 2% of the project cost (amounting to **INR 7.60 Crore only**) as Security deposit (or "Performance Security") for the full period of Concession. The Successful Bidder may get the validity of the Bid Security extended so as to use it as a part of the Performance Security.
- b) For the Second Highest Bidder (H2): After signing the Concession Agreements with the Highest Bidder (H1)
- c) For Other Bidders: within 30 days from the date of intimation of the selection of First and Second Highest Bidders (H1 and H2)



1.17.2 The Bid Security shall be forfeited in the following cases:

- (a) If the Bidder modifies or withdraws its Proposal, except as provided in **Clause 1.20**
- (b) If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period.
- (c) If the Successful Bidder fails to enter into Concession Agreement with the UK Sugars within the time, as stipulated in the Letter of Acceptance (LoA).

## **1.18 Format and Signing of Proposal**

1.18.1 The Bidder would provide all the information as per this RFP Document. The UK Sugars would evaluate only those Proposals that are received in the stipulated format and complete in all respects.

1.18.2 The Bidder shall submit its Proposal in two parts,

- (a) Qualification Submissions; and
- (b) Price Proposal.

1.18.3 The **Qualification Submissions** shall contain the following:

- (a) Covering Letter for Proposal cum Project Undertaking (in the format set out in **Appendix B**)
- (b) Power of Attorney for Signing of Proposal (in the format set out in **Appendix E**)
- (c) Power of Attorney for Lead Member of Consortium (in case of Consortium) (in the format set out in **Appendix F**)
- (d) Details of Bidder (in the format set out in **Appendix J**)
- (e) Anti-collusion Certificate (in the format set out in **Appendix I**)
- (f) Affidavit Certifying that Business Entity / Promoter/s / Director/s of Business Entity are not Blacklisted / Barred (in the format set out in **Appendix H**)
- (g) Bid Security of an amount equal to 0.25% of the project cost (amounting to **INR 95.00 Lakhs only**) accordance with **Clause 1.17**
- (h) Duly signed and stamped copy of this RFP Document
- (i) Proposed Investment Plan (in the format set out in **Appendix L**)
- (j) Eligibility Criteria (**Appendix M**)
- (k) Undertaking Jointly by Bidder and SPV (**Appendix N**)

1.18.4 The **Price Proposal** shall contain the Price Proposal as per **Appendix K**.

1.18.5 The Bidder shall prepare one original of the documents comprising the Proposal and clearly marked "ORIGINAL". In addition, the Bidder shall make one (1) copy of the Proposal, clearly marked "COPY". In the event of any discrepancy between the ORIGINAL and the COPY, the ORIGINAL shall prevail.

1.18.6 The Proposal, both the ORIGINAL and its COPY shall be typed or written in indelible ink, and the authorised signatory of the Bidder shall initial each page. All the alterations, omissions, additions, or any other amendments made to the Proposal shall also be initialed by the person(s) signing the Proposal.

### **1.19 Sealing and Marking of Proposal**

1.19.1 The Bidder shall seal the Qualification Submissions and the Price Proposals, in separate envelopes, duly marking the envelopes as “QUALIFICATION SUBMISSIONS”, “PRICE PROPOSAL”. These envelopes shall then be sealed in an outer envelope.

1.19.2 The Bidder shall seal the ORIGINAL and the COPY of the Proposal in separate envelopes, duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in a single outer envelope.

1.19.3 Each of the envelopes, both outer and inner, must be super-scribed with the following information:

- (a) Name and Address of Bidder
- (b) Contact person and phone numbers
- (c) “Proposal for Development of Integrated Complex at Sitarganj”
- (d) “To be Opened in the Presence of Tender Opening Committee Only”

1.19.4 The envelope shall be addressed to:

ATTN. OF: Managing Director

ADDRESS: Uttarakhand Sahakari Chini Mills Sangh Ltd.  
Near Railway Crossing, Jogiwala, Dehradun-248012

1.19.5 If any envelope is not sealed and marked as instructed above, UK Sugars assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and such Proposal may, at the sole discretion of UK Sugars, be rejected.

### **1.20 Modifications/ Substitution/ Withdrawal of Proposal**

1.20.1 The Bidder may modify, substitute, or withdraw its Proposal after submission, provided that separate written notice of the modification, substitution, or withdrawal is received and acknowledged by UK Sugars by the Proposal Due Date. No Proposal shall be modified, substituted, or withdrawn by the Bidder after the Proposal Due Date.

1.20.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in separate envelope being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

### **1.21 Proposal Due Date**

1.21.1 Proposals should be submitted on the Proposal Due Date mentioned in the Schedule of Bidding Process, in the manner and form as stipulated in this RFP Document. Proposals submitted by either facsimile transmission or telex or email will not be accepted.

1.21.2 The UK Sugars may, in exceptional circumstances, and at its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with **Clause 1.13**.

### **1.22 Late Proposal**

1.22.1 UK Sugars shall not accept any Proposals, which have been submitted after the time and date indicated in **Clause 1.21**. Any such Proposal received after the Proposal Due Date shall be summarily rejected and returned unopened.

## **E. Opening and Evaluation of Proposals**

### **1.23 Opening of Proposals**

1.23.1 UK Sugars will open the Proposals on any working day after the Proposal Due Date for the purpose of evaluation.

1.23.2 Proposals for which an acceptable notice of withdrawal has been submitted in accordance with **Clause 1.20** shall not be opened. Such Proposals shall be returned unopened.

1.23.3 To assist in the examination, evaluation, and comparison of Proposals, UK Sugars may utilise the services of consultant/s or advisor/s.

### **1.24 Confidentiality**

1.24.1 Information relating to the examination, clarification, evaluation, and recommendation for the Bidders shall not be disclosed to any person not officially concerned with the process. UK Sugars will treat all information submitted as part of the Proposal in confidence and would require all those who have access to such material to treat the same in confidence.

1.24.2 UK Sugars will not divulge any such information unless it is ordered to do so by any authority pursuant to applicable law or order of a competent court or tribunal, which requires its disclosure.

## **1.25 Tests of Responsiveness**

1.25.1 Prior to the evaluation of Proposals, the UK Sugars will determine whether each Proposal is responsive to the requirements of the RFP Document. A Proposal shall be considered responsive if it:

- (a) is received /deemed to be received by the Proposal Due Date including any extension thereof pursuant to **Clause 1.21**
- (b) is signed, sealed and marked as stipulated in **Clause 1.18** and **Clause 1.19**.
- (c) contains the information and documents as requested in this RFP Document.
- (d) contains information and documents in the formats specified in this RFP Document
- (e) mentions the Proposal Validity Period as set out in **Clause 1.15**
- (f) there are no inconsistencies between the Proposal and the supporting documents.

1.25.2 UK Sugars reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the UK Sugars in respect of such Proposal/s.

## **1.26 Clarifications**

To facilitate evaluation of Proposals, UK Sugars may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Proposal. The request for clarification and the response shall be in writing. No change in the substance of the Proposal would be permitted by way of such clarifications.

## **1.27 Proposal Evaluation: Shortlisting and Price Proposal**

1.27.1 The Bidders who pass the test of responsiveness as per the criteria mentioned in clause 1.25, shall be considered eligible for its further technical evaluation for shortlisting.

1.27.2 The Price Proposals of all the shortlisted Bidders as per the evaluation criteria mentioned in clause 2.1 to 2.4 shall be opened in the presence of the Bidders' representatives who choose to attend. The Bidders' representatives who are present shall be required to sign and record their attendance.

1.27.3 The Bidders should submit Price Proposal for the Project in the format set out in **Appendix K**.

1.27.4 The Proposal of the Bidders for the Project would be evaluated on the basis of the Project Concession Payment quoted in the Price Proposal.

## **F. Notification**

### **1.28 Issue of Letter of Acceptance**

The UK Sugars will notify its acceptance of the Proposal of the Successful Bidder through a Letter of Acceptance (LoA) enclosed in **Appendix C**.

### **1.29 Acknowledgment of Letter of Acceptance (LoA)**

Within two (2) weeks from the date of issue of the LoA, the UK Sugars should receive, from the Successful Bidder, a letter confirming acceptance of the LoA and indicating the date of signing of the Concession Agreement, enclosed in **Appendix D**.

### **1.30 Execution of Agreement**

The Successful Bidder shall execute the Concession Agreement within 4 weeks of the issue of LoA or within such further time as the UK Sugars may agree to in its sole discretion. The UK Sugars will promptly notify other Bidders that their Proposals have been unsuccessful, and their Bid Security will be released upon signing of Concession Agreement with Successful Bidder.

### **1.31 Project Concession payments, revenue sharing and Security Deposit**

- 1.31.1 The Developer has to pay yearly concession payment in lieu of the land being given on long term concession @ -----% of land value in the form of annual installments each to be paid at the end of the fiscal year, subject to a minimum of 3% (amounting to INR 1.45 crore in the fiscal year 2022-23 with a total land value of INR 48.56 crore at the rate provided by liquidator). The concession payment shall be payable from the first year of the concession period onwards. However, the first concession payment shall be payable before signing the concession agreement) and the above concession payment shall be escalated further by 3% per annum and GST Extra as per Rule.
- 1.31.2 The Developer has to pay yearly revenue sharing amount in lieu of plant and machinery and the buildings being given on long term concession @ INR 10 per ton of cane crushed in the first year, @INR 20 per ton of cane crushed in the second year, @ INR 30 per cane crushed in the third year; and @ INR 50 per ton of cane crushed from the fourth year onwards (subject to a minimum of INR 1,00,00,000 (One Crore only) per annum from the fourth year onwards). This amount is to be paid on an annual basis at the end of the fiscal year for that crushing season and GST Extra as per Rule.

- 1.31.3 In addition to the above payments, the preferred bidder shall pay a success fee of INR 5,00,000/- (INR Five Lakh) plus GST to the Consultant M/s M. A. Solutions Pvt Ltd, New Delhi before signing the concession agreement.
- 1.31.4 Under Long Term Concession arrangement, the Developer has to pay a Security deposit an amount equal to 2% of the project cost (amounting to INR 7.60 Crore only) in favor of Uttarakhand Sahakari Chini Mills Sangh Ltd. in lieu of the existing buildings, plant & machinery, land etc., being given on concession for a period of 30 years with an option to extend the Term for another 15 years' subject to mutually agreed terms and conditions.

## **EVALUATION CRITERIA**

### **A. Evaluation Criteria used for Shortlisting the Applicants: Qualification Submissions**

#### **2.1 Evaluation Parameters**

2.1.1 During the shortlisting stage the competence and capability of the Applicant are established on the following parameters:

- (a) Experience of Applicant
- (b) Financial capability of the promoters of Applicant in terms of
  - (i) Net worth

2.1.2 On each of these parameters, the Applicant is required to meet the evaluation criteria as detailed in this Section.

#### **2.2 Eligible Experience**

2.2.1 For any Applicant to meet the experience criterion for qualification, it needs to satisfy the following with supporting documents:

- ❖ The applicant or any of its major promoters (having more than 26% stake in the applicant) have adequate experience in sugar industry without any losses in last 5 financial years.
- ❖ The applicant or any of its major promoters (having more than 26% stake in the applicant) should be profit making and tax paying (i.e., no tax defaulter) in last 5 financial years.
- ❖ The applicant or any of its major promoters (having more than 26% stake in the applicant) should be able to show adequate manpower which in turn has adequate experience of running a Sugar mill.

- ❖ The applicant or any of its major promoters (having more than 26% stake in the applicant) should have minimum credit rating A as per RBI's guidelines from agencies such as CRISIL, ICRA, Fitch, CARE, etc.
- ❖ The applicant or any of its major promoters (having more than 26% stake in the applicant) should not have any criminal records.

## 2.3 Financial Capability

2.3.1 Financial Capability of the promoter(s) (or "Parent (s)") of the Applicant is evaluated on the basis of the Net Worth defined as follows:

- a. "**Net Worth**" shall be filled in as described as per **Appendix M** and certified by a chartered accountant.
- b. Net Worth shall be calculated according to following formula

### (i) In case of Company

Net Worth = (Paid up equity + Reserves) - (Revaluation Reserves + Accumulated Losses + Miscellaneous Expenditure Not Written Off)

### (ii) In case of Consortium

**For Company Members** Net Worth = (Paid up equity + Reserves) - (Revaluation Reserves + Accumulated Losses + Miscellaneous Expenditure Not Written Off)

### (iii) In case of Proprietary Firm/Partnership Firm/Society/Trust

Net Worth = (Book value of Tangible Fixed Assets + Investments + Current Assets) – (Secured Loans + Unsecured Loans + Current Liabilities & Provisions)

### (iv) In case of an Individual

Solvency Certificate (Assets – Liabilities) to be issued by the concerned District Collector or ADM as on the date of certificate

- c. In case of a Consortium the net-worth shall be the weighted average of the net-worth of its members (based on their proposed equity stake, i.e., contributions to the equity of Special Purpose Vehicle (SPV) Company formed or to be formed for the Transaction) and each member shall submit information in the form of **Appendix M** as a proof of its Net-Worth. The Lead Member of the Consortium should hold a minimum of 26% interest/stake in Consortium and SPV.
- d. In case the promoter is individual, he is not required to fill Net-Worth in **Appendix M**. However, the individual has to append with his Bid a Solvency Certificate in place of **Appendix M**.

- e. In case the Successful Bidder is other than a Consortium, it may also form an SPV Company before the submission of Bid or after declaration as Successful Bidder for the execution of Concession Agreement. In case any Successful Bidder other than a Consortium of companies intends to form an SPV, then he would be required to submit a Deed of Undertaking cum Indemnity (as per the format to be provided in **Appendix N**) prior to the execution of Concession Agreement.

## **2.4 Evaluation Criteria for Financial Capability**

2.4.1 For the purpose of Qualification, the promoter(s) of the Applicant is required to demonstrate the Threshold Financial Capability on the following criteria:

- ❖ For all the promoters together, a positive consolidated Net worth of not less than INR 95.00 Crores (Rs. Ninety-Five Crores) as per the last audited accounts for the Accounting year which should not have ended before 31<sup>st</sup> March 2022.

## **B. Evaluation of Price Proposal**

### **2.5 Price Proposal**

- 2.5.1 The Price Proposals of all the Shortlisted Bidders who pass the Tests of Responsiveness will be opened in the presence of the Bidders' representatives who choose to attend. The Bidders' representatives who are present shall be required to sign and record their attendance.
- 2.5.2 The Bidders should submit Price Proposal for the Project in the format set out in **Appendix K**.
- 2.5.3 The Proposal of the Bidders for the Project would be evaluated on the basis of the Project Concession Payment quoted in the Price Proposal.
- 2.5.4 The Bidder quoting the highest Yearly Concession Payment for the Project, payable to UK Sugars, shall be declared as the Preferred Bidder for the Project.
- 2.5.5 In the event that two or more Bidders quote the same highest Project Concession Payment and Revenue Sharing amounts, as the case may be (the "Tie Bidders"), UK Sugars 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.
- 2.5.6 In the event that the Highest Bidder (H1) withdraws or is not selected for any reason in the first instance (the "first round of bidding"), UK Sugars may invite the second highest Bidder (H2) to revalidate or extend their respective Bid Security, as necessary, and invite to match the Proposal of the aforesaid Highest Bidder (H1) (the "second round of bidding"). If the second Highest Bidder (H2) agrees to match the proposal of highest bidder (H1), it shall be declared as Selected Bidder.



- 2.5.7 In the event that the Second Highest Bidder (H2) does not agree to match the proposal of the Highest Bidder (H1) as per the invitation specified in Clause 2.5.6, UK Sugars may, in its discretion, invite fresh Proposals (the “second round of bidding”) from all Bidders except H1 and H2 Bidders of the first round of bidding, or annul the Bidding Process, as the case may be.
- 2.5.8 UK Sugars, upon acceptance of the Proposal of the Preferred Bidder with or without negotiations, shall declare the Preferred Bidder as the Successful Bidder.

## **C. Reserve Price for the Project Concession Payment**

### **3.1 Reserve Price for the Project**

UK Sugars has put a reserve price on the Yearly Concession Payment @ 3% of the land value (amounting to INR 1.45 crore in the fiscal year 2022-23 with a total land value of INR 48.56 crore at the present circle rate) on account of the land provided to the project developer.

**Format of Acknowledgement of RFP Document  
and Notification of Intent to Submit Proposal**

Date:

To

Managing Director  
Uttarakhand Sahakari Chini Mills Sangh Ltd.,  
Near Railway Crossing, Jogiwala, Dehradun-248012

Ref: Development of Integrated Complex at Sitarganj

Dear Sir,

The undersigned hereby acknowledges and confirms receipt of all the Parts (Part I, Part II and Part III) of the Request for Proposal (RFP) Document for the captioned project from UK Sugars and conveys its intention to submit a Proposal for the Project.

Name of the Bidder

.....

Signature of the Authorised Person

.....

Name of the Authorised Person

.....

Note:

- *On the Letterhead of the Bidder or Lead Member of Consortium.*
- *To be signed by the Lead Member in case of a Consortium.*
- *The acknowledgement should be sent within 2 weeks of receipt of the RFP Document*

**Covering Letter for Proposal cum Project Undertaking**

Date:

To

Managing Director  
Uttarakhand Sahakari Chini Mills Sangh Ltd.,  
Near Railway Crossing, Jogiwala, Dehradun-248012

Ref: Development of Integrated Complex at Sitarganj

Dear Sir,

Being duly authorized to represent and act on behalf of ..... (hereinafter referred to as "the Bidder"), and having reviewed and fully understood all of the qualification requirements and information provided and collected, the undersigned hereby submit their proposal for the Project referred above.

We are enclosing our Proposal for the following in **one (1) original** and **one (1) duplicate**, with the details as per the requirements of the RFP Document, for your evaluation.

We confirm that our Proposal is valid for a period of six (6) months from ----- (Bid submission date).

We hereby agree and undertake as under:

Notwithstanding any qualifications or conditions, whether implied or otherwise, contained in our Proposal we hereby represent and confirm that our Proposal is unqualified and unconditional in all respects and we agree to the terms of the Draft Concession Agreement, a draft of which also forms a part of the RFP Document provided to us.

Dated this .....Day of ....., 201 .

Name of the Bidder .....

Signature of the Authorised Person .....

Name of the Authorised Person .....

Note:

- *On the Letterhead of the Bidder or Lead Member of Consortium.*
- *To be signed by the Lead Member, in case of a Consortium.*

**Format of Draft Letter of Acceptance  
(To be Issued by Managing Director, UK Sugars)**

**Date:**

**To**

**Authorised Signatory of the Successful Bidder**

Dear Mr. \_\_\_\_\_,

**Subject: Letter of Acceptance for Development of Integrated Complex at Sitarganj Project**

1. This is in reference to the Proposal submitted by \_\_\_\_\_ {Name of Successful Bidder} ("SB") by the Proposal Due Date (\_\_\_\_\_) in response to the Request for Proposal ("RFP") Document (along with the amendments made thereafter) released by **Uttarakhand Sahakari Chini Mills Sangh Ltd. ("UK Sugars" or "USCMSL")** on \_\_\_\_ {date of release of RFP}.
2. The aforesaid Proposal was considered and evaluated by the bid evaluation committee constituted by UK Sugars for this purpose.
3. *Further, subsequent discussions were held with you on \_\_\_\_\_, and the summary of such discussions is set out in the enclosed Enclosure/s. {To be inserted where such discussions have been held}*
4. UK Sugars, is now pleased to inform that \_\_\_\_\_ (name of Successful Bidder) has been selected as the Successful Bidder for **Development of Integrated Complex at Sitarganj Project**
5. This letter is intended to convey UK Sugars's acceptance, subject to the terms & conditions specified in the RFP Document issued to your company and conditions set out in the Concession Agreement to be executed within four (4) weeks from the date of this letter, of the Proposal submitted by SB, wherein SB has quoted the Project Concession Payment
6. As a token of your acknowledgment of this letter, you are hereby requested to return a copy of the same to us, duly signed by the authorized signatory, within one (1) week from the date of this letter.

7. Further, you are also requested to comply with the conditions set out below:

- (a) A letter confirming acceptance of the LoA and indicating the date of signing of the Concession Agreement, enclosed in Appendix D with in ---- weeks of intimation of this letter;
- (b) Execution of the Concession Agreement by Successful Bidder with in ----- weeks of intimation of this letter;
- (c) Submission of demand draft for security deposit in favour of Uttarakhand Sahakari Chini Mills Sangh Ltd. to be made with in -----days of intimation of this letter, payable at Dehradun;

Kindly note that this communication by itself does not create any rights or contractual relationship with UK Sugars. Any such right or relationship shall come into effect upon complying with conditions set out in para 7 and the execution of Concession Agreement.

Yours truly,

**Managing Director,**  
**Uttarakhand Sahakari Chini Mills Sangh Ltd.**

**Format of Acknowledgement of Letter of Acceptance  
(To be Submitted by Successful Bidder to UK Sugars)**

**Date: (Within ----- week of date of LOA)**

**To**

Managing Director  
Uttarakhand Sahakari Chini Mills Sangh Ltd.,  
Near Railway Crossing, Jogiwala, Dehradun-248012

**Subject: Acknowledgement of Letter of Acceptance for Development of Integrated Complex at Sitarganj Project**

We are pleased to acknowledge the Letter of Acceptance issued by UK Sugars vide their letter Ref. dated for the Development of Integrated Complex at Sitarganj Project

We have reviewed the aforesaid Letter of Acceptance and are:

1. enclosing herewith a copy of the Letter of Acceptance duly acknowledged in acceptance of the conditions, and

and undertake to comply with the following:

1. Execution of the Concession Agreement by Successful Bidder with in ----- weeks of intimation of this letter;
2. Submission of demand draft for the security deposit in favour of Uttarakhand Sahakari Chini Mills Sangh Ltd. to be made with in ---- days of intimation of this letter, payable at Dehradun;

.....  
Name of Successful Bidder/Lead Member

.....  
Signature of the Authorised Person

.....  
Name of the Authorised Person

Note:

- *On the Letterhead of the Bidder or Lead Member of Consortium.*
- *To be signed by the Lead Member, in case of a Consortium.*

**Format for Power of Attorney for Signing of Proposal  
(on a stamp paper of relevant value)**

**Power of Attorney**

Know all men by these presents, We .....(name and address of the registered office) do hereby constitute, appoint and authorise Mr / Ms.....(name and residential address) who is presently employed with us and holding the position of ..... as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our proposal for the Development of Integrated Complex at Sitarganj, including signing and submission of all documents and providing information/responses to Uttarakhand Sahakari Chini Mills Sangh Ltd. ("UK Sugars" or "USCMSL"), representing us in all matters before UK Sugars and generally dealing with UK Sugars in all matters in connection with our proposal for the said Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

For

\_\_\_\_\_  
(Signature)

(Name, Title and Address)

Date:

Accepted

\_\_\_\_\_  
(Signature)

(Name, Title and Address of Attorney)

Date:

*Note:*

- *To be executed by the Lead Member of the Consortium.*
- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the Person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*

**Format for Power of Attorney for Lead Member of Consortium  
(On a Stamp Paper of relevant value)**

Whereas the Uttarakhand Sahakari Chini Mills Sangh Ltd. (“UK Sugars” or “USCMSL”) has invited Proposals from interested parties for Development of Integrated Complex at Dehradun (the “Project”),

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

Whereas, it is necessary under the RFP Document for the members of the Consortium to designate 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 proposal for the Project who, acting jointly, would have all necessary power and authority to do all acts, deeds and things on behalf of the Consortium, as may be necessary in connection with the Consortium’s proposal for the Project.

NOW THIS POWER OF ATTORNEY WITNESSETH THAT;

We, M/s. \_\_\_\_\_ (Lead Member), M/s \_\_\_\_\_ (Consortium Partner) and M/s \_\_\_\_\_ (Consortium Partner) (*the respective names and addresses of the registered office*) do hereby designate M/s. \_\_\_\_\_ being one of the members of the Consortium, as the Lead Member of the Consortium, to do on behalf of the Consortium, all or any of the acts, deeds or things necessary or incidental to the Consortium’s proposal for the Project, including submission of proposal, participating in conferences, responding to queries, submission of information/ documents and generally to represent the Consortium in all its dealings with UK Sugars, any other Government Agency or any person, in connection with the Project until culmination of the process of bidding and thereafter till the Concession Agreement is entered into with UK Sugars.

We hereby agree to ratify all acts, deeds and things lawfully done by Lead Member, our said attorney pursuant to this Power of Attorney and that all acts deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us/Consortium.

Dated this the \_\_\_\_ day of 2022

\_\_\_\_\_  
(Executants)

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

*Note: 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.*



**Format for Bid Security**  
**(To be issued by a Scheduled Commercial Bank)**

B.G. No. \_\_\_\_\_ dated \_\_\_\_\_.

This Deed of Guarantee executed at \_\_\_\_\_ by \_\_\_\_\_  
\_\_\_\_\_ (Name of Bank) having its Head/Registered office at  
\_\_\_\_\_ (hereinafter referred to as "the Guarantor") which expression shall unless it be  
repugnant to the subject or context thereof include its, successors and assigns;

In favour of

The Uttarakhand Sahakari Chini Mills Sangh Ltd., (herein after called " UK Sugars") having its  
office at \_\_\_\_\_, which expression shall unless it be  
repugnant to the subject or context thereof include its, successors and assigns;

**WHEREAS**

- A. M/s. \_\_\_\_\_, a \_\_\_\_\_ registered under provisions of the  
\_\_\_\_\_ (name of the act under which the entity is registered) having its  
office at \_\_\_\_\_ (hereinafter called "the Bidder") which expression shall unless it be  
repugnant to the subject or context thereof include its/their executors administrators,  
successors and assigns, intends to proposal for the Development of Integrated Complex at  
Sitarganj (hereinafter referred to as the Project).
- B. In terms of **Clause 1.17** of the Request for Proposal Document dated \_\_\_\_\_ issued  
in respect of the Project (hereinafter referred to as "RFP Document") the Bidder is required to  
furnish to UK Sugars an unconditional and irrevocable Bank Guarantee for an amount equal  
to 0.25% of the project cost (amounting to INR 95.00 Lac only) as Bid Security for the  
Project.
- C. The Guarantor has at the request of the Bidder and for valid consideration agreed to provide  
such Bank Guarantee being these presents:

**NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:**

- a. The Guarantor, as primary obligor shall, without demur, pay to UK Sugars an amount equal  
to 0.25% of the project cost (amounting to INR 95Lakhs only) as bid security, within ----  
days of receipt of a written demand from UK Sugars calling upon the Guarantor to pay the  
said amount.
- b. Any such demand made on the Guarantor by UK Sugars shall be conclusive and absolute as  
regards the forfeiture of Bid Security and the amount due and payable by the Guarantor  
under this Guarantee.
- c. The above payment shall be made without any reference to the Bidder or any other person  
and irrespective of whether the claim of UK Sugars is disputed by the Bidder or not.

- d. This Guarantee shall be irrevocable and remain in full force atleast for a period of six (6) months (Proposal Validity Period) from the submission of the bid or for such extended period as may be mutually agreed between UK Sugars and the Bidder and shall continue to be enforceable till all amounts under this Guarantee are paid.
- e. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder/the Guarantor or any absorption, merger or amalgamation of the Bidder/the Guarantor with any other person.
- f. In order to give full effect to this Guarantee, UK Sugars shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the RFP Document or other documents or by extension of time of performance of any obligations granted to the Bidder or postponement/non-exercise/delayed exercise of any of its rights by UK Sugars against the Bidder or any indulgence shown by UK Sugars to the Bidder and the Guarantor shall not be relieved from its obligations under this Bank Guarantee on account of any such variation, extension, postponement, non-exercise, delayed exercise or omission on the part of UK Sugars or any indulgence by UK Sugars to the Bidder to give such matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of so relieving the Guarantor.
- g. The Guarantor has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under \_\_\_\_\_.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

Signed and Delivered by \_\_\_\_\_ Bank  
by the hand of Mr \_\_\_\_\_  
its \_\_\_\_\_ and authorised official.

**Format for Affidavit Certifying  
that Entity / Promoter/s / Director/s of Entity are not Blacklisted  
(On a Stamp Paper of relevant value)**

I, M/s. .... (Sole Bidder / Lead Member/ Other Member/s), (the names and addresses of the registered office) hereby certify and confirm that we or any of our promoter/s / director/s / Trustees / partner/s / member/s

1. have not failed to perform on any contract or
2. defaulted on our commitments in any contract or
3. are not barred by UK Sugars/ any other entity of Government of Uttarakhand or
4. blacklisted by central government / department / agency in India from participating in Project/s,
5. None of the members of the Consortium has any criminal record

either individually or as member of a Consortium as on the \_\_\_\_\_ (Date of signing of Proposal).

We further confirm that we are aware that as per **Clause 1.11.2**, our Proposal for the captioned Project would be liable for rejection in case any material misrepresentation is made or discovered with regard to the requirements of **Clause 1.4.7** at any stage of the Bidding Process or thereafter during the agreement period.

Dated this ..... Day of ....., 2022

Name of the Bidder

.....  
Signature of the Authorised Person

.....  
Name of the Authorised Person

Note:

*To be executed separately by all the Members in case of Consortium.*

**Format for Anti-Collusion Certificate**

We hereby certify and confirm that in the preparation and submission of this Proposal, we have not acted in concert or in collusion with any other Bidder or other person/s and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Proposal.

Dated this ..... Day of ....., 2022

Name of the Bidder

.....

Signature of the Authorised Person

.....

Name of the Authorised Person

.....

Note:

- *To be executed by all the Members in case of Consortium.*

**Details of Bidder**

1.
  - (a) Name of Bidder
  - (b) Country of incorporation/ registration
  - (c) Address of the office(s)
  - (d) Date of incorporation and/or commencement of business
2. Brief description of the Bidder including details of its main lines of business and proposed role and responsibilities in this Project.
3. Details of individual(s) who will serve as the point of contact / communication for the Client with the Bidder:
  - (a) Name :
  - (b) Designation :
  - (c) Company/Firm/Individual :
  - (d) Address :
  - (e) Telephone number :
  - (f) E-mail address :
  - (g) Fax number :
  - (h) Mobile number :
4. Name, Designation, Address and Phone Numbers of Authorised Signatory of the Bidder
  - (a) Name :
  - (b) Designation :
  - (c) Company/Firm/Individual :
  - (d) Address :
  - (e) Telephone number :
  - (f) E-mail address :
  - (g) Fax number :
  - (h) Mobile number :
5.
  - (a) In case of a Consortium, the information above (1 – 4) should be provided for both the members of the Consortium
  - (b) information regarding role of each member should be provided as per table below:

Sr. No.	Name of Member	Role (Specify Lead Member/ Other Member)
1.		
2.		
3.		

**Price Proposal**

**(To be enclosed in a separate cover clearly marked as "PRICE PROPOSAL")**

**(On the Letter head of the Bidder)**

Date:

To

Managing Director  
Uttarakhand Sahakari Chini Mills Sangh Ltd.,  
Near Railway Crossing, Jogiwala, Dehradun-248012

Ref: Development of Integrated Complex at Sitarganj

We are pleased to submit our Price Proposal for the Development of Integrated Complex at Sitarganj. We have reviewed all the terms and conditions of the Request for Proposal (RFP) Document including the draft Concession Agreement and undertake to comply, observe and abide by all the terms and conditions set out in the aforesaid documents. We hereby declare that there are no deviations from the stated terms in the RFP Document.

That my financial offer for concession for the Land of 80 acres, land of Village Sarkara, Post Nakatpura in Tehasil Sitarganj, Dist Udham Singh Nagar belonging to The Kisan Sahkari Chini Mills Ltd., Sarkara, Nakatpura, Sitarganj, Udham Singh Nagar- 263148, Uttarakhand and existing plant & machinery of The Kisan Sahkari Chini Mills Ltd., Sarkara, Nakatpura, Sitarganj, Udham Singh Nagar- 263148, Uttarakhand where the proposed expansion/modernization/setting-up of sugar complex of suitable capacities is to be done is :

- ❖ Concession payments for the land @ ..... % of the land value as per the circle rate (INR 48.56 crore at the present circle rate) per annum upto two decimal points.  
This offer is valid for a period of six (6) months from the submission of the bid (Proposal Validity Period).

.....

Name of the Bidder

.....

Signature of the Authorised Person

.....

Name of the Authorised Person

Note:

- *On the Letterhead of the Bidder or Lead Member of Consortium.*
- *To be signed by the Lead Member, in case of a Consortium.*
- *In case of difference in amount quoted in figures and words, the higher value in figures would be considered for evaluation.*

**PROPOSED INVESTMENT PLAN**  
**(On Letter Head of Applicant/Bidder)**

Date:

To

Managing Director  
Uttarakhand Sahakari Chini Mills Sangh Ltd.,  
Near Railway Crossing, Jogiwala, Dehradun-248012

**Sub: Development of Integrated Complex at Sitarganj: Proposed da**

Sir,

We \_\_\_\_\_ (name of the Company/ Individual/ Proprietary Firm/Partnership Firm/Trust/ Society/Consortium) hereby undertake to declare that we have plans regarding development of Sugar Plant and Integrated Sugar Complex. The commercial production from Sugar Plant will start within 3 years. The plant wise details of start of commercial production of different components of the Integrated Sugar Complex are as under:

<b>Name of Plant</b>	<b>Installed Capacity</b>	<b>Tentative date of start of commercial production</b>	<b>Tentative investment within next three years (Rs. In crores)</b>	<b>Tentative investment within next five years (Rs. In Crores)</b>
Sugar Plant		*		
Co-generation				
Distillery				
Other Allied Industry				
Total Investment				

\*- cannot be later than 3 years from the date of issue of Letter of Award for the Sugar Plant



We further ensure that the details of financial capabilities et cetera required as per clauses of Tender Document will be furnished by us on being declared as successful bidder. The required documents will be submitted within 30 days from the date of being declared successful.

We understand that only after satisfying our financial capabilities Concession Agreement and other Transaction Documents will be signed and possession of Unit will be given.

.....  
Name of the Bidder

.....  
Signature of the Authorised Person

.....  
Name of the Authorised Person

Note:

- *On the Letterhead of the Bidder or Lead Member of Consortium.*
- *To be signed by the Lead Member, in case of a Consortium.*
- *In case of difference in amount quoted in figures and words, the higher value in figures would be considered for evaluation.*

**Eligibility Criteria: Net Worth**

Financial Capability of the promoter (s) (or “Parent (s)”) of the Applicant

Name of Member: \_\_\_\_\_ % Shareholding in the Consortium

1  
2  
3  
4

Lead Member: \_\_\_\_\_

S. No.	Financial information in Rupee (equivalent, with exchange rate, at the end of concerned year)	Member 1 (AY*)	Member 2(AY*)	Member 3(AY*)	Member 4(AY*)	Weighted Average
1.	<b>NETWORTH</b>					
A	Paid up Equity					
B	Reserves					
C	Revaluation Reserves & Special Reserves if any					
D	Accumulated Losses (if any)					
E	Miscellaneous Expenditure not written off					
	<b>Net Worth</b> = (Paid up equity + Reserves) - (Revaluation Reserves + Accumulated Losses + Miscellaneous Expenditure not Written Off)					

\* Audited Accounting Year should not have ended earlier than March 31, 2022.

\*\* The above formulae shall be suitably modified, in case the applicant is an individual or a Proprietary Firm or a Partnership Firm or a Trust or a Society, as provided in clause 2.4.2.

Whether Lead member satisfies proportionate Net worth Criteria i.e. Net Worth of Lead Member > 10.00 crores \* stake in consortium: (Yes / No)

**Note:**

1. This information should be extracted from the Audited Annual Financial Statement/ Balance Sheet, which should be enclosed, and this response sheet shall be certified by the Statutory Auditor/ Chartered Accountant of the Applicant/Bidder.
2. The Applicant should provide the Financial Capability of its Parent. In computing, the eligibility criteria of the Parent of Applicant/ Consortium Members, the Net Worth of their respective Associates/Group Companies may also be included as per clause 2.4.1
3. In Role of Member specify whether Single Applicant or in case of Consortium specify whether Lead Member or Member.

**Undertaking jointly by Bidder and SPV**

**On Rs.100/- stamp paper**

This Deed of Undertaking cum Indemnity is executed on this .... day of ....., 2022 at .....

By

....., a company incorporated under the Companies Act, 1956 and having its registered office at ..... (herein after referred to as “.....” which expression shall, unless repugnant to the context or meaning thereof, include its successor or successors in business and assigns)

And

....., a company incorporated under the Companies Act, 1956 and having its registered office at ..... (herein after referred to as “.....” which expression shall, unless repugnant to the context or meaning thereof, include its successor or successors in business and assigns)

In favour of

Uttarakhand Sahakari Chini Mills Sangh Ltd., having its registered office at Jogiwala, Dehradun-248012, (hereinafter referred to as “USCMSL” which expression shall, unless repugnant to the context or meaning thereof, include its successor or successors in business and permitted assigns) Whereas USCMSL, being a Government Company, is the owner of the Sitarganj Sugar Mill (hereinafter referred to as the “Unit”);

AND WHEREAS, USCMSL, with an intention to transfer of Sitarganj Sugar Mill, under Long Term Concession Arrangement through the competitive bidding process, had invited Technical Bid and Financial Bid from interested parties in terms of the Tender Document issued on..... as modified from time to time;

AND WHEREAS ....., being interested in developing the Unit have submitted its Technical Bid and Financial Bid as sole Applicant to develop the Unit under Long Term Concession Arrangement.

AND WHEREAS after evaluating all the proposals received by USCMSL from interested parties, USCMSL accepted the proposal submitted by....., for transfer of Unit on Long Term Concession Arrangement on “as is where is basis” for the consideration and upon the terms and conditions set-out in the Concession Agreement to be executed.

ANDWHEREAS ....., being the selected bidder for taking the Unit on Long Term Concession Arrangement, requested USCMSL to allow it to take over the Unit under Long Term Concession Arrangement through and in the name of its wholly-owned subsidiary and Special Purpose Vehicle (“SPV”) namely, ....., incorporated for the purpose.

AND WHEREAS USCMSL agreed to the said request of....., Subject to and ..... binding themselves by an Undertaking cum Indemnity as hereinafter laid down. In consideration of USCMSL agreeing to the said request and allowing ....., to develop the

Unit under Long Term Concession Arrangement through and in the name of .....and..... hereby agree and undertake asunder:

1. It is declared and undertaken that ..... is and shall continue to be the wholly owned subsidiary of.....and shall do the business of taking over, developing and operation of Unit Sitarganj Sugar Mill as a Special Purpose Vehicle.
2. It is irrevocably and unconditionally agreed that the.....shall assume all the rights of ..... under the Concession Agreement and other documents to be executed between USCMSL and ....., and shall perform all its functions and duties in terms of the said documents.
3. It is undertaken that..... shall always be bound by all the terms and conditions of the Concession Agreement and the Tender Documents and shall not commit any breach thereof.
4. .... under takes and confirms that as the original bidder it shall continue to be liable To USCMSL till all the terms and conditions of the Tender Document and Concession Agreement are fulfilled to the satisfaction of USCMSL.
5. .... and ..... agree to indemnify USCMSL for any loss or damage it may suffer on account of the Unit being taken over for developing the Unit into Sugar Plant/ Integrated Sugar Complex under Long Term Concession Arrangement through and in the name of the instead of in the name of .....

IN WITNESS WHEREOF this Undertaking cum indemnity has been executed by and ..... on the day, month and year first above written.

**Signed and delivered by**

.....,

by the hand of Mr.....

its..... And Authorized signatory

**Signed and delivered by**

.....,

by the hand of Mr.....

its.....And Authorized signatory

## **Part II**

### **Draft Concession Agreement**

# Draft Concession Agreement

between

**Uttarakhand Sahakari Chini Mills Sangh Ltd. (“USCMSL” or UK Sugars)**

acting through

\_\_\_\_\_  
*(designation of authorized officer)*

*and*

\_\_\_\_\_  
(Concessionaire)

for

**Development of Integrated Sugarmill Complex at  
Sitarganj in Uttarakhand**

This CONCESSION AGREEMENT made on this ----- (*insert date*) day of ----- (*insert month*), ----- (*insert year*) at ----- (*insert place of execution*),

**BETWEEN**

Uttarakhand Sahakari Chini Mills Sangh Ltd., an undertaking of Uttarakhand Government (Within the meaning of the \_\_\_\_ Act,), having its registered office at RAILWAY CROSSING, JOGIWALA, DEHRADUN, UTTARAKHAND- 248012, hereinafter referred to as “The Concessioneing Authority”, or “The Authority”, or “USCMSL” or “UK Sugars” which expression shall unless repugnant to the context include the successors and assigns, on the one part

**AND**

-----, a company incorporated under the provision of the Companies Act, 1956, having its registered office at \_\_\_\_\_, (or M/s \_\_\_\_\_ duly registered partnership firm), hereinafter referred to as “Concessionaire” which expression shall unless repugnant to the context include the successors and permitted assigns, on the other part.

**WHEREAS,**

- A. UK Sugars with an objective to promote Sugamill industry in the state, socioeconomic development of the region, and increased ethanol production, decided to develop the integrated Sugarmill complex at Sitarganj through private participation on a Develop, Operate, Maintain and Transfer (DOMT) basis.
- B. UK Sugars had, carried out extensive project preparation works in connection with the Project (as hereinafter defined), including assessment of project viability and feasibility report and subsequently invited proposals, through a competitive bid process from eligible parties for implementing the Project. In response thereto, UK Sugars received proposals from several parties including the Concessionaire for implementing the Project.
- C. Pursuant thereto, after evaluating the aforesaid proposals, UK Sugars accepted the proposal submitted by the Concessionaire and issued Letter of Acceptance No. \_\_\_\_\_ (insert Letter No.) dated \_\_\_\_\_ to the Concessionaire requesting the Concessionaire to execute the Concession Agreement, which the Concessionaire has acknowledged by its Letter No. \_\_\_\_\_ dated \_\_\_\_\_.

- D. The Parties hereto are required to enter into the Concession Agreement, being these presents, to record the terms, conditions and covenants of the Concession.

**NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:**

**DEFINITIONS AND INTERPRETATION**

**ARTICLE 1**

**1.1 Definitions**

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

- 1) **“Integrated Sugarmill Complex” or “Project Facility”** shall mean the proposed complex at Sitarganj comprising a Sugarcane processing unit, Co-generation unit, Ethanol distillery, and any other auxiliary/allied unit in accordance with the provision of the detailed project report (DPR) prepared by the Concessionaire and approved by UK Sugars.
- 2) **“Additional Cost”** shall mean the additional capital expenditure and/or the additional operating costs or both as the case may be, which the Concessionaire would be required to incur as a result of Change in Law.
- 3) **“Affected Party”** shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 8.1.
- 4) **“Agreement”** shall mean this Agreement, and includes any amendments hereto made in accordance with the provisions hereof.
- 5) **“Applicable Law”** shall mean all laws in force and effect, as of the date hereof, and which may be promulgated or brought into force and effect hereinafter in India including judgments, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project/the Concessionaire.
- 6) **“Applicable Permits”** shall mean all clearances, permits, authorisations, consents and approvals required to be obtained or maintained by the Concessionaire under Applicable Law, in connection with the Project during the subsistence of this Agreement.
- 7) **“Appointed Date”** shall mean the date of this Agreement.



- 8) **"Arbitration Act"** shall mean the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof as in force from time to time.
- 9) **"Book Value"** means the value of the capital expenditure incurred on the Project as per the books of the Concessionaire, net of depreciation charged on the basis of straight line method and amortized equally over the Operations Period, duly verified and certified by an independent auditor in accordance with IGAAP.
- 10) **"Change in Law"** shall have the meaning ascribed thereto in Clause 8.6.
- 11) **"COD" or "Commercial Operations Date"** shall mean the date on which the Designated Engineer has issued the Provisional Completion Certificate or the Completion Certificate for the Integrated Sugarmill Complex, in accordance with the provisions of this Agreement.
- 12) **"Completion Certificate"** shall mean the certificate issued by Designated Engineer certifying, that:
- a. the Concessionaire has constructed the Project Facility in accordance with the Construction Requirements; and
  - b. the Concessionaire has obtained all approvals necessary for commercial operations of the Project Facility.
- 13) **"Concession"** shall have the meaning ascribed thereto in Clause 2.1 of this Agreement.
- 14) **"Concession Period"** shall have the meaning ascribed thereto in Clause 2.2.
- 15) **"Concessionaire's Equipment"** means all machinery, equipment, apparatus and other things (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects, but does not include Plant, Materials, or other things intended to form or forming part of the Permanent Works.
- 16) **"Conditions Precedent"** shall have the meaning set forth in Clause 2.4
- 17) **"Consortium"** means a Business Entity<sup>1</sup> or a combination of any three (3) Business Entities.
- 18) **"Construction Documents"** means all approved plans, manuals, design & drawings (including as built drawings), calculations, computer software (programs), samples, patterns and models prepared and used for the construction of Integrated Sugarmill Complex.

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<sup>1</sup> Business Entity is defined as a Company registered in India under Indian Companies Act 1956 or from outside India under equivalent law.

- 19) **“Construction Period”** shall mean the duration of construction of Project Facilities commencing from the Appointed Date to the date of issue of Completion Certificate.
- 20) **“Construction Requirements”** shall mean construction and development of Integrated Sugarmill Complex in accordance with the DPR approved by UK Sugars.
- 21) **“Construction Works”** shall mean all works and things required to be undertaken by the Concessionaire in accordance with the Construction Requirements.
- 22) **“Contractor”** shall mean any Person with whom the Concessionaire has entered into/may enter into any of the Project Agreements.
- 23) **“Cure Period”** shall have the meaning ascribed thereto in Clause 9.2(a)(iii) of this Agreement.
- 24) **“Defects Liability Period”** means a period of twelve (12) months commencing on Taking over Date.
- 24A) **“Designated Engineer”** an engineer on the payroll of UKSUGARS or the State Government of Uttarakhand designated by UKSUGARS for undertaking review, monitor, evaluate and certify the work of the Concessionaire as per terms set in in this Concession Agreement.
- 25) **“Drawings”** shall mean all of the drawings including working drawings for the designs, calculations, and documents pertaining to the Project submitted by the Concessionaire in connection with the Project.
- 26) **“Emergency”** shall mean a condition or situation that is likely to endanger the safety of the individuals on or about the Project Facility including the safety of the users thereof or which poses an immediate threat of material damage to the Project.
- 27) **“Encumbrance”** shall mean any encumbrance 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 without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances, claims for any amounts due on account of taxes, cesses, electricity, water and other utility charges and encroachments on the Project Facility .
- 28) **“Financial Close”** means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Agreements;
- 29) **“Financing Documents”** shall mean collectively the documents evidencing Lenders’ commitment to finance the Project.
- 30) **“Financial Package”** means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, Subordinated Debt and Equity Support, if any;

- 31) **“Financial Year”** shall mean the period commencing from April 1 of any given year to March 31 of the succeeding year.
- 32) **“Force Majeure” or “Force Majeure Event”** shall mean an act, event, condition or occurrence as specified in Article 8.
- 33) **“Good Industry Practice”** shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the Project.
- 34) **“Government Agency”** shall mean Government of India, any state government or governmental department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Project Site or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.
- 35) **“Handback Requirements”** shall have the meaning ascribed thereto in 11.
- 36) **“Lenders”** shall mean financial institutions, banks, funds and trustees for bond holders or debenture holders, who provide funds to the Concessionaire for financing the cost of construction of the Project Facility or any part thereof.
- 37) **“Materials”** means things of all kinds (other than Plant) to be provided and incorporated in the Permanent Works by the Concessionaire, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.
- 38) **“Material Adverse Effect”** shall mean a material adverse effect on (a) the ability of the Concessionaire to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.
- 39) **“Material Breach”** shall mean a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure.
- 40) **“Monitoring Committee”** means a monitoring committee constituted by UK Sugars in accordance for the purpose of monitoring the Project.

- 41) **"O&M Requirements"** shall mean the requirements as to operation and maintenance of the Project Facility as set forth in Schedule 6.
- 42) **"Operations Period"** shall mean the period commencing from COD and ending at the expiry of the Concession /Termination.
- 43) **"Parties"** shall mean the parties to this Agreement and **"Party"** shall mean either of them, as the context may admit or require.
- 44) **"Performance Security" or "Security Deposit"** shall mean the guarantee for performance of its obligations to be procured by the Concessionaire in accordance with Clause 5.1.
- 45) **"Permanent Works"** means the permanent works to be designed and executed in accordance with the Project Construction Requirements.
- 46) **"Person"** shall mean (unless otherwise specified or required by the context), any individual, company, corporation, partnership, joint venture, trust, unincorporated organisation, government or Government Agency or any other legal entity.
- 47) **"Plant"** means machinery and apparatus intended to form or forming part of the Permanent Works, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.
- 48) **"Preliminary Notice"** shall mean the notice of intended Termination by the Party entitled to terminate this Agreement to the other Party setting out, inter alia, the underlying Event of Default.
- 49) **"Project"** shall mean design, financing, construction, operation and maintenance of the Integrated Sugarmill Complex in accordance with the provisions of this Agreement.
- 50) **"Project Agreements"** shall mean collectively this Agreement, EPC Contract, O&M Contract and any other material contract (other than Financing Documents) entered into or may hereafter be entered into by the Concessionaire in connection with the Project.
- 51) **"Project Requirements"** shall mean collectively the Construction Requirements, and O&M Requirements or any of them as the context may admit or require.  
**"Project Site"** shall mean and include the Integrated Sugarmill Complex Area, as shown and described in Schedule 1A and 1B.

- 52) **“Provisional Completion Certificate”** means the Completion Certificate that may be issued by the Designated Engineer pending completion of the Punch List items in accordance with Clause 5.4.
- 53) **“Punch List”** shall have the meaning ascribed thereto in Clause 5.4.
- 54) **“INR”, “₹”, “Rupees” or “Rs.”** refers to the lawful currency of the Republic of India.
- 55) **“SPCD” or “Scheduled Project Completion Date”** shall mean the date 36 months from the Appointed Date for the Sugar Plant. For other facilities to be developed- i.e. the Ethanol Distillery, Co-generation Plant and Allied Industry, the Scheduled Project Completion Date shall mean the Tentative date of start of commercial production as provided in Schedule 9.
- 56) **“Sitarganj Mill”** shall mean the 2,500 TCD Sugarmill complex owned and operated by UK Sugars till 2017 and currently situated in the land area (80 acres) shown and described in Schedule 1A and 1B
- 57) **“Tax”** shall mean and includes all taxes, fees, cesses, duties, levies that may be payable by the Concessionaire under Applicable Law.
- 58) **“Temporary Works”** means all temporary works of every kind (other than Concessionaire’s Equipment) required for the execution and completion of the Works and the remedying of any defects.
- 59) **“Termination”** shall mean early termination of the Concession, pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course.
- 60) **“Termination Date”** shall mean the date specified in the Termination Notice as the date on which Termination occurs.
- 61) **“Termination Notice”** shall mean the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.
- 62) **“Tests”** shall mean the tests to be carried out in accordance with the Construction Requirements or the O&M Requirements and if not expressly specified in either of the said requirements, as instructed by the Designated Engineer, in accordance with this Agreement.

- 63) **"TOD" or "Taking over Date"** means the date on which the project facility is taken over by the UK Sugars pursuant to the completion of the contract/expiry of the concession period/termination of this Concession Agreement as set out in the provisions of this agreement.
- 64) **"Works"** means the Permanent Works and the Temporary Works or either of them as appropriate.
- 65) **"Construction Requirements"** shall mean the requirements as to the construction of the Project Facility as set out at in Schedule 3.

## **1.2 Interpretation**

In this Agreement, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;
- (b) references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law;
- (c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);
- (d) the headings 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;
- (f) any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year, respectively;
- (g) 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;
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time (IST).
- (i) the Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;
- (j) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- (k) references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
- (l) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or by Designated Engineer shall be valid and effectual only if it is in writing under the hands of a duly authorised representative of such Party or Designated Engineer in this behalf and not otherwise;
- (m) references to "Construction" includes investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto

- (n) 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 or liquidated damages (the “Damages”)

## **Concession**

## **ARTICLE 2**

### **2.1. Grant of Concession**

Subject to and in accordance with the terms and covenants set forth in this Agreement, the Concessioneing Authority hereby grants and authorises the Concessionaire to design, engineer, procure, finance and construct the Project Facility, and to exercise and/ or enjoy the rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement. (the “**Concession**”).

### **2.2 Concession Period**

The Concession hereby granted is for a period of 30 years from the Appointed Date inclusive of the Construction Period. (hereinafter referred to as the “Concession Period”)

Provided, in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Appointed Date and ending with the Termination Date.

If the operation of Sugar Plant/ Integrated Sugar Complex is found satisfactory, UK Sugars may, at its discretion, agree to extend the period of concession for further period of 15 (Fifteen) years on the Terms and condition agreed upon by both the parties, and new concession agreement shall be mandatorily signed as per the prevailing rules and norms of Government of Uttarakhand (Govt of UK).

In case of such extension of period of lease Renewal Lease Deed shall be executed between Lessor and Lessee. In that case the Sugar Plant/ Integrated Sugar Complex shall revert back to Lessor on the last date of Lease Period as On Going Concern.

### **2.3 Acceptance of Concession**

In consideration of UK Sugars agreeing to deliver the Concessionaire, on “AS-IS-WHERE-IS” basis, 80 Acre land of the Unit (shown and described in detail at Schedules 1A and 1B of this agreement) comprising Sitarganj Mill with all the permits, licenses, consents and rights, and the rights, privileges and benefits conferred upon by the Concessioneing Authority and other good and valuable consideration expressed herein, the Concessionaire hereby accepts the Concession and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof.

## **2.4 Conditions Precedent**

2.4.1 Save and except as expressly provided in any other Articles of this agreement, 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 2.4 (the “Conditions Precedent”).

2.4.2 The Concessionaire may, upon providing the Construction Performance Security to the Authority in accordance with this agreement, at any time after ---days from the date of this Agreement 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 2.4.2 within a period of --- days of the notice, or such longer period not exceeding --- days as may be specified therein, and the conditions precedent 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. provided to the Concessionaire the Right of Way, access, leave and license rights to the Site in accordance with the provisions of this agreement
- b. hand over the vacant possession of the Site on an as-is where is basis
- c. approved or provide its comments, if any to the Detailed Project Report, including the Design and Project Completion Schedule, submitted by the Concessionaire in accordance with the provision of this agreement
- d. paid first annual concession payment of amount .....
- e. paid a success fee of INR 5,00,000/- (INR Five Lakh) plus GST to the Consultant M/s M. A. Solutions Pvt Ltd, New Delhi.

2.4.3 The Conditions Precedent required to be satisfied by the Concessionaire prior to the Appointed Date shall be deemed to have been fulfilled when the Concessionaire shall have:

- a. provided an evidence to the Authority that the Construction Performance Security as furnished by the Concessionaire on the execution of this Agreement is in full force and effect. For the avoidance of doubt, it is expressly clarified that should the Construction Performance Security have been encashed in accordance with the provisions of this agreement, the Concessionaire shall ensure that the Construction Performance Security has been replenished and such Construction Performance Security is in full force and effect on the Appointed Date;



- b. prepared, finalized and submitted the Detailed Project Report including the Design and Project Completion Schedule, and received the approval of the competent authority (UK Sugars);
- c. executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Concessionaire
- d. achieved Financial Close and delivered to the Authority, documents evidencing the same including 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model;
- e. delivered a copy of all the Project Agreements (specified by the Authority) to the competent authority (UK Sugars/Designated Engineer)

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 2.4.3.

2.4.4 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.

2.4.5 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.

2.4.6 Upon satisfaction in full of all Conditions Precedent to be satisfied by a Party, the other Party shall forthwith issue to such Party, a certificate setting out the compliances of all Conditions Precedent required to be satisfied by such Party (the "Certificate of Compliance").

## **2.5 Consequences of Non-fulfillment of Conditions Precedent**

2.5.1 The Concessionaire hereby agrees and undertakes that it shall procure fulfillment of all Conditions Precedent set out in Clause 2.4.3, within \_\_\_\_ days from the date of this Agreement. In the event that (i) the Concessionaire does not procure fulfillment of any or all of the Conditions Precedent set forth in Clause 2.4.3, for any reason whatsoever, within \_\_\_\_ days from the date of this Agreement, and (ii) the delay has not occurred as a result of breach of this Agreement by the Authority or due to Force Majeure, the Concessionaire shall be entitled to a further period not exceeding \_\_\_\_ days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the Construction Performance Security for each day of delay until the fulfilment of such Conditions Precedent; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said \_\_\_\_ days shall be granted only to the extent of Damages so paid; [provided further that no Damages shall be payable if such delay in fulfillment of Conditions Precedent has occurred solely as a result of any default or delay by the Authority in procuring fulfillment of Conditions Precedent specified in Clause 2.4.2 or due to Force Majeure.]

2.5.2 Notwithstanding anything to the contrary contained in this Agreement, but subject to the Clause 8.1 (j), in the event that Conditions Precedent are not fulfilled, for any reason whatsoever, within the period set forth in this Clause 2.5.1, 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 Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

2.5.3 Upon Termination under Clause 2.5.2, the Authority shall be entitled to encash the Construction Performance Security and appropriate the proceeds thereof as Damages; provided, however, if fulfillment of Conditions Precedent set forth in Clause 2.4.3 has not been fulfilled by the Concessionaire within the period specified in respect thereof, solely as a result of the Authority being in default of any of its obligations under Clause 2.4.2, the Authority shall, upon Termination, return the Construction Performance Security to the Concessionaire.

## **2.6 Scope of the project**

2.6.1 The scope of the Project (the “Scope of the Project” or “Scope of work”) shall mean and include, during the Concession Period:

- (a) Construction, development, and operation of Integrated Sugarmill complex, which may include a sugarcane processing unit, co-generation unit, ethanol distillery, and any other auxiliary unit from sugar/allied industry as provided in the detailed project report.
- (b) planning and design of the Project Facilities in conformity with the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;
- (c) construction and up-gradation of the Site for Project Facilities, in conformity with the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;
- (d) procurement and installation of brand-new Equipment only, in conformity with the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;
- (e) operation and maintenance of the Project Facilities in conformity with the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;
- (f) capacity of the Project in conformity with the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;
- (g) the bidder must pick all the sugarcane provided to him as per the contractual conditions.
- (h) provide Services in conformity with the the Detailed Project Report (DPR) and Specifications and Standards and other provisions of this Agreement;

- (i) 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.
- (j) The Concessionaire shall be allowed to retain ownership of the existing plant and machinery and subsequently appropriate the proceeds from sale of the scrap value of the plant and machinery from the existing plant.

## Project Site

## ARTICLE 3

### 3.1 Handover of Project Site

- (a) UK Sugars shall, within 15 days from the Appointed Date, handover to the Concessionaire, vacant and peaceful physical possession of the Project Site for the purpose of implementing the Project.
- (b) Upon the Project Site being handed over pursuant to the preceding Clause (a), the Concessionaire shall, subject to the provisions of Article 5, have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such investigation, development and improvements in the Project Site as may be necessary or appropriate to implement the Project in accordance with the provisions of this Agreement.

### 3.2 Rights, Title and Use of the Project Site

- (k) The Concessionaire shall have the right to the use of Project Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the same by third parties.  
Provided that use of the Project Facility Area by the Concessionaire, for carrying out its obligations under this Agreement, shall be limited till the end of Defect Liability Period, subsequent to which the Concessionaire shall have no right whatsoever thereupon unless otherwise expressly permitted by UK Sugars.
- (l) The Project Site, including the Project Facility, developed thereon belongs to UK Sugars and shall continue to be the property of UK Sugars.
- (m) The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Site, save and except as set forth and permitted under this Agreement.

- (n) The Concessionaire shall not without the prior written approval of UK Sugars use the Project Facility for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- (o) The Concessionaire shall require the permission of UK Sugars to:
  - (i) demolish the existing structures within the Project Site subject to adherence to Project Requirements, Applicable Laws and Applicable Permits, and
  - (ii) use, sell or dispose in accordance with Applicable Laws and Applicable Permits, the material obtained as a result of demolition under clause(i) above.
- (p) The Concessionaire shall, to the extent it is feasible to do so, utilize all existing and usable building, plant and machinery, trees etc for developing Sugar Plant/ Integrated Sugar Complex. However, the Concessionaire can not demolish or dispose-off any building, plant and machinery, trees etc. without permission of UK Sugars.
- (q) Following Exemptions & Re-imbursements will be applicable for 05 years as per terms of Sugar Promotion Policy, 2013 to the Concessionaire: -
  - a. Re-imbursement of 5% interest on loan from Banks & Financial Institutions for plant & machinery.
  - b. Exemption from reservation of molasses for country liquor.

The Concessionaire will be entitled for above mentioned exemptions & re-imbursements after start of commercial production of Sugar Mill, Cogen Plant, Distillery and other allied industries. If the date of start of commercial production is different for each plant, then the Concessionaire will be entitled for above mentioned exemptions & re-imbursements related to that particular plant from the start of commercial production for that particular plant, i.e., start of exemptions & re-imbursements will be different for each plant in case date of commercial production is different. Apart from this rest other terms and conditions of Sugar Promotion Policy, 2013 will remain same.

- (r) The land and the developed Sugar Plant/ Integrated Sugar Complex will not be sub-let or sub-leased to any other third party. Land use of the land being given on lease will not be changed.
- (s) The project land (as shown and described in Schedules 1A & 1B of this agreement) will not be used for any other purpose except for the development of Integrated Sugar Complex, and the land will not be sold, mortgaged, damaged, and diverted for any other purpose except as detailed in this agreement.

### **3.3 Peaceful Possession**

UK Sugars, as Concessioneing Authority, hereby warrants that:

- (a) The Project Site together with the necessary right of way/ way-leaves
  - (i) has been acquired through the due process of law
  - (ii) belongs to and is vested in UK Sugars and that UK Sugars has full powers to hold, dispose of and deal with the same consistent, inter alia, with the provisions of this Agreement and that the Concessionaire shall, in respect of the Project Site, have no liability regarding any compensation payment on account of rehabilitation/ resettlement or land acquisition of any Persons affected thereby.
- (b) The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Project Site or part thereof until expiry of the Concession Period/ completion of Handback Requirements. In the event, the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/charge on the Project Site or any part thereof, UK Sugars shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

### **3.4 Applicable Permits**

- (a) The Concessionaire shall obtain and maintain all Applicable Permits in such sequence as is consistent with the requirements of the Project.
- (b) The Concessionaire shall be responsible for obtaining all the necessary IEM/ clearances/approvals/permits/licenses etc. required for completion and operation of the Project during the Concession Period. The USCMSL will facilitate for obtaining them.
- (c) The Concessionaire shall obtain and keep renewed and in force all licenses, permits, entitlements, as are in force and that might be required by any law and observe all formalities and statutory requirements so that the Unit may run properly and smoothly. All licenses and permissions required to be given by the Government Agencies shall be sanctioned subject to fulfillment of conditions required for said licenses.

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Concessionaire shall have the following obligations:

### 5.1 Performance Security

- (a) The Concessionaire shall, for due and punctual performance of its obligations hereunder relating to the Project, deliver to UK Sugars, simultaneously with the execution of this Agreement, a security deposit in favour of Uttarakhand Sahakari Chini Mills Sangh Ltd., payable at Dehradun ("Performance Security") for a sum equal to 2% of the project cost (amounting to INR 7.60 Crore only)
- (b) The Performance Security shall be kept valid throughout the Concession Period from the Appointed Date.  
Provided that if the Agreement is terminated due to any event other than a Concessionaire Event of Default, the Performance Security if subsisting as of the Termination Date shall, subject to UK Sugars's right to receive amounts, if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire.

### 5.2 Financing Arrangement

The Concessionaire shall at its cost, expenses, and risk make such financing arrangement as would be necessary to implement the Project and to meet all of its obligations under this Agreement, in a timely manner.

### 5.3 Drawings

#### (a) Preparation of Drawings

- (i) The Concessionaire shall, subject to the Construction Requirements, prepare its own Drawings with respect to the Project Facility. The Concessionaire shall in any event be solely responsible for the adequacy of the Drawings.
- (ii) All Drawings shall be subject to review by the Designated Engineer/ UK Sugars as hereinafter provided in the succeeding sub-clause (b).

#### (b) Review of Drawings

- (i) The Concessionaire shall promptly and in such sequence as is consistent with the Construction Requirements, submit a copy of each of the Drawings to the Designated Engineer and UK Sugars.
- (ii) By forwarding the Drawings to the Designated Engineer and UK Sugars pursuant to the preceding sub-clause (i), the Concessionaire shall be deemed to have represented that it has verified and determined that the Drawings forwarded are in conformity with the Construction Requirements.

- (iii) Within 15 days of receipt of the Drawings, the Designated Engineer shall review the same taking into account, inter alia, comments of UK Sugars, if any, thereon, and convey its comments/ observations to the Concessionaire on the conformity of Drawings with Construction Requirements. If the comments/ observations of the Designated Engineer indicate that the Drawings are not in conformity with the Construction Requirements, such Drawings shall be revised by the Concessionaire to the extent necessary and resubmitted to Designated Engineer for further review. The Designated Engineer shall give its observations and comments, if any, within 15 days of receipt of such revised Drawings, which shall be taken into account by the Concessionaire while finalising the Drawings.
- (iv) If, within the period stipulated in the preceding sub-clause (iii), the Designated Engineer does not respond to the Drawings submitted to it by the Concessionaire, the Concessionaire shall be entitled to proceed with the construction of the Project Facility on the basis of such Drawings submitted by it to the Designated Engineer.
- (v) Notwithstanding any review or failure to review by or the comments/ observations of the Designated Engineer or UK Sugars, the Concessionaire shall be solely responsible for the adequacy of the Drawings and their conformity with the Construction Requirements, and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.
- (vi) The Concessionaire shall be responsible for delays in meeting the Construction Requirements caused by reason of any Drawings not being in conformity with the Construction Requirements, and shall not be entitled to seek any relief in that regard from UK Sugars.
- (vii) The Concessionaire shall in consultation with the Designated Engineer finalise an implementation schedule for the Project in accordance with the Construction Requirements.
- (viii) Within 30 days of issue of the Completion Certificate or Provisional Completion Certificate, as the case may be, the Concessionaire shall furnish to UK Sugars three copies of "as built" Drawings of the Construction Works which have been completed as on COD, in a manner as set out in Construction Requirements.

#### **5.4 Project Implementation**

- (a) The Concessionaire shall, at its own costs and expenses, construct the Project Facility, subject to adherence to Applicable Law and obtaining Applicable Permits for such construction, alteration or modification.  
Provided that, such construction, shall not at any time cause any damage or have a dangerous effect on either the stability of the Project Facility or otherwise affect the safety of the users of the Project Facility.

- (b) Unless otherwise permitted by UK Sugars, no Construction Works shall begin until the Designated Engineer is in place and has assumed charge.
- (c) The Concessionaire shall within 10 days from the Appointed Date submit to the UK Sugars/ Designated Engineer the programme for execution of the Construction Works and shall adhere to the same.
- (d) The Concessionaire shall submit such documents and reports as are reasonably required by the Designated Engineer for the issue of the Completion Certificate.
- (e) The Concessionaire shall make his own arrangements for adequate and timely supply of electricity, water, gas and other utilities required for execution of the Construction Works and UK Sugars shall be in no way responsible for the same.
- (f) During Construction Period, the Concessionaire shall be responsible for keeping unauthorised persons off Project Site, and authorised persons shall be limited to the employees of the Concessionaire, employees of his subcontractor and persons authorised by UK Sugars or Designated Engineer.
- (g) The Concessionaire shall adhere to Construction Requirements, achieve COD on or before the SPCD.  
Provided that, on the written request by the Concessionaire for extension of SPCD, UK Sugars may consider such a request, subject to the Concessionaire agreeing to pay an amount of Rs. 1.0 lakh per week of extension as liquidated damages. However, such extension shall in no case exceed six months from SPCD. In the event Concessionaire is not able to achieve COD within such an extended period, it shall be deemed a Concessionaire Event of Default under Clause 9.1.
- (h) The Concessionaire may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/ capability; but in either case, the Concessionaire shall remain solely responsible to meet the Construction Requirements.
- (i) The Concessionaire shall, before commencement of Construction Works;
  - (i) have requisite organisation and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Designated Engineer/ UK Sugars, and to be responsible for all necessary exchange of information required pursuant to this Agreement;
  - (ii) provide and maintain a reasonably furnished site office accommodation for the Designated Engineer, at the Project Site.
- (j) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements, the Concessionaire shall, with due diligence, carry out all necessary and periodical tests in accordance with and as per the instructions of the Designated Engineer, and such Tests shall be carried out under the supervision of the Designated Engineer. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.



- (k) If the Tests are successful and the Project Facility can be safely and reliably opened for operation, the Designated Engineer shall issue the Completion Certificate within 7 days of the completion of such Tests.
- Provided that, notwithstanding that certain works or things forming part of Construction Works are not complete, if following Tests, the Designated Engineer determines that the Project Facility can be safely and reliably opened for operations, the Designated Engineer may issue Provisional Completion Certificate to the Concessionaire. The Provisional Completion Certificate shall have appended thereto a list of outstanding items signed jointly by the Designated Engineer and the Concessionaire ("Punch List"). All Punch List items shall be completed by the Concessionaire within such time as may be determined by the Designated Engineer, but not exceeding 60 days from the date of issue of the Provisional Completion Certificate. Upon satisfactory completion of all Punch List items, the Designated Engineer, shall promptly and in any case within 7 days thereof, issue the Completion Certificate.
- (l) If the Concessionaire fails to complete the Punch List items within the said period of 60 days, UK Sugars may, without prejudice to any other rights or remedy available to it under this Agreement, have such items completed at the risk and costs of the Concessionaire. In such an event, the Concessionaire shall reimburse to UK Sugars, one and half times of the cost incurred by UK Sugars in completing the Punch List items, (as certified by the Designated Engineer), within 7 days from the date of receipt of a claim in respect thereof from UK Sugars. The Designated Engineer may issue Project Facility Completion Certificate only upon such reimbursement being made by the Concessionaire to UK Sugars.
- (m) The Designated Engineer, may, by written notice, require the Concessionaire to suspend forthwith the whole or any part of the Construction Works, if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Construction Requirements.
- (n) The Construction Works shall be deemed to be complete and ready for commercial operations only when the Provisional Completion Certificate or the Completion Certificate is issued by the Designated Engineer in accordance with the provisions hereof.
- Provided if COD is delayed beyond 90 days of the SPCD, UK Sugars shall, subject to the provisions of Article 8, be entitled to terminate this Agreement and to appropriate the Performance Security.

## **5.5 Operation and Maintenance**

- (a) The Concessionaire shall operate and maintain the Project Facility in accordance with the O&M Requirements in terms of Schedule 6.
- (b) The Concessionaire may undertake operations and maintenance of the Project Facility by itself or through a Contractor possessing requisite technical, financial and managerial expertise/ capability; but in either case, the Concessionaire shall remain solely responsible to meet the O&M Requirements.
- (c) The Concessionaire shall, during the Operations Period:

- (i) shall have requisite organisation and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facility, to deal with the Designated Engineer/ UK Sugars and to be responsible for all necessary exchange of information required pursuant to this Agreement;
  - (ii) shall have qualified manpower to run the plants and facilities at maximum efficiency
  - (iii) shall not deny processing of sugar cane being provided by UK Sugars for processing as per contractual conditions
  - (iv) shall, for the purposes of determining that the Project Facility is being maintained in accordance with the O&M Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Designated Engineer and such Tests shall be carried out under the supervision of the Designated Engineer. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- (d) In the event the Concessionaire has failed to operate and maintain the Project Facility in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the Designated Engineer/UK Sugars (“Notice to Remedy”), UK Sugars may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to cause the repair and maintenance of the Project Facility at the risk and cost of the Concessionaire. The Concessionaire shall reimburse one and half times the costs incurred by UK Sugars on account of such repair and maintenance within fifteen (15) days of receipt of UK Sugars’s claim therefor.
- (e) The Concessionaire shall be deemed to be in material breach of O&M Requirements, if UK Sugars, acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Concessionaire,
- (i) the maintenance of the Project Facility or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
  - (ii) there has been a serious or persistent breach in adhering to the O&M Requirements and thereby the Project Facility or any part thereof is not safe for operations;

For avoidance of doubt, persistent breach shall mean:

- (i) any breach of O&M Requirements by the Concessionaire which has not been remedied by the Concessionaire despite a Notice to Remedy in respect thereof issued by the UK Sugars;
- (ii) recurrence of a breach by the Concessionaire, during the pendency of Notice to Remedy by the UK Sugars requiring the Concessionaire to remedy a breach, and
- (iii) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.

Upon the occurrence of Material Breach of O&M Requirements, UK Sugars shall, without prejudice to and notwithstanding any other consequences provided therefore under this Agreement, be entitled to terminate this Agreement.

- (f) No demolition shall be allowed during the last five (5) years of the Concession Period, unless specifically approved by UK Sugars.

## **5.6 Insurance**

### **(a) Construction Period**

The Concessionaire shall, in accordance to Good Industry Practice, at its cost and expense, purchase and maintain by due re-instatement or otherwise, during the Construction Period, such insurance as are necessary including but not limited to the following:

- (i) builders' all risk insurance;
- (ii) comprehensive third party liability insurance including injury or death to personnel / representatives of Persons who may enter the Project Site;
- (iii) workmen's compensation insurance;
- (iv) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

### **(b) Operations Period**

The Concessionaire shall at its cost and expense, purchase and maintain by re-instatement or otherwise, for the Operations Period, insurance against:

- (i) loss, damage or destruction of the Project Facility, at replacement value;
- (ii) the Concessionaire's general liability arising out of the Concession;
- (iii) liability to third parties;
- (iv) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

### **(c) Evidence of Insurance**

The Concessionaire shall maintain a register of entry in order of premium paid towards the Project Facility, and proof of payments made shall be submitted to UK Sugars whenever requested for.

### **(d) Validity of Insurance**

The Concessionaire shall, from time to time, promptly pay insurance premium, keep the insurance policies in force and valid throughout the Concession Period. The insurance policy shall not be cancelled or terminated unless 60 days' clear notice of cancellation is provided to UK Sugars in writing.

If at any time the Concessionaire fails to obtain or maintain in full force and effect any and all of the insurance required under this Agreement, UK Sugars may at its option (but not being obliged to do so) obtain and maintain such insurance and all sums incurred by UK Sugars thereof shall be reimbursed by the Concessionaire to UK Sugars together with interest thereon at 5% over SBI MCLR from the date the respective sums were incurred by UK Sugars, within 7 days from the receipt of claim in respect thereof made by UK Sugars.

(e) **Application of Insurance Proceeds**

Subject to the provisions of the Financing Documents, the proceeds of all insurance policies received shall be promptly applied by the Concessionaire towards repair, renovation, restoration or re-instatement of the Project Facility or any part thereof which may have been damaged or destroyed. The Concessionaire may designate the Lenders as the loss payees under the insurance policies or assign the insurance policies in their favour as security for the financial assistance provided by them to the Concessionaire. The Concessionaire shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Project Facility after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

(f) **Un-insurable Risks**

If during the Concession Period, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have ceased to insure such a risk and therefore insurance cannot be maintained/ re-instated in respect of such risk, the Concessionaire shall not be deemed to be in breach of its obligations regarding insurance under this Agreement.

**5.7 Environmental Compliance**

The Concessionaire shall, ensure that all aspects of the Project Facility during the Concession Period and processes employed in the construction, operation and maintenance thereof shall conform to the laws pertaining to environment, health and safety aspects including, policies and guidelines related thereto.

**5.8 Shareholding<sup>2</sup>**

The Concessionaire shall ensure that M/s \_\_\_\_\_<sup>3</sup> holds not less than 26% of the paid up share capital of the Special Purpose Vehicle for the first ten (10) years of the Concession Period.

**Sub-license of Project Facility**

The Developer shall not be entitled to sub-lease, or license any part of the Project Facilities.

**5.9 Concession Payment and Revenue Sharing amounts**

- (a) The Concessionaire agrees to make to UK Sugars payment in accordance with Schedule 2 ("Concession Payment and Revenue Sharing amounts").
- (b) The Concession Payment and Revenue Sharing amounts shall be made by way of cheque/ demand draft in favour of "Managing Director, Uttarakhand Sahakari Chini Mills Sangh Ltd." payable at Dehradun.

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<sup>2</sup> Only where the Concessionaire forms a Special Purpose Vehicle for the implementation of the Project.

<sup>3</sup> Name of the Lead Member (in case of Consortium) or the selected Bidder (in case the selected Bidder is a single entity)

#### **5.10 Indemnity by Concessionaire**

The Concessionaire shall indemnify and hold harmless UK Sugars, the Designated Engineer and their employees from and against all claims, damages, losses and expenses arising out of or resulting from Concessionaire's negligence or breach in execution of the Construction Works and any activity incidental thereto.

#### **5.11 General Obligations**

1. As per the Detailed Project Report submitted by the Concessionaire, the Project will be developed by the Concessionaire on his own costs or from the funds raised by him from Banks/Financial Institutions. Government of Uttarakhand hereinafter referred to as "GoUK" or UK Sugars will not give any financial assistance in development of the Project.
2. The Concessionaire has to complete the development of Project within 36 (thirty-six) months from the Appointed Date, and during the concession Period he will operate the Projects continuously.
3. After expiry of Lease Period the Concessionaire will return the entire Project which will include Land, Building, Plant & Machinery etc. to UK Sugars on "as is where is" basis as On Going Concern.
4. The Concessionaire has provided In-principal Approval Letter dated\_\_\_\_\_ and Final Sanction letter of loan dated\_\_\_\_\_from bank/FIs for developing Sugar Plant/ Integrated Sugar Complex. The Concessionaire has also provided banker/FIs approved Detailed Project Report to prove that he is financially capable to invest the amount required for developing Sugar Plant/ Integrated Sugar Complex.

OR

The Concessionaire has provided financial certificate from banker/FI that he is financially capable to invest the amount required for developing Sugar Plant/ Integrated Sugar Complex (if the The Concessionaire has not taken Loan from banks/FIs).

5. The Concessionaire undertakes and agrees that it will adhere to the Detailed Project Report.
6. The Concessionaire shall, to the extent it is feasible to do so, utilize all existing and usable building, plant and machinery, trees etc for developing Sugar Plant/ Integrated Sugar Complex. However, 5.126. The Concessionaire can not demolish or dispose-off any building, plant and machinery, trees etc. without permission of UK Sugars.
7. The Concessionaire shall pay all rates, taxes, assessments and outgoings of a periodically recurring and non-capital nature payable in respect of the Unit during the concession Period except, however, the outgoings as the owner is by law bound to pay notwithstanding any contract to the contrary.
8. The Concessionaire shall pay all charges as well as continue to pay all charges towards supply/consumption of electric power in the Unit for the entire concession Period.
9. The Concessionaire is responsible to keep such parts of the Unit as are not built upon in a proper and neat order and condition, and not to store anything unrelated to the operations of the Sugar Plant/ Integrated Sugar Complex. However, the Concessionaire shall be allowed to expand and build for expansion of sugar industry or any industry having backward/forward linkage with sugar.

10. The Concessionaire shall not transfer, assign, underlet or sub-lease or otherwise part with possession of the Unit or any part thereof or remove or take out or allow to be taken out or remove any item of plant and machinery, fixtures and fittings. However, in case the Concessionaire desires to obtain term loan from the financial institutions/banks for the exclusive purpose of modernization & expansion of the Unit against the mortgage of the project facility (except land), permission for the mortgage of leasehold rights shall be made available by the UK Sugars.
11. The Concessionaire shall ensure not to discharge any noxious matter or industrial waste or effluent from the Unit otherwise than permitted under any law for the time being in force.
12. The Concessionaire shall not store or bring to the demised Sugar Mills any unrelated articles which are combustible, inflammable or dangerous in nature in the premises of Unit and not to do or permit anything to be done by reason of which any insurance of the Unit may be rendered void or voidable.
13. The Concessionaire shall at its own cost and expense:
  - (a) investigate, study, and construct the Project Facility in accordance with the provisions hereof;
  - (b) investigate, study, design, construct, operate and maintain the Project Facility in accordance with the provisions hereof;
  - (c) obtain all Applicable Permits as required by or under the Applicable Law and be in compliance thereof at all times during the Concession Period;
  - (d) comply with Applicable Law governing the operations of the Project Facility, as the case may be, at all times during the Concession Period;
  - (e) ensure and procure that each Project Agreement contains provisions that would entitle UK Sugars or a nominee of UK Sugars to step into the same at UK Sugars's discretion, in place and substitution of the Concessionaire, pursuant to the provisions of this Agreement;
  - (f) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project;
  - (g) appoint, supervise, monitor and control as necessary, the activities of Contractors under the respective Project Agreements;
  - (h) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project and hereby indemnifies UK Sugars against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall UK Sugars be treated as employer in this regard;
  - (i) make its own arrangements for construction materials and observe and fulfil the environmental and other requirements under the Applicable Law and Applicable Permits;
  - (j) be responsible for all the health, security, environment and safety aspects of the Project Site/ Project Facility, as the case may be, at all times during the Concession Period;

- (k) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- (l) upon receipt of a request thereof, afford access to the Project Facility to the authorised representatives of UK Sugars for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement and to any Government Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project Facility and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons assistance reasonably required to carry out their respective duties and functions.
- (m) pay all taxes, duties and outgoings, including utility charges relating to the Project Facility, as applicable throughout the Concession Period.
- (n) make its own arrangements for the engagement of the employees and labour engaged for execution of the Construction Work.
- (o) keep on the Project Site two complete sets of this Agreement, Construction Documents, approvals given by the UK Sugars/ Designated Engineer and any other communication given or issued under provisions hereof for inspection, verification and use by the UK Sugars/ Designated Engineer or any authority authorised by law to inspect the same or any of them.
- (p) provide and maintain all necessary accommodation and welfare facilities for its staff and labour. The Concessionaire shall not permit any of its employees to maintain any temporary or permanent living quarters within the structure forming a part of the Construction Works.
- (q) take precautions to ensure the health and safety of its staff and labour.
- (r) employ adequate number of appropriately qualified, skilled and experienced persons in order to execute the Construction Works. The Designated Engineer may require the Concessionaire to remove any person employed on the Project Site or Construction Works, who in the opinion of the Designated Engineer:
  - (i) persists in any misconduct,
  - (ii) is incompetent or negligent in the performance of his duties,
  - (iii) fails to conform with any provisions of the Agreement, or
  - (iv) persists in any conduct which is prejudicial to safety, health, or the protection of the environment

The Concessionaire shall in such cases appoint suitable replacement/s.

- (s) take reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst its staff and labour and to preserve peace and protection of persons and property in the neighbourhood of the Construction Works against such conduct.

## **5.12 Specific Obligations: Development of Project Facility**

### **a. Project Facility Construction**

The Concessionaire shall at its own cost and expense, observe, undertake, comply with and perform in addition to and not in derogation of its obligations elsewhere set out in this Agreement, construct the Project Facility based on designs and drawings as provided in the DPR approved by UK Sugars and complete the Project Facility within 36 months from the Appointed Date.



**b. Execution of Works**

- (i) The Works executed by the Concessionaire shall be wholly in accordance with the Project Construction Requirements (provided in detail in the DPR) and shall include any work which may be inferred to be necessary for stability, completion and for the safe, reliable and efficient operation of the Project Facility.
- (ii) The Concessionaire shall provide all superintendence, labour, Plant, Materials, Concessionaire's Equipment, Temporary Works and all other things, whether of a temporary or permanent nature, required in and for such design, execution, completion, remedying of defects and maintenance of the Works.

**c. Plant and Materials**

- (i) The Concessionaire shall ensure that Plant and Materials supplied and installed are as per the specifications set out in the Project Construction Requirements (provided in detail in the DPR).
- (ii) The Concessionaire shall be responsible for procurement, transport, receiving, unloading and safe keeping of all Plant, Materials, Concessionaire's Equipment and other things required for the completion of the Works.

**d. Inspection, Testing and Rejection**

- (i) The Concessionaire shall carry out all tests specified under Project Construction Requirements after giving prior adequate notice of at least 3 days to the Designated Engineer.
- (ii) The Concessionaire shall bear the costs of all tests whether at Project Facility Area or at any other location.
- (iii) If, as a result of inspection, examination or testing, the Designated Engineer decides that any Plant, Materials, design or workmanship is defective or otherwise not in accordance with the Agreement, the Designated Engineer may reject such Plant, Materials, design or workmanship and shall notify the Concessionaire and UK Sugars promptly, stating reasons for the same. The Concessionaire shall then promptly make good the defect and ensure that the rejected item complies with the Agreement.
- (iv) The Concessionaire shall in a timely manner clear away and remove from the Project Facility Area any wreckage, rubbish or Temporary Works no longer required.
- (v) Six (6) months Prior to the TOD, the Concessionaire shall clear away and remove from the Project Facility Area all surplus material, wreckage, rubbish and Temporary Works and any equipment no longer required, to the satisfaction of the Designated Engineer.

**e. Commencement, Delay and Completion**

- (i) Promptly, effective from the date hereof, the Concessionaire shall commence execution of the Works as soon as is reasonably possible and shall then proceed with due expedition and without delay, until completion.



- (ii) The whole of the Works including all tests specified in Schedule 3 shall be completed before SPCD. Upon completion of the Works, the Concessionaire shall promptly obtain the Provisional Completion Certificate or Completion Certificate in the manner provided at Clause 5.4. If the Concessionaire fails to obtain Provisional Completion Certificate or Completion Certificate, the Concessionaire shall be entitled to further period of six (6) months to obtain the Provisional Completion Certificate or Completion Certificate, subject to payment of liquidated damages to UK Sugars at the rate of Rs. 100,000 (Rupees one lakh) per week of delay.
- (iii) If the Concessionaire fails to obtain the Provisional Completion Certificate or Completion Certificate by SPCD and SPCD is delayed beyond 90 days, UK Sugars shall, subject to the provisions of Article 8, be entitled to terminate this Agreement and to appropriate the Performance Security.
- (iv) The UK Sugars may, without prejudice to any other method of recovery including enforcement of Performance Security, deduct the amount of such liquidated damages from any monies due, or to become due, to the Concessionaire. The payment or deduction of such damages shall not relieve the Concessionaire from its obligation to complete the Works, or from any other of its duties, obligations or responsibilities under the Agreement.

**f. Variations**

Where modification or alteration (Variations) to the Project Facility is mutually agreed upon and results in delay in obtaining Provisional Completion Certificate or Completion Certificate beyond SPCD leading to delay in completion of the Project Facility, suitable extension of time may be granted in writing by UK Sugars to the Concessionaire.

Provided that such extension of time shall not be later than ----- days of SPCD.

Provided further the Concessionaire shall not be liable to pay liquidated damages for the number of days extension granted.

**g. Taking Over**

- (i) On the maturity (completion) of this Concession agreement, UK Sugars shall take over the completed Works of the Project Facility along with Construction Documents, certificates, manuals, instruction booklets, guarantees/ warranty cards in respect of Plant and Material included as part of the Permanent Works on "as is where is basis".
- (ii) UK Sugars shall not as a consequence of taking over, Termination or other wise have any obligations whatsoever including continuance or regulariation of employment, compensation for loss of employment with respect to any person in the employment of or engaged by the Concessionaire. The Concessionaire shall ensure that the completed Works shall be free from any such obligation.

- (iii) If the operation of Sugar Plant/ Integrated Sugar Complex is found satisfactory, the Authority may, at its discretion, agree to extend the period of concession for further period of 15 (Fifteen) years on the Terms and condition agreed upon by both the parties, and new concession agreement shall be mandatorily signed as per the prevailing norms and rules of the U.K. Government.

#### **h. Defect Liability**

- (i) If any defect appears or damage occurs, and is noticed by the UK Sugars/ Designated Engineer in any of the Works of the Project Facility Area (including the Plant and Material) during the Defect Liability Period, the Designated Engineer shall promptly notify the Concessionaire in writing of the same and require him to rectify, repair or remedy such defect or damage.
- (ii) On receipt of such notice, the Concessionaire shall promptly rectify, repair or remedy such defect or damage at its own cost and risk.
- (iii) If the defect or damage is such that it cannot be remedied expeditiously on the Project Facility Area, UK Sugars may, with the consent the Designated Engineer, remove from the Project Facility Area for the purposes of repair such part of the Works which is defective or damaged.
- (iv) In case such damage or defect is not rectified, repaired or remedied within 30 days, UK Sugars shall have the right to rectify, repair or remedy, on its own, such defect or damage and recover the cost thereof by deducting/ appropriating to the extent necessary, from the Performance Security.

#### **5.13 No Breach of Obligations**

The Concessionaire shall not be considered to be in breach of its obligations under this Agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Agreement is affected by or on account of any of the following:

- (i) Force Majeure Event, subject to Clause 8.3;
- (ii) UK Sugars Event of Default;
- (iii) Compliance with the instructions of the Designated Engineer/ UK Sugars or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder;
- (iv) Closure of the Project Facility or part thereof with the approval of UK Sugars.

#### **5.14 Access and Assured Availability of the Project Facilities**

The Concessionaire shall, at all times during the Concession Period, allow access to and usage of Project Facilities to UK Sugars / Person nominated by UK Sugars/Designated Engineer.

### **5.15 Expenses Towards Statutory Deposits and Charges**

The Concessionaire shall reimburse to UK Sugars, service charges towards connection of utilities to the Project Facility in the Project Site, other taxes such as property tax, water tax and sewerage charges for the Project Site.

### **5.16 Erection of Sign Board**

- (a) The Concessionaire shall erect a signboard, of a size not less than 3 ft. by 6 ft, adjacent to the main entrance to the Project Site in a manner such that it is ordinarily visible to any person using such entrance. The signboard shall prominently display the following text in black upper case letters on a white/yellow background:

“This property belongs to the Uttarakhand Sahakari Chini Mills Sangh Ltd. and has been handed over to \_\_\_\_\_ (*name of the Concessionaire*) for Development, Operation and Maintenance from \_\_\_\_\_ (*Insert the Appointed Date*) to \_\_\_\_\_ (*Insert the Expiry Date*)”.

The Concessionaire shall ensure that the signboard is maintained in good condition throughout the Concession Period.

### **5.17 MIS Portal**

The Concessionaire shall implement digitalization and industry 4.0 systems in the Integrated Sugar Complex in such a manner that the data regarding input of Sugar Cane and Output of Sugar, Moalsses, Bagasee, Ethanol and Electricity is available on an online portal that can be monitored by UK SUGARS.

The Concessionaire shall pay to the Authority all statutory dues and fees (including farmer’s fees) as agreed under this agreement. However, all the transactions related to the project shall be maintained by the Concessionaire through the MIS portal that can be monitored by the UK SUGARS.

In the event of the concessionaire does not comply to clear the statutory dues and fees (including farmer’s fees) as agreed under this agreement, the authority i.e., UK SUGARS shall open an escrow account for the purpose of clearances of such dues and fees.

## **UK Sugars’ Obligations**

## **ARTICLE 5**

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, UK Sugars shall have the following obligations:

### **6.1 Specific Obligations**

- (a) UK Sugars shall handover the possession of the Project Site to the Concessionaire in accordance with the Agreement on “As is where is basis” free from all encumbrances;
- (b) Prior to handover of the Project Site to the Concessionaire, UK Sugars shall remove all encroachments from the Project Site;
- (c) Assets of the Unit will be transferred to the Concessionaire free from all liabilities (Cane Price, Society Commission, Bank’s/FI’s Dues, Suppliers Dues, Contractor Dues, Taxes and Duties of Central and State Government, Labour Dues etc.) & pending legal cases and free from all Encumbrances accrued till the Signing Date.

- (d) UK Sugars shall grant in a timely manner all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek from UK Sugars under this Agreement, in connection with implementation of the Project and the performance of its obligations.
- Provided where authorisation for availment of utilities such as power, water, sewerage, telecommunications or any other incidental services/ utilities is required, the same shall be provided by UK Sugars in the form within 15 days from receipt of request from the Concessionaire to make available such authorisation.

## 6.2 General Obligations

UK Sugars shall:

- (a) upon written request from the Concessionaire, assist the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent facilities/utilities;
- (b) assist the Concessionaire in obtaining police assistance, upon payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Site/ Project Facility and implementing this Agreement in accordance with the provisions hereof;
- (c) observe and comply with all its obligations set forth in this Agreement.
- (d) constitute a Monitoring Committee with representation from the Concessionaire and the district administration (District Magistrate or his authorised representative) for the purpose of monitoring the Project which shall independently discharge the following functions (**Terms of reference of monitoring committee**):
  - (i) monitoring the compliance with Applicable Law by the Concessionaire,
  - (ii) monitor adherence to the Construction and O&M Requirements and suggest corrective measures, wherever required.
  - (iii) review the reports submitted by the Concessionaire
  - (iv) advise UK Sugars and the Concessionaire on the issues related to the Project.
  - (v) taking such other decisions, as may be specified in the provisions of this Agreement.

## Change in Scope of the Project

## ARTICLE 6

### 7.1 Change of Scope

UK Sugars may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition/ deletion to the works and services in the Project Facility which are beyond the scope of the Project as contemplated by this Agreement (“Change of Scope”) including clause 2.6, provided such changes do not require expenditure exceeding Rs. \_\_\_\_/- (Rupees \_\_\_\_ crore only) and does not adversely affect the COD. All such changes shall be made by UK Sugars by an order (the “Change of Scope Order”) issued in accordance with the procedure set forth in this Clause.

### 7.1.1 Procedure for Change of Scope

- (a) UK Sugars shall whenever it desires provision of addition/ deletion of items of work and services referred to in Clause 7.1 above, issue to the Concessionaire a notice of change of scope (the “Change of Scope Notice”).
- (b) Upon receipt of such Change of Scope Notice, the Concessionaire shall within 15 days provide to UK Sugars and the Designated Engineer such information as is necessary and reasonable together with preliminary documentation in support of the following:
  - (i) the impact, if any, which the Change of Scope is likely to have on the SPCD if the work is required to be carried out before COD, and
  - (ii) the cost to the Concessionaire of complying with such Change of Scope Notice (including, without limitation, material and labour cost information furnished in accordance with the current schedule of rates applicable to the works assigned by UK Sugars to its contractors, including the premium on such rates), the options suggested for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time for the implementation thereof including a detailed breakdown by work classifications.

Provided, however, that the cost of providing such information shall be reimbursed to the Concessionaire by UK Sugars to the extent such costs are certified to be reasonable by the Designated Engineer.

- (c) If UK Sugars desires, after receipt of information set forth in sub-clause (b) to proceed with the Change of Scope, it shall convey the desired option (with or without modification) to the Concessionaire by issuing a Change of Scope Order within 30 days from the date of recommendation made by Designated Engineer and thereupon the Parties shall make good faith efforts to mutually agree upon the costs and time for implementing of the same. Upon reaching an agreement relating to such costs and time, UK Sugars shall issue a written confirmation of the Change of Scope and thereupon the Concessionaire shall proceed with performance of such order. In the event, the Parties are unable to agree, UK Sugars may, by issuing a confirmation in writing of such Change of Scope Order, require the Concessionaire to proceed with the performance of the Change in Scope Order pending resolution of such dispute.

- 7.1.2 A Change of Scope Order will be effective and binding upon issuance of a confirmation of such Change of Scope Order by UK Sugars. Notwithstanding a dispute regarding cost and time for implementation of such Change of Scope Order, the Concessionaire shall proceed with the performance of such Change of Scope Order promptly following UK Sugars’s confirmation pursuant to Clause 7.1.1(c). Pending resolution of such dispute, UK Sugars shall pay to the Concessionaire, if the Change of Scope Order involves increase in bill of quantities an amount equal to the costs that are certified by the Designated Engineer.

- 7.1.3 All claims by the Concessionaire pursuant to this Clause 8.3 shall be supported by such documentation as is reasonably sufficient for UK Sugars/ Designated Engineer to determine the accuracy thereof, including invoices from Contractors and certification of such claims by the Statutory Auditors.

## 8.1 Force Majeure Event

Any of the following events which is beyond the control of the Party claiming to be affected thereby ("Affected Party") and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and prevents the Affected Party from performing or discharging its obligations under this Agreement, shall constitute Force Majeure Event

- (a) earthquake, flood, inundation and landslide
- (b) storm, tempest, hurricane, cyclone, lightening, thunder or other extreme atmospheric disturbances
- (c) fire caused by reasons not attributable to the Concessionaire or any of the employees, Contractors or agents appointed by the Concessionaire for purposes of the Project;
- (d) acts of terrorism;
- (e) strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- (f) action of a Government Agency having Material Adverse Effect including but not limited to
  - (i) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Facility or any part thereof or of the Concessionaire's or the Contractor's rights in Contractor's rights under any of the Project Agreements.
  - (ii) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire, and
  - (iii) any unlawful, unauthorised or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than Concessionaire's or the Contractor's breach or failure in complying with the Project Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound.
- (g) early determination of this Agreement by UK Sugars for reasons of national emergency, national security or the national interest.

- (h) any failure or delay of a Contractor caused by any of the events mentioned in (f) and (g) above, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- (i) war, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionising radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub-clause for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- (j) Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 2.4.1 for fulfillment of all Condition Precedents set out in 2.4.2 and 2.4.3 shall be extended by a period equal in length to the duration of the Force Majeure Event

## **8.2 Obligations of the Parties**

- (a) As soon as practicable and in any case within seven (7) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the Designated Engineer and the other Party of the same setting out, inter alia, the following in reasonable detail:
  - (i) the nature and extent of the Force Majeure Event;
  - (ii) the estimated duration of the Force Majeure Event;
  - (iii) the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event;
  - (iv) the measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby; and
  - (v) any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.
- (b) As soon as practicable and in any case within five (5) days of notification by the Affected Party in accordance with the preceding Clause 8.2 (a), the Parties along with the Designated Engineer, shall meet and hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facility in order to:
  - (i) assess the impact of the underlying Force Majeure Event,
  - (ii) to determine the likely duration of Force Majeure Event and,
  - (iii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the underlying Force Majeure Event.
- (c) The Affected Party shall during the duration of Force Majeure event provide to the other Party with regular (not less than fortnightly) reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the Parties may reasonably require.



### **8.3 Performance of Obligations**

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

- (a) due notice of the Force Majeure Event has been given as required by the preceding Clause 8.2;
- (b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;
- (c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facility as a result of the Force Majeure Event and to restore the Project Facility, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party and the Designated Engineer written notice to that effect and shall promptly resume performance of its obligations hereunder, the non-issue of such notice being no excuse for any delay for resuming such performance;
- (e) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;
- (f) any insurance proceeds received shall, subject to the provisions of Financing Documents, be entirely applied to repair, replace or re-instate the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

### **8.4 Termination due to Force Majeure Event**

#### **(a) Termination**

- (i) If a Force Majeure Event, is an event described under Clauses 8.1(a) to 8.1(e) and 8.1(i), continues or is in the reasonable judgement of the Parties likely to continue beyond a period of 120 days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 days, be entitled to terminate this Agreement.
- (ii) If the Force Majeure Event is an event described in 8.1 (f), 8.1 (g) or 8.1 (h) and the Concessionaire having exhausted the remedies available to him under the Applicable Laws, has been unable to secure the remedy, the Concessionaire shall be entitled to terminate this Agreement.  
Provided that the Parties may by mutual agreement, decide to continue this Agreement on revised terms or to terminate this Agreement, if the event described in 8.1 (f), 8.1 (g) or 8.1 (h) subsists or is likely to subsist for a period exceeding 180 days, then either Party shall be entitled to terminate this Agreement.



Provided further, UK Sugars may at its sole discretion have the option to terminate this Agreement any time after the occurrence of any event described under Clauses 8.1(f), 8.1(g) or 8.1(h).

**(b) Termination Notice**

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding clause 8.4(a) (i) or (a) (ii), it shall issue Termination Notice setting out;

- (i) in sufficient detail the underlying Force Majeure Event;
- (ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
- (iii) the estimated Termination Payment including the details of computation thereof and;
- (iv) any other relevant information.

**(c) Obligation of Parties**

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that;

- (i) the Termination Payment, if any, payable by UK Sugars in accordance with the following clause is paid to the Concessionaire on the Termination Date and
- (ii) the Project Facility are handed back to UK Sugars by the Concessionaire on the Termination Date free from all Encumbrance.

**(d) Termination Payment**

Upon Termination of this Agreement due to a Force Majeure Event, Termination Payment shall be made to the Concessionaire by UK Sugars in accordance with the following:

- (i) If Termination is due to a Force Majeure Event, described under Clauses 8.1(a) to 8.1(e), no Termination Payment shall be made by UK Sugars to the Concessionaire but, the Concessionaire shall be entitled to receive and appropriate the proceeds of any amounts under insurance policies.
- (ii) If Termination is due to the occurrence of any event described under Clauses 8.1(f) or 8.1(g) or 8.1(h), UK Sugars shall pay to the Concessionaire Termination Payment equal to 100% of the Book Value

Provided UK Sugars shall be entitled to deduct from the Termination Payment any amount due and recoverable by UK Sugars from the Concessionaire as on the Termination Date.

- (iii) If Termination is due to the occurrence of any event described under Clause 8.1(i), UK Sugars shall, pay to the Concessionaire, Termination payment equal to 70% of the Book Value.

Provided UK Sugars shall be entitled to deduct from the Termination Payment any amount due and recoverable by UK Sugars from the Concessionaire as on the Termination Date.

#### **8.5 Liability for other losses, damages etc.**

Save and except as expressly provided in this Article, neither Party hereto 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.

#### **8.6 Change in Law**

- (a) Change in Law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:

- (i) the enactment of any new Indian law;
- (ii) the repeal, modification or re-enactment of any existing Indian law;
- (iii) a change in the interpretation or application of any Indian law by a court of record.

Provided that Change in Law shall not include:

- (i) coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
  - (ii) any new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge,
  - (iii) any change in the rates of the Central Taxes.
- (b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a consequence of a Change in Law, the Concessionaire is obliged to incur Additional Costs, UK Sugars shall subsequently reimburse to the Concessionaire, 50% of such Additional Costs, provided such Additional Costs is at least Rs. 75,00,000/- (Rupees Seventy-Five lakh only) over the remaining Concession Period.
  - (c) Upon occurrence of a Change in Law, the Concessionaire may, notify UK Sugars of the following:
    - (i) the nature and the impact of Change in Law on the Project
    - (ii) in sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law

- (iii) the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost
  - (iv) the relief sought by the Concessionaire
- (d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to preceding sub-clause, UK Sugars and the Concessionaire along with the Designated Engineer shall hold discussions and take all such steps as may be necessary as to determine the quantum of relief to be provided by UK Sugars to the Concessionaire.
- (e) UK Sugars shall within 30 days from the date of determination of quantum of Additional Cost, provide relief to the Concessionaire in the manner as mutually agreed upon by the Parties. Escalation, if any, in Additional Cost after such date of determination shall not be payable by UK Sugars.

## Events of Default and Termination

## ARTICLE 8

### 9.1 Events of Default

Event of Default shall mean either Concessionaire Event of Default or UK Sugars Event of Default or both as the context may admit or require.

#### (a) **Concessionaire Event of Default**

Any of the following events shall constitute an Event of Default by the Concessionaire ("Concessionaire Event of Default") unless such event has occurred as a result of one or more reasons set out in Clause 5:

- (i) The Concessionaire has failed to adhere to the Construction Requirements and such failure, in the reasonable estimation of the Designated Engineer, is likely to delay achievement of COD beyond 90 days of the SPCD;
- (ii) The Concessionaire has failed to achieve COD within 90 days of the SPCD for any reason whatsoever;
- (iii) At any time during the Concession Period, the Concessionaire fails to adhere to the Construction Requirements or O&M Requirements and has failed to remedy the same within 60 days;
- (iv) The Concessionaire has failed to make the Concession Payment and Revenue Sharing amounts due to UK Sugars and more than 30 days have elapsed since such payment became due;

- (v) The Concessionaire has failed to make any payments other than the Concession Payment and Revenue Sharing amounts due to UK Sugars and more than 120 days have elapsed since such payment became due;
- (vi) The Concessionaire is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than 60 days;
- (vii) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
- (viii) A resolution has been passed by the shareholders of the Concessionaire for voluntary winding up/ dissolution of the Concessionaire;
- (ix) Any petition for winding up of the Concessionaire has been admitted and liquidator or provisional liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction, except for the purpose of amalgamation or reconstruction with the prior consent of UK Sugars, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement;
- (x) A default has occurred under any of the Financing Documents and any of the Lenders has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable;
- (xi) The Concessionaire has abandoned the Project Facility;
- (xii) The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (xiii) The Concessionaire has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 90 days
- (xiv) The Concessionaire has failed to perform/ discharge its obligations under Clause 5 of this Agreement for a continuous period of 24 hours.
- (xv) The Consortium formed for the purpose of the Project is changed by the Concessionaire without the consent of UK Sugars.

(b) **UK Sugars Event of Default**

Any of the following events shall constitute an event of default by UK Sugars ("UK Sugars Event of Default"), when not caused by a Concessionaire Event of Default or a Force Majeure Event:

- (i) UK Sugars is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 60 days of receipt of notice thereof issued by the Concessionaire;
- (ii) UK Sugars having executed the same is in breach of any of its obligations thereunder and such breach has not been cured within 30 days from the date of written notice thereof given by the Concessionaire
- (iii) UK Sugars has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- (iv) UK Sugars has unreasonably withheld or delayed grant of any approval or permission which the Concessionaire is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;
- (v) Any governmental action not arising out of a breach, default or lapse on the part of the Concessionaire, whereby the Concession/ this Agreement becomes inoperable or takeover by any government agency of the Project/ Project Facilities or any part thereof, thereby causing Material Adverse Effect.
- (vi) Any representation made or warranties given by the UK Sugars under this Agreement has been found to be false or misleading.

**9.2 Termination due to Event of Default**

(a) **Termination for Concessionaire Event of Default**

- (i) Without prejudice to any other right or remedy which UK Sugars may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, UK Sugars shall subject to the provisions of the Lenders' Step-in Rights as per Clause 9.5, be entitled to terminate this Agreement in the manner as set out under Clause 9.2(a)(ii) and Clause 9.2(a)(iii).  
Provided however that upon the occurrence of a Concessionaire Event of Default as specified under Clause 9.2(a)(xiv), UK Sugars may immediately terminate this Agreement by issue of Termination Notice in the manner set out under Clause 9.2(c).
- (ii) If UK Sugars decides to terminate this Agreement pursuant to preceding clause (i), it shall in the first instance issue Preliminary Notice to the Concessionaire. Within 30 days of receipt of the Preliminary Notice, the Concessionaire shall submit to UK Sugars in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Concessionaire's Proposal to Rectify"). In case of non-submission of the Concessionaire's Proposal to Rectify within the said period of 30 days, UK Sugars shall be entitled to terminate this Agreement by issuing Termination Notice, and to forfeit the Performance Security, if subsisting.

- (iii) If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefor, the Concessionaire shall have further period of 30 days ("Cure Period") to remedy/ cure the underlying Event of Default. If, however the Concessionaire fails to remedy/ cure the underlying Event of Default within such further period allowed, UK Sugars shall be entitled to terminate this Agreement, by issue of Termination Notice and to forfeit Performance Security, if subsisting.

**(b) Termination for UK Sugars Event of Default**

- (i) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of UK Sugars Event of Default, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding clause (i) it shall in the first instance issue Preliminary Notice to UK Sugars. Within 30 days of receipt of Preliminary Notice, UK Sugars shall forward to the Concessionaire its proposal to remedy/ cure the underlying Event of Default (the "UK Sugars Proposal to Rectify"). In case of non submission of UK Sugars Proposal to Rectify within the period stipulated therefor, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (iii) If UK Sugars Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefor, UK Sugars shall have further period of 30 days to remedy/ cure the underlying Event of Default. If, however UK Sugars fails to remedy/ cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

**(c) Termination Notice**

If a Party having become entitled to do so decides to terminate this Agreement pursuant to the preceding sub clause (a) or (b), it shall issue Termination Notice setting out:

- (i) in sufficient detail the underlying Event of Default;
- (ii) the Termination Date which shall be a date occurring not earlier than 30 days from the date of Termination Notice;
- (iii) the estimated termination payment including the details of computation thereof; and,
- (iv) any other relevant information.

(d) **Obligation of Parties**

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that:

- (i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continued operation of the Project Facility,
- (ii) the termination payment, if any, payable by UK Sugars in accordance with the following Clause (f) is paid to the Concessionaire on the Termination Date and
- (iii) the Project Facility is handed back to UK Sugars by the Concessionaire on the Termination Date free from any Encumbrance along with any payment that may be due by the Concessionaire to UK Sugars.

(e) **Withdrawal of Termination Notice**

Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before the Termination occurs, the Termination Notice shall be withdrawn by the Party which had issued the same.

Provided that the Party in breach shall compensate the other Party for any direct costs/ consequences occasioned by the Event of Default which caused the issue of Termination Notice.

(f) **Termination Payments**

Upon Termination of this Agreement on account of UK Sugars Event of Default, the Concessionaire shall be entitled to revoke the Performance Security, if subsisting, and receive from UK Sugars, termination payment equal to 120% of the Book Value.

**9.3 Rights of UK Sugars on Termination**

- (a) Upon Termination of this Agreement for any reason whatsoever, UK Sugars shall upon making the Termination Payment, if any, to the Concessionaire have the power and authority to:
  - (i) enter upon and take possession and control of the Project Site / Project Facility forthwith;
  - (ii) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/ dealing with the Project Site /Project Facility;
- (b) Notwithstanding anything contained in this Agreement, UK Sugars shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularisation of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Facility by the Concessionaire to UK Sugars shall be free from any such obligation.

#### **9.4 Accrued Rights of Parties**

Notwithstanding anything to the contrary contained in this Agreement, Termination pursuant to any of the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to the Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

#### **9.5 Lenders' Step-in Rights**

- (a) Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby agree that:
  - (i) upon the Lenders recalling and demanding the debt outstanding under the Financing Documents (following an event of default under the Financing Documents), or
  - (ii) upon a Termination Notice being issued by UK Sugars,

the Lenders shall, without prejudice to any other remedy available to them, have the option to propose to UK Sugars the substitution of the Concessionaire by another suitable company ("Proposed Concessionaire"). Any such proposal shall contain in sufficient detail all the relevant information about the Proposed Concessionaire and the terms and conditions of the substitution.

- (b) Upon receipt of the Lenders' proposal pursuant to the preceding sub-clause (a), UK Sugars shall, at its discretion, have the right to accept substitution of the Concessionaire on such terms and conditions as it may deem fit.

Provided that any such substitution shall:

- (i) be on terms and conditions of the Concession which are not less favourable to UK Sugars than those prevailing at the time of substitution, and
  - (ii) be for the remaining period of Concession only.
- (c) In the event of substitution as aforesaid, all the rights, privileges and the benefits of the Concessionaire shall be deemed to have been transferred to and vested in the Proposed Concessionaire and UK Sugars and the Proposed Concessionaire shall take such steps and enter into such documents as may be necessary to give effect to the substitution.



- (d) Upon the substitution of the Concessionaire becoming effective as aforesaid, the Concessionaire shall hand back to UK Sugars or upon instruction of UK Sugars to the Proposed Concessionaire and for the purpose of giving effect to this provision, UK Sugars shall have all such rights as are provided in Clause 9.3.

## Handback Requirements

## ARTICLE 9

### 10.1 Ownership

Without prejudice and subject to the Concession, the ownership of the Project Site, and the Project Facility, including all improvements made therein by the Concessionaire, shall at all times remain that of UK Sugars (Government of Uttarakhand). However, the ownership of the existing plant and machinery shall be deemed to be handed over to the Concessionaire at the time of handing over of the site. The Concessionaire shall be allowed to retain ownership of the existing plant and machinery and subsequently appropriate the proceeds from sale of the scrap value of the plant and machinery from the existing plant.

### 10.2 Obligations of Parties

#### (a) Concessionaire's Obligations

- (i) The Concessionaire shall on the date of expiry of the Concession Period, hand back vacant and peaceful possession of the Project Facility to UK Sugars free of cost and in good operable condition.
- (ii) At least 12 months before the expected expiry of the Concession Period a joint inspection of the Project Facility shall be undertaken by UK Sugars, Concessionaire and Designated Engineer. UK Sugars and Designated Engineer shall, within 45 days of such inspection prepare and furnish to the Concessionaire a list of works/ jobs ("Project Facility Handback Requirements"), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Concessionaire shall promptly undertake and complete such works/jobs at least 3 months prior to the expected expiry of the Concession Period and ensure that the Project Facility continues to meet such requirements until the same are handed back to UK Sugars.
- (iii) UK Sugars/ Designated Engineer shall, within 15 days of the joint inspection undertaken under preceding clause (ii) prepare and furnish to the Concessionaire a list of items, if any, with corresponding distinctive descriptions, which are to be compulsorily handed back to UK Sugars along with the Project Facility.

- (iv) The Concessionaire hereby acknowledges UK Sugars's rights specified in Clause 9.3 enforceable against it upon Termination and its corresponding obligations arising therefrom. The Concessionaire undertakes to comply with and discharge promptly all such obligations.
- (v) At least 24 months prior to the expiry of the Concession Period, the Concessionaire shall, for due performance of its obligations relating to handback of the Project Facility, submit to UK Sugars a bank guarantee, in the form as set forth in Schedule 7 ("Handback Guarantee"), from a bank acceptable to UK Sugars. The Handback Guarantee shall be kept valid for a period of 30 months.

### **10.3 UK Sugars's Obligations**

- (i) duly discharge and release to the Concessionaire the Handback Guarantee within 3 months from the expiry of the Concession Period.
- (iii) UK Sugars shall facilitate the Concessionaire in increasing the harvest area of the Sugarcane in the surrounding area so as to allow efficient utilization of the capacity being created.

UK Sugars shall, subject to UK Sugars's right to deduct amounts towards:

- (i) carrying out works/jobs listed under Clause 10.2(a)(ii), which have not been carried out by the Concessionaire,
- (ii) purchase of items, which have not been handed back to UK Sugars along with the Project Facility in terms of Clause 10.2(a)(iii), and
- (iii) any outstanding dues, which may have accrued in respect of the Project Facility during the Concession Period

## **Dispute Resolution**

## **ARTICLE 10**

### **11.1 Amicable Resolution**

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in sub-clause (b) below.
- (b) Either Party may require such Dispute to be referred to the Managing Director, UK Sugars and the Chief Executive Officer of the Concessionaire for the time being, for amicable settlement. Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 11.2 below.

## **11.2 Arbitration**

### **(a) Procedure**

Subject to the provisions of Clause 11.1, any dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If a party fails to appoint an arbitrator within thirty days from receipt of a request to do so from the other party, or the two appointed arbitrators fail to agree on the third arbitrator within thirty days from the date of their appointment, the party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

### **(b) Place of Arbitration**

The place of arbitration shall ordinarily be Dehradun but by agreement of the Parties, the arbitration hearings, if required, may be held elsewhere.

### **(c) English Language**

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

### **(d) Enforcement of Award**

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act subject to the rights of the aggrieved party to secure relief in accordance with the Arbitration Act.

### **(e) Performance during Arbitration**

Pending the submission of and/or decision on a dispute and until the arbitral award is published, the Parties shall continue to perform their respective obligations under this Agreement, without prejudice to a final adjustment in accordance with such award.

## **Representations and Warranties, Disclaimer**

## **ARTICLE 11**

### **12.1 Representations and Warranties of the Concessionaire**

The Concessionaire represents and warrants to UK Sugars that :

- (a) it is duly organised, validly existing and in good standing under the laws of India;
- (b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Agreement;

- (d) it has the financial standing and capacity to undertake the Project;
- (e) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (f) 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 the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;
- (g) there are no actions, suits, proceedings or investigations pending or to the Concessionaire's 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 constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;
- (h) 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 Agency which may result in Material Adverse Effect;
- (i) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- (j) subject to receipt by the Concessionaire from UK Sugars of any amount due under any of the provisions of this Agreement, in the manner and to the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Project Site/Project Facility shall pass to and vest in UK Sugars on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or UK Sugars;
- (k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to UK Sugars or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (l) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any person to procure the Concession.
- (m) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has after a complete and careful examination made an independent evaluation of the Project Site, and the information provided by UK Sugars, and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

The Concessionaire also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that UK Sugars shall not be liable for the same in any manner whatsoever to the Concessionaire.

## **12.2 Representations and Warranties of UK Sugars**

UK Sugars represents and warrants to the Concessionaire that:

- (a) UK Sugars has full power and authority to grant the Concession;
- (b) UK Sugars has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- (c) This Agreement constitutes UK Sugars's legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (d) There are no suits or other legal proceedings pending or threatened against in respect of the Project, Project Site or Project Facility.

## **12.3 Obligation to Notify Change**

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

## **Miscellaneous**

## **ARTICLE 12**

## **14.1 Assignment and Charges**

- (a) The Concessionaire shall not assign in favour of any person this Agreement or the rights, benefits and obligations hereunder, save and except with prior consent of UK Sugars.
- (b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Site/ Project Facility, except with prior consent in writing of UK Sugars, which consent UK Sugars shall be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in sub-articles (a) and (b) above shall not apply to:
  - (i) liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire;
  - (ii) Pledges/hypothecation of goods/ moveable assets, revenue and receivables as security for indebtedness, in favour of the Lenders and working capital providers for the Project;
  - (iii) assignment of Concessionaire's rights and benefits under this Agreement and other Project Agreements to or in favour of the Lenders as security for financial assistance provided by them.

#### **14.2 Interest and Right of Set Off**

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at 15% per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off.

Provided the stipulation regarding interest for delayed payments contained in this Clause shall neither be deemed or construed to authorise any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

#### **14.3 Governing Law and Jurisdiction**

This Agreement shall be governed by the laws of India. The Courts at Dehradun shall have jurisdiction over all matters arising out of or relating to this Agreement.

#### **14.4 Waiver**

- (a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:
  - (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
  - (ii) shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
  - (iii) shall not affect the validity or enforceability of this Agreement in any manner.
- (b) 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 hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

#### **14.5 Survival**

Termination of this Agreement:

- (a) shall not relieve the Concessionaire or UK Sugars of any obligations already incurred hereunder which expressly or by implication survives 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.

#### **14.6 Amendments**

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by both the Parties hereto and evidenced in writing.

#### **14.7 Notices**

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognised international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

**If to UK Sugars:**

The Managing Director  
NEAR RAILWAY CROSSING, JOGIWALA,  
DEHRADUN, UTTARAKHAND- 248012.

Fax No : \_\_\_\_\_

**If to the Concessionaire:**

The Managing Director,

\_\_\_\_\_

-----*(insert complete address with phone and fax details)*

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered

- (i) in the case of any communication made by letter, when delivered by hand, by recognised international courier or by mail (registered, return receipt requested) at that address, and
- (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

#### **14.8 Severability**

If for any reason whatsoever 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 shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

#### **14.9 No Partnership**

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

#### **14.10 Language**

All notices required to be given under this Agreement and all communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

#### **14.11 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 and any representation by any Party not contained in a binding legal agreement executed by the Parties.



#### 14.12 Counterparts

This Agreement may be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only the 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 UK Sugars by:

For and on behalf of CONCESSIONAIRE by:

(Signature)

(Signature)

(Name)

(Designation)

In the presence of :

1)

2)

The Project Site shall cover the area admeasuring approximately 80 acres and located at Sitarganj enclosed as Enclosure 1 (Map of the location) to this Schedule and is bound by:

- (a) ----- on the North side
- (b) ----- on the East Side
- (c) ----- on the South Side
- (d) ----- on the West Side

**Note: For greater clearness map is attached herewith on which land is delineated.**

S. No	Particulars	Area in Acres
1	<b>FACTORY AREA</b>	
	Main Factory Area inside Boundary Wall	32.28
	Mill Cane Yard & Track road area	5.60
	<b>TOTAL</b>	<b>37.88</b>
2	<b>Total Area Factory Farm</b>	<b>19.01</b>
3	Area of Residential Campus	32.49
	Administrative Block, Cane Office and others	4.97
	<b>TOTAL</b>	<b>37.46</b>
	<b>GRAND TOTAL AREA (1+2+3)</b>	<b>94.35</b>

## DETAILS OF LAND

दि किसान सहकारी चीनी मिल्स लि०, सितारगंज (उद्यमसिंहनगर)  
चीनी मिल की राज्य भूमि का विवरण प्राप्त खतोनी के आधार पर

नाम श्रेणी	भूमि का विवरण	खातदार का नाम	ग्राम का नाम	खतोनी संख्या	खसरा सं०	क्षेत्रफल क्षेत्रों में	क्षेत्रफल क्षेत्रों में	मालगुजारी रु० में	सर्किल रेट प्रति वर्ग मीटर	तहसील सितारगंज के अनुसार कीमत रु० में
श्रेणी 1-क	भूमि जो संक्रमणीय अधिकार वाले भूमिधरों के अधिकार में	कि०सह०ची०मिल	सरकड़ा	00042	506/1 606/1	31.3480	77.430	775.45	1500.00	41,02,20,000.00
श्रेणी 1-क	भूमि जो संक्रमणीय अधिकार वाले भूमिधरों के अधिकार में	औद्योगिक आवासीय प्रयोजनार्थ/आबादी	नकटपुरा	00021	606/1	2.8470	7.032	72.10	1500.00	4,27,05,000.00
श्रेणी 2	भूमि जो असंक्रमणीय अधिकार वाले भूमिधरों के अधिकार में	कि०सह०ची०मिल	सरकड़ा	00249		1.1120	2.747	9.80	1500.00	1,66,80,000.00
श्रेणी 4	भूमि जो उस दशा में बिना आगम के अध्यासीनों के अधिकार में	कि०सह०ची०मिल	सरकड़ा	00261		0.1580	0.390	—	—	—
श्रेणी 3-1	जल मग्न भूमि	गूल	सरकड़ा	00267	527	0.351	0.867	—	—	—
श्रेणी 3-3	कब्रिस्तान और शमशान(मरघट)	मरघट	सरकड़ा	00275	611	0.063	0.156	—	—	—
श्रेणी 3-3-ड	अन्य कृषि योग्य बंजर भूमि	अन्य बंजर	सरकड़ा	00265	512/1 534/2 543 549/1 /2 610/1 610/2 612/1 614/1	0.284 0.126 0.316 0.420 0.016 0.016 0.244 0.695 2.117	5.229	—	—	—
श्रेणी 3-1	जल मग्न भूमि	तालाब	नकटपुरा	00190	651	0.203	0.501	—	—	—
	<b>योग</b>					<b>38.199</b>	<b>94.351</b>	<b>857.35</b>		<b>46,96,05,000.00</b>

टिप्पणी- उप जिलाधिकारी सितारगंज द्वारा अपने पत्र सं० 2623 दिनांक 30-8-2018 में सर्किल रेट के अनुसार अनु० कीमत दर्शाई गई है तथा पत्र में यह भी उल्लेख किया गया है कि चीनी मिल स्वामित्व की भूमि में वाणिज्यिक, गैर वाणिज्यिक/आवासीय/औद्योगिक भवनों के सम्बन्ध में तकनीकी विशेषज्ञ/विभाग द्वारा मूल्यांकन कराया जाना उचित होगा।

9/8/2019  
(उपमन्त्री कुमार शुक्ला)  
उप मुख्य रसायनविद्/प्रभारी अधिकारी  
चीनी मिल सितारगंज

**In the aforementioned land details, the residential colony area (agricultural forest area, item 1) comprising 16 Acre is excluded and remaining land with an area of 80 acres is offered for the development of the integrated complex.**

- 1.0** Under Concession Arrangement the Concessionaire has to pay an Amount @ INR 10 per ton of cane crushed in the first year, @ INR 20 per ton of cane crushed in the second year, @ INR 30 per ton of cane crushed in the third year of operations; and @INR 50 per ton of cane crushed from the fourth year of operations onwards (Revenue Sharing) in lieu of existing buildings, plant & machinery, etc., (at a minimum of Rs One Crore per annum from the fourth year). This amount is to be paid on annual basis at the end of the fiscal year for that crushing season.
- 2.0** The Lessee has to pay yearly lease rent (Concession Payment) in lieu of land being given on long term lease @ .... % of land value (as quoted, at a minimum of 3%, amounting to INR 1.45 crore in the fiscal year 2022-23 with a total land value of INR 48.56 crore at the present circle rate) per annum at prevailing circle rates, to be paid at the beginning of the fiscal year. However, the above concession payment shall be escalated by 3% per annum.

**A. Construction Requirements for Integrated Development Complex****3.0 General**

- 3.1 The project comprises Construction, development, and operation of Integrated Sugarmill complex, which may include a sugarcane processing unit, co-generation unit, ethanol distillery, and any other auxiliary unit from sugar/allied industry as provided in the detailed project report (DPR) approved by UK Sugars.
- 3.2 The facilities to be provided in the Integrated Development Complex which is to be implemented by the Concessionaire as part of the Project shall be as set out in this Schedule in accordance with the DPR.
- 3.3 The Concessionaire may adopt alternative designs for the Project Facility, subject to review by the Designated Engineer/ UK Sugars. However, it shall broadly follow the DPR.
- 3.4 The Concessionaire would be at liberty to design the Project Facility Area, subject to review by the Designated Engineer/ UK Sugars and compliance with Applicable Law. The Designated Engineer/ UK Sugars may only review the designs/ drawings pertaining to the Project Facility Area to check for structural stability and conformance to the conditions specified in the DPR and those provided in this Schedule.
- 3.5 At least two weeks prior to commencement of design work, the Concessionaire shall finalise a quality assurance plan for the design work ("Quality Assurance Plan").
- 3.6 At least two weeks prior to commencement of the construction, the Concessionaire shall finalize project drawings for the Project Site and get the approval from the concerned authorities.

**4.0 Codes and Standards**

- 4.1 The codes and standards applicable for the design of the Project/ Project Facilities as provided in the DPR.  
The codes such provided shall include policy circulars, guidelines and special publications, issued in respect thereof from time to time and shall incorporate all amendments and/or modifications to such codes and standards which are available to public 30 days before the Proposal Due Date.

**5.0 Overall Design Parameters**

- 5.1 **Sugarcane processing unit, Co-generation plant, Ethanol distillery, and other auxiliary facility from sugar and allied industry**

- 5.1.1 The overall design parameters of the core project facilities (Sugarcane processing unit, Co-generation plant, Ethanol distillery, and other auxiliary facility from sugar and allied industry) shall adhere to the details provided in DPR thereof. In case of ambiguity or changes in the DPR, the design parameters should follow the Good Industry Practice.
- 5.1.2 Drainage, worker amenities, fire fighting system, public announcement system, Sump Tank and Overhead Tank, Boundary Wall/Fencing, Air Conditioning and Mechanical Ventilation, Finishing Specifications, and other auxiliary infrastructure as per the DPR and in consonance with the Good Industry Practice (following norms and rules established by national and international authorities, such as Central Public Works Department Specifications (CPWD), Bureau of Indian Standards (BIS), National Building Codes (NBC), CPWD Specifications fire fighting and fire alarm systems, (v) Urban Development Plan Formulation and Implementation (UDPFI) guidelines, British Standards (BS), National Fire Protection Association of America (NFPA), American Society of Testing Materials (ASTM))
- 5.1.3 In case of ambiguity, Suitable specification/standard devised by the Designated Engineer or Any other standard proposed by the Concessionaire and approved by the Designated Engineer may be considered.

## **6.0 Procedure**

### **6.1 Before Commencement of Construction**

- 6.1.1 Prior to commencement of any construction activity, the Concessionaire shall finalise an implementation plan for the Project ("Construction Plan") in consultation with the Designated Engineer. The Construction Plan shall, inter alia, include:
  - (i) A detailed schedule of implementation for putting up and operationalising the Project Facilities, and which shall specify at least 4 major milestones;
  - (ii) The Critical Path Method (CPM)/ Programme Evaluation and Review Technique (PERT) charts or similar activity planning technique/ method for monitoring. This would cover all stages/ aspects of the Project implementation including design and engineering, procurement of materials and equipment, installation, construction and testing;
  - (iii) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project activities. (This would include the designation of suitably qualified personnel for areas such as contract administration and supervision, construction management, safety, environmental management, plant and equipment maintenance, procurement, materials management and quality control); and
  - (iv) A broad method statement for key items setting out the methodology of construction, materials and construction equipment mobilisation/ utilisation plans, broad output calculations and details of the quality assurance and quality control procedures.
  - (v) Format of the monthly report giving details of the physical progress in implementation of the Project and operations and maintenance activities undertaken (Monthly Progress Report).

- 6.1.2 Prior to the commencement of any construction activity, the Concessionaire shall also finalise in consultation with the UK Sugars/ Designated Engineer an operations and maintenance plan for the Project during the Construction Period ("O&M Plan – Construction Period") and which shall follow the DPR and Good Industry Practice therein.
- 6.2 The Concessionaire shall, in consultation with the Designated Engineer workout an appropriate schedule for submission of documents set out in 5.1 above to the Designated Engineer for review.
- 6.3 Prior to commencement of construction of any of the Project Facilities, the Concessionaire shall have:
- (i) Obtained all such Applicable Permits as are necessary to commence construction of such Project Facilities;
  - (ii) Finalised Construction Drawings as are necessary and the Construction Schedule in consultation with the Designated Engineer;
  - (iii) Mobilised the requisite resources, personnel and organisation necessary for the same and designated and appointed suitable officers/ representatives as it may deem appropriate with responsibility to supervise the implementation of the Project and for exchange of information with the Designated Engineer and the Government Agency;
  - (iv) Finalised in consultation with the Designated Engineer a method statement setting out details of the actual methods that would be adopted by the Concessionaire for the construction of such Project Facilities including details of equipment and machinery that would be used, their locations, and arrangements for conveying and handling materials;
  - (v) Finalised in consultation with the Designated Engineer quality assurance and quality control procedures to cover all aspects of the work so as to ensure the desired quality.
- 6.4 **During Construction**
- 6.4.1 The Concessionaire shall:
- (i) Strictly follow the guidelines on quality as set out in DPR and specifications set-out therein.
  - (ii) Ensure that the construction/rehabilitation of the Project Facilities is undertaken with minimal inconvenience to the population surrounding the Project Site.
  - (iii) Take precautions to avoid inconvenience to, damage to, destruction of or disturbance to any third party rights and properties;
  - (iv) Ensure adequate safety of the personnel deployed at the Project Site which would include measures for the safety;
  - (v) Be in compliance with the Applicable Laws and Applicable Permits obtained for the Project including the clearances obtained by the Government Agency;
  - (vi) Adhere to the Construction Plan and O&M Plan-Construction Period;
  - (vii) Deploy adequate number of qualified and competent personnel having relevant experience and skills for implementation of the Project and interaction with the Designated Engineer/ the Government Agency.



#### 6.4.2 Positions and Levels

- (i) The Concessionaire shall be responsible for:
  - (a) the accurate setting-out in relation to original survey control points, lines and levels of reference provided by UK Sugars;
  - (b) the correctness of the positions, levels, dimensions and alignment of all parts of the works;
  - (c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.
- (ii) If, at any time during execution of the works, any error is noticed in the position, levels, dimensions or alignment of any part of the Construction Works, with respect to those provided by UK Sugars, the Concessionaire, on being asked to do so by the Designated Engineer/UK Sugars, shall at his own cost, rectify such errors to the satisfaction of the Designated Engineer.
- (iii) The checking of any setting-out or of any line or level by the Designated Engineer shall not in any way relieve the Concessionaire of his responsibility for the accuracy thereof and the Concessionaire shall carefully protect and preserve all benchmarks, sight rails, pegs and other materials used in setting-out the works.

#### 6.4.3 Tests

- (i) Various quality control tests would be undertaken for the Project as per the standards prescribed by Bureau of Indian Standards and MORT&H. Where no testing methods are specified by the said standards, details of the tests to be carried out and specifications to be achieved for the respective Project Facilities/Construction Works or part thereof shall be agreed upon with the Designated Engineer prior to construction;
- (ii) Where material properties vary from or comply only marginally with the specifications contained in the Construction Requirements, the Designated Engineer shall increase the frequency of testing as appropriate at the cost of the Concessionaire.
- (iii) The tests would be carried out at a location (place of manufacture, fabrication or preparation, at site or any specialised testing laboratory) that the Designated Engineer may reasonably require, at the cost and expense of the Concessionaire.
- (iv) The Concessionaire shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or plant and shall supply samples of materials, as required by the Designated Engineer to undertake Tests.

6.4.4 No part of the Construction Works shall be covered up or put out of view before the same has been examined by the Designated Engineer.

6.4.5 The Designated Engineer may from time to time require:

- (i) removal from the Project Site, within such time as may be specified in its instructions, any material, equipment, machinery or plant which, in its opinion, do not meet the standards specified in the Construction Requirements;
- (ii) substitution/ replacement of such improper material, equipment, machinery or plant;
- (iii) re-execution, of any or part of the Construction Works which in the opinion of the Designated Engineer do not meet the standards set out in the Construction Requirements;

- (iv) the Concessionaire to make boreholes or to carry out exploratory excavation for the Project.
- 6.4.6 The Concessionaire shall arrange for all the material requirements for the Project and disposal of all material wastes. The Applicable Permits in this regard would have to be obtained by the Concessionaire. All excess and unsuitable excavated materials shall be piled at appropriate dumping places or otherwise disposed of by the Concessionaire in consultation with the Designated Engineer.
- 6.4.7 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to the Designated Engineer/UK Sugars the following, duly finalised in consultation with the Designated Engineer:
  - (i) the Operation and Maintenance Manual for the Project (O&M Manual) setting out in detail the standards, schedules, procedures, type, periodicity and other details of the operation and maintenance activities to be carried out for the Project during the Operations Period so as to meet the O&M Requirements as well as details of the management information system to be incorporated, reports to be submitted and procedure for reviews.
  - (ii) the Operations & Maintenance Plan (O&M Plan) for the first year of operations.

## 6.5 **After Completion of Construction**

Upon completion of construction (including road marking work) but prior to issue of the Completion Certificate, the Project Site shall be cleared of all construction equipment, surplus materials, debris and temporary installations and shall be left in tidy and an aesthetically pleasing appearance to the satisfaction of the Designated Engineer.

## 6.6 **Reporting Requirements and Documents to be provided**

- 6.6.1 During the Construction Period, the Concessionaire shall submit to the Designated Engineer/ UK Sugars, Monthly Progress Report (for each calendar month or part thereof) within 5 working days of the last day of the month. The report shall review the progress made, identify slippages, if any, and project the future activities to be undertaken (including rectifications), operations and maintenance activities undertaken and would, inter alia, include the following:

Listing of working drawings/sketches submitted

- (i) Comments of the Designated Engineer, if any on the Concessionaire's Drawings submitted
- (ii) Concessionaire's response to the comments on the Concessionaire's Drawings
- (iii) Listing of the "As Built" drawings submitted
- (iv) Progress of pre-construction activities - mobilization of plant and equipment, personnel, site office, utility relocation etc.
- (v) Concessionaire's compliance inspection report, if any required
- (vi) Constraints in construction
- (vii) Progress data with "S" curves, if applicable
- (viii) Project data with contract detail and sectional completion details
- (ix) Tests carried out, if any, and results thereof
- (x) Remedial measures taken by the Concessionaire following such tests, where required
- (xi) Review of milestones and reasons for delay, if any

- (xii) Suspension of construction, if any, its reasons, duration and the steps undertaken to resume construction
- (xiii) Change of Scope Notice issued by the Government Agency, if any, and status thereof
- (xiv) All actual or potential deviations from the Construction Plan
- (xv) Disagreements/ Disputes, if any and proposed measures to be taken
- (xvi) Maintenance activities carried out by the Concessionaire on the existing carriageway
- (xvii) Injury to any construction personnel during construction, its severity, cause and remedial measure(s) taken to avoid recurrence
- (xviii) Brief report of any accident/incident within the Project Site, injury/fatality, property damage, cause of accident and actions taken to avoid recurrence
- (xix) Notes of meetings between the Concessionaire, the Designated Engineer and the Government Agency highlighting critical decisions taken or agreements reached. Minutes of the meeting issued by the client shall also be included in the monthly progress reports.

6.6.2 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to UK Sugars the following documents, free of costs:

- (i) Three hardcopies and two copies in electronic form (two Compact Discs) of the "As Built" drawings of the Project - detailed, accurately scaled and sequentially numbered, covering all relevant engineering features;
- (ii) copies of all geo-technical reports obtained by the Concessionaire, if any;
- (iii) Three hardcopies and two copies in electronic form (two Compact Discs) of the Operations and Maintenance Manual.

**1. General**

- 1.1 The Concessionaire shall comply with the O&M Requirements set out in this Schedule. In doing so, the Concessionaire shall ensure that the Project Facilities are maintained to the standards and specifications as set out in the Construction Requirements also meet the other requirements, if any, set out in the Agreement.
- 1.2 The Concessionaire shall take appropriate measures to minimise any disruption to adjoining the Project Site and any liquid effluent from the plant that may harm the environment.
- 1.3 In the design, planning and implementation of all works and functions associated with the operation and maintenance of the Project Facilities, the Concessionaire shall take all such actions and do all such things (including without limitation, organising itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors, if any, agents and employees) in such manner, as will:
- (i) keep the Project Facilities from undue deterioration and wear;
  - (ii) ensure the safety of personnel deployed for operation & maintenance of facilities like lifts, street lighting, common area lighting etc.
  - (iii) permit unimpaired performance of statutory duties and functions of any party in relation to the Project.
- 1.4 During the Concession Period, the Concessionaire shall ensure that:
- (i) Project Facility is kept free from undue deterioration and undue wear;
  - (ii) applicable and adequate safety measures are taken;
  - (iii) minimum downtime is caused to the operations of the Project Facility;
  - (iv) adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Project Facility, due to any of its actions, is minimised;
  - (v) any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimised;
  - (vi) disturbance or damage or destruction to property of third party by operations of the Project Facility is controlled/minimised;
  - (vii) members of the public are treated with due courtesy and consideration by its employees/ agents;
  - (viii) users are provided with adequate information and forewarned of any event or any other matter affecting the Project Facility to enable them to control/minimise any adverse consequences by such event or matter;
  - (ix) a complaint register to record grievances of any member of the public in relation to the operations and maintenance of the Project Facility is duly maintained;

- (x) all materials used in the maintenance, repair and replacement of any of the Project Facility shall meet the Construction Requirements.
  - (xi) the personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O & M Requirements.
- 2. Operation and Maintenance Manual and O& M Plans**
- 2.1 Prior to the commencement of any construction activity, the Concessionaire, in consultation with the Designated Engineer, shall finalise the O&M Plan - Construction Period.
- 2.2 As provided in Schedule 3, prior to making application for the Completion Certificate for the Project the Concessionaire shall finalise in consultation with the UK Sugars/ Designated Engineer:
- (i) the O&M Manual for each Project Site
  - (ii) the O&M Plan for the first year of operations
- 2.3 Six weeks prior to the anniversary of COD each year, the Concessionaire shall submit an annual O&M Plan for the next year of operations.
- 2.4 **Operation and Maintenance Requirements** of the project shall be set-out as provided in the DPR approved by UK Sugars and may comprise of the following, in addition to other activities as may be provided in the O&M Manual and DPR
- (i) Procurement of Sugarcane and processing the same in the Sugarcane processing unit in a manner to maximize the yield
  - (ii) Operation and Maintenance of Co-generation unit in an optimal manner, if the unit is provided in O&M Manual and DPR
  - (iii) Operation and Maintenance of Ethanol distillery to maximize the yield of Ethanol as set out in the O&M Manual and DPR
  - (iv) Operation and Maintenance of any other processing units that are auxiliary to Sugar or allied industries and provided in the O&M Manual and DPR
  - (v) In addition to core activities mentioned above, the Operation and Maintenance also include non-core activities customary to the operation and maintenance of such Sugarmill complexes as set-out in the O&M Manual and DPR
- 2.5 Routine Maintenance Activities**
- 2.5.1 In order to ensure smooth and uninterrupted use of the Project Facility during normal operating conditions for all 24 hours of a day, routine maintenance of the Project Facility shall include but not be limited to:
- (i) repairs to equipment, pavement, building and other civil works which are part of the Project Facilities;
  - (ii) replacement of equipment/ consumables,
  - (iii) maintenance of the Project Facilities in accordance with Good Industry Practice;
  - (iv) keeping the Project Facilities in a clean, tidy and orderly condition free of litter and debris;
  - (v) removing and disposing of in accordance with all Applicable Laws and Applicable Permits, all rubbish, debris, etc. including any and all equipment, supplies, materials and wastes brought or produced by the Concessionaire/ Contractor;
  - (vi) taking all practical measures to prevent damage to the Project Facilities;
  - (vii) undertaking maintenance works in accordance with the O & M Plan and O&M Manual;

- (viii) preventing, with the assistance of concerned law enforcement agencies/ UK Sugars where necessary, any unauthorised entry to and exit from and any encroachments on the Project Facilities;
  - (ix) taking all reasonable measures for the safety of all the workmen, material, supplies and equipment brought to the Project Site. Explosives, if any, shall be stored, transported and disposed of by the Concessionaire in accordance with Applicable Laws/ Applicable Permits.
- 2.5.2 For routine maintenance works of the Project Facility Area, the Concessionaire shall generally follow the operational and performance criteria specified in the O&M Manual and DPR following Good Industry Practice Standards. Where such criteria are not specified in the standards, the Concessionaire, for the purpose of routine maintenance shall set forth such criteria as to conform to good international standards and Good Industry Practice for sound pavement maintenance practices in consultation with the Designated Engineer.
- 2.5.3 The Concessionaire shall regularly carry out the necessary preventive maintenance activities for the Project Facilities to ensure adherence to the Project Requirements throughout the Concession Period.
- 2.5.4 All maintenance activities shall be planned and coordinated in such a way that the maintenance works shall generally be done during nights and holidays (if unavoidable) so as to cause least disturbance.
- 2.6 **Emergency Maintenance Activities**
- 2.6.1 The Emergency Response Protocol ("ERP") shall be developed by the Concessionaire in consultation with the local police, hospital/ ambulance services, fire departments and other authorities'/support personnel and the Designated Engineer. This shall be a part of the O&M Manual developed by the Concessionaire.
- 2.6.2 The ERP shall set out steps to be taken and measures to be adopted by the Concessionaire in responding to dealing with Emergency including those situations related to vehicle accidents involving personal injuries or fatalities, property damage and Force Majeure:
- 2.6.3 In case of Emergency, the Concessionaire shall
  - (i) carry out such emergency maintenance and repairs as may be required to repair the damages, if any, in consultation with the Designated Engineer in order to ensure that the Project Facilities are returned to normal operating standards as quickly as possible.
  - (ii) follow the relevant operating procedure specified in the O&M Manual including the removal of obstruction and debris expeditiously.

### **3. Safety**

- 3.1 The Concessionaire shall make provision for round-the-clock security of the Project Facilities.
- 3.2 The Concessionaire shall implement a Safety Management Programme in line with relevant guidelines and shall form a part of the O&M Manual.

### **4. Inspections & Frequency**

The Concessionaire shall prepare an inspection programme plan for the Project Facilities for its smooth operations as follows:

#### **4.1 Visual Inspection**

Visual Inspections are broad general inspections carried out frequently by maintenance engineers having adequate knowledge of building and pavement structures. The purpose of visual inspection is to report fairly obvious deficiencies at the Project Site, which could lead to accidents or maintenance problems. Such inspections should be frequent. The visual inspection may be carried out by visual assessment with careful observation of the specific object/ item of the Project Facilities for identification and for quantification of the deficiencies or damages of the Project Facilities.

#### **4.2 Close Inspection**

Close inspections may be visual and/or by standard instrumental aids for assessment of defects/ deficiencies of the Project Facility with careful observation of specific element/s. The close inspection would require detailed examination of the specific element of the Project Facility and should cover all the aspects against a checklist. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/ deficiencies, suggest suitable remedial measures to rectify/ remedy them and quantify repair work.

#### **4.3 Thorough Inspection**

Such an inspection is to be carried out on the basis of comprehensive checklist of items related to the materials, condition and situation of the structure etc. on the Project Site. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/ deficiencies, suggest suitable remedial measures to rectify /remedy them and quantify repair work.

#### **4.4 Frequency of Inspections**

The type of inspection and related frequency of various items of Project Facility to be carried out as per the details provided in O&M Manual and DPR. The frequency of inspection can be suitably revised in consultation with the Designated Engineer if the situation so warrants.

### **5. Reporting Requirements**

The reporting and information that generally need to be provided by the Concessionaire are given below. The Requirements given below are indicative of the type of information to be provided. The format of such reports, recording requirements, software standards and number of copies required would be finalised in consultation with the Designated Engineer. All reports and records shall be in the English language.

#### **5.1 Inspection Reports and Remedial Measures**

The periodicity of inspections for maintenance activities by the Concessionaire shall be set out in the O&M Manual and regular reports on the same shall be sent to the Designated Engineer. Where required, the Concessionaire shall carry out any maintenance, repair or rehabilitation works found necessary as a result of such inspections.

#### **5.2 Monthly O & M Report**

During the Operation Period, within 5 days of the end of each calendar month or part thereof, the Concessionaire shall provide to the Designated Engineer/ UK Sugars a monthly report (Monthly O&M Report) which shall contain the following minimum information:

- (i) Daily schedule of project facility operations for all the units
- (ii) Details of major maintenance undertaken
- (iii) Inspections undertaken by the Concessionaire during the month and action taken/ proposed thereafter;
- (iv) Details of all reports submitted to the Designated Engineer during the month
- (v) O & M inspection compliance report
- (vi) Maintenance activities undertaken during the month ended,
- (vii) Details of any Emergency and action taken



### **5.3 O & M Manual**

- 5.3.1 The O&M Manual prepared by the Concessionaire in consultation with the Designated Engineer shall set out the operations and maintenance standards and details of the operations and maintenance activities to be undertaken during the Operations Period, so that the Project Facilities shall at all times conform to the Project Requirements.
- 5.3.2 The O&M Manual shall have separate sections for operations and maintenance.
- 5.3.3 The O&M Manual shall include without limitation the following aspects:
- (i) Organisation structure with responsibilities of key personnel;
  - (ii) Project Facility Operations and Maintenance scheme;
  - (iii) Safety Management Programme including the Emergency Response Protocol;
  - (iv) Inspection Procedures;
  - (v) Maintenance Standards (including Maintenance Intervention Levels);
  - (vi) Maintenance Programme;
  - (vii) Management information system;
  - (viii) Report Formats.

### **6. Miscellaneous**

- 6.1 The Concessionaire shall maintain an inventory of all items comprised in the Project Facilities (the "Inventory"), in a format to be developed in consultation with the Designated Engineer.
- 6.2 Throughout the Concession Period the Concessionaire shall keep the Inventory updated to take account of works carried out on and other changes made to the Project Facilities.
- 6.3 A copy of the Inventory shall be submitted by the Concessionaire to the Designated Engineer within thirty (30) days of receipt of a request for the same.

## (Proforma of Bank Guarantee)

**THIS DEED OF GUARANTEE** executed on this the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ by \_\_\_\_\_ (*Name of the Bank*) having its Head/Registered office at \_\_\_\_\_ hereinafter referred to as “the Guarantor” which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

**In favour of**

UK Sugars, represented by its \_\_\_\_\_, having its office at \_\_\_\_\_, hereinafter referred to as “UK Sugars”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

**WHEREAS**

- A. By the Concession Agreement entered into between UK Sugars and \_\_\_\_\_<sup>4</sup>, a company incorporated under the provisions of the Companies Act, 1956 having its registered office at \_\_\_\_\_ (“the Concessionaire”) the Company had been granted the Concession to implement the Project, as defined under the Concession Agreement mentioned hereinabove.
- B. In terms of Clause 10.2 as the case may be, of the Concession Agreement, the Concessionaire is required to furnish to UK Sugars, an unconditional and irrevocable bank guarantee for an amount of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to handback of the Project Facility.
- C. At the request of the Concessionaire, the Guarantor has agreed to provide guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement relating to handback of the Project Facility.

**NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:**

- 1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
- 2. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s. \_\_\_\_\_ (hereinafter called “the Concessionaire”) of all its obligations relating to handback of the Project Facility.
- 3. The Guarantor shall, without demur, pay to UK Sugars sums not exceeding in aggregate Rs. \_\_\_\_\_ within \_\_\_\_\_ calender days of receipt of a written demand therefor from UK Sugars stating that the Concessionaire has failed to meet its

<sup>4</sup> In case of Consortium both members would be included as Parties to the Agreement and collectively referred to as ‘the Concessionaire/Consortium’ as the context may require.

performance obligations relating to handback of the Project Facility. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by UK Sugars and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. In order to give effect to this Guarantee, UK Sugars shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by UK Sugars or any indulgence shown by UK Sugars to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by UK Sugars or any indulgence shown by UK Sugars, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
5. This Guarantee shall be irrevocable and shall remain in full force and effect until \_\_\_\_\_<sup>5</sup> unless discharged/released earlier by UK Sugars in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ only).
6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.
7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under \_\_\_\_\_.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED

by \_\_\_\_\_ Bank  
by the hand of Shri \_\_\_\_\_  
its \_\_\_\_\_ and authorised official.

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<sup>5</sup> 30 months from the date of issue of the Handback Guarantee in accordance with Clause 10.2 of the Concession Agreement

*(To be given on UK Sugars letterhead)*

**To Whomsoever It May Concern**

This is to confirm that to pursuant to the Concession Agreement dated \_\_\_\_\_, entered into between the UK Sugars and \_\_\_\_\_ (“the Concessionaire”), the Concessionaire has been authorised to construct, operate and maintain Integrated Sugarmill Complex (or “Project Facility”) at Sitarganj in Uttarakhand and for that purpose, to apply for and obtain all approvals, licenses and permits required therein and to avail the utilities such as power, water, telecommunication and any other incidental utilities or services required in connection therewith.

Yours faithfully,

**Managing Director**

Scheduled Project Completion Dates for different facilities of  
Integrated Sugar Complex

## SCHEDULE 7

**<attach the Proposed Investment Plan- Appendix L from the selected bidder's technical proposal>**

## **Price Bid**

**Tender Inviting Authority: UTTARAKHAND SAHKARI CHINI MILLS SANGH LTD.  
(UTTARAKHAND SUGARS)**

**Name of Work: COMPETITIVE e-Bidding FOR Setting-UP and Operating Integrated Sugarmill Complex at Sitarganj (the Project)”**

**Contract No: 1414/Tech-48(V)/2022-23, DATED :- 28-10-2022**

<b>Name of the Bidder/ Bidding Firm / Company:</b>				
<b><u>PRICE SCHEDULE</u></b> <b>(This BOQ template must not be modified/replaced by the bidder and the same should be uploaded after filling the relevant columns, else the bidder is liable to be rejected for this tender. Bidders are allowed to enter the Bidder Name and Values only )</b>				
<b>NUMBER #</b>	<b>TEXT #</b>	<b>TEXT #</b>	<b>NUMBER #</b>	<b>TEXT #</b>
<b>Sl. No.</b>	<b>Item Description</b>	<b>Units</b>	<b>Lease Rent quoted by the Bidder (in %)</b>	<b>TOTAL AMOUNT In Words</b>
<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
1	<b>Setting-UP and Operating Integrated Sugarmill Complex at Sitarganj (the Project)”</b>			
1.01	Lease rent of land (Minimum 03% of present circle rate of total value of land 80.00 acre)	Percentage		INR Zero Only
<b>Total in Figures</b>				INR Zero Only