

	<p><b>BHOPAL SAHAKARI DUGDH SANGH MARYADIT</b></p> <p><b>HABIBGANJ, BHOPAL 462024</b></p> <p>AN ISO 9001 : 2015 Certified Organization</p> <p>E-mail: <a href="mailto:engg.bsds@gmail.com">engg.bsds@gmail.com</a></p> <p>Phone 0755-2478250 Fax : 0755-2450896</p>
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**Ref No: 13/Engg/2022**

**Dated: 22.11.2022**

**NOTICE INVITING E-TENDER**

Online Tenders are invited for Contract for Steam Supply by doing Operation & Maintenance (O&M) of 5 TPH (Expendable up to 13 TPH) solid multi fuel fired Biomass boiler on Built, Own, Operate and Transfer (BOOT) basis for a period of 10 years in our Dairy Plant Bhopal Sahakari Dugdh Sangh from reputed manufacturerers/dealers/Channel partners/Supplier/Service Provider. The tender documents containing the terms and conditions can be purchased online & downloaded through following website <http://www.mptenders.gov.in> from 23.11.2022 onwards. The tender will be opened in the office of the undersigned as mentioned in tender time schedule(key date). The detailed Tender Form can be seen (only for reference) at our website: [www.sanchidairy.com/www.sanchibhopal.com](http://www.sanchidairy.com/www.sanchibhopal.com). CEO BSDS reserves all the rights to accept or reject any offer or all the offers without assigning any reasons thereto. Any changes/amendments will be notify [www.sanchidairy.com/www.sanchibhopal.com](http://www.sanchidairy.com/www.sanchibhopal.com). only and not on at any other platforms.

<b>Name of item</b>	<b>EMD (Rs)</b>	<b>Tender Fee (Rs)</b>	<b>Bid submission due date &amp; time</b>	<b>Technical Bid opening Date &amp; time</b>
Contract for Steam Supply by doing Operation & Maintenance (O&M) of 5 TPH (Expendable up to 13 TPH) solid multi fuel fired Biomass boiler on Built, Own, Operate and Transfer (BOOT) basis for a period of 10 years in our Main Dairy Plant Habibganj Bhopal	10.00 Lakh	2000.00 (GST Extra)	13.12.2022 03.00 PM	14.12.2022 03.00 PM

**CHIEF EXECUTIVE OFFICER**

**BHOPAL SAHAKARI DUGDHA SANGH MARYADIT HABIBGANJ BHOPAL**

**NOTICE INVITING TENDER**

<b>S.NO</b>	<b>PARTICULAR</b>	<b>DETAILS OF WORK</b>
1.	Name of Works	Contract for Steam Supply by doing Operation & Maintenance (O&M) of 5 TPH (Expendable up to 13 TPH) solid multi fuel fired Biomass boiler on Built, Own, Operate and Transfer (BOOT) basis for a period of 10 years in our Main Dairy Plant Habibganj Bhopal.
2.	Location of Work	MAIN DAIRY PLANT OF BHOPAL SAHAKARI DUGDH SANGH
3.	Period of Contract	10 YEARS FROM THE DATE OF AWARD OF CONTRACT.
4.	Earnest Money Deposit	RS. 10,00,000/-(TEN LAKH)
5.	Cost of Tender Document	Rs. 2000/- (Two Thousand Only), Through Online mode/medium
6.	Tender Document Details	Annexure-A - Scope of work Annexure-B - Pre Qualification terms Annexure-C - General Terms & Conditions Annexure-D - Instruction to bidder Annexure-E - Technical Specification of Boiler Annexure-F - Agreement Format Annexure-G - Price Bid
7.	Place of Purchasing Tender Document	<a href="http://www.mptenders.gov.in">www.mptenders.gov.in</a>
8.	Place of Submission of Tender Document	<a href="http://www.mptenders.gov.in">www.mptenders.gov.in</a>
9.	Last Date for Receipt of Tender	13.12.2022 ; till 1500 HR
10.	Date of Technical Bid Opening	14.12.2022 ; at 1500 HR
11.	Date of Financial Bid Opening	WILL BE INFORMED SEPARATELY TO TECHNICALLY QUALIFIED BIDDERS.

Scope of work – Bidder

1. Steam Supply by doing Operation & Maintenance (O&M) of 5 TPH solid multi fuel fired Biomass boiler on Built, Own, Operate and Transfer (BOOT) basis at Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Plant for a period of 10 years .
2. Successful Bidder shall be installing 5 TPH solid multi fuel Biomass boiler within 5 months in the premises of Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal through its own investment. The boiler with its movable and immovable asset will be transferred at no cost to Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal after the project tenure is over.
3. Successful Bidder shall be doing the O&M of solid multi fuel Biomass boilers for a period of 10 years. All expenditure with regards to manpower requirement, fuel expenses, legal requirement, O&M of the boilers and backup boiler shall be in the scope of bidder.
4. Fuel required for the operation of the boilers shall be in the scope of the successful bidder..
5. All spares and consumables required for the operation of the boilers shall be in the scope of the successful bidder. The successful bidder shall maintain sufficient spares.
6. Successful bidder shall maintain the backup boiler for redundancy and continuous supply of steam to Bhopal Dairy. All the requirement of fuel, manpower expenses, legal requirement required for the operation of the backup boiler shall be in the scope of the successful bidder
7. All the statutory obligations with regards to installation and O&M of the boilers shall be in the scope of the successful bidder.

Scope of work – Bhopal Sahakari Dugdh Sangh Maryadit

8. Electrical Power required for operation of boiler will be provided by Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal on chargeable basis. Bhopal dairy will provide the electrical power till the boiler.
9. Optimum Land required for the installation of boiler will be provided by Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal free of charge.
10. Ground Water required for the operation of boiler will be provided by Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal. If in case of purchase of water by BSDS the cost of water will be deducted from bidders bill accordingly.
11. **Bhopal Sahakari Dugdh Sangh, Bhopal will only pay for the steam consumed by the dairy plant after deducting the amount of electricity/Utilities consumed by the boiler unit.** There will be a minimum guarantee of steam consumption by the dairy. The steam flow meter shall be the basis of billing and shall be installed on the side of the

boiler and near the Plant where PRS is installed (Two Flow meter Unit). The billing will be done through the meter installed near the PRS.

### **Billing**

Billing shall be done to Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal.

- Billing is to be done on the fortnightly basis based on the rate of steam for the billing period.
- For calculation of Average consumption of steam per day billing period average is to be taken into account
- Rates of steam supply will be applicable as quoted by lowest bidder.
- Taxes will be extra.
- Payment shall be released against fortnightly bills duly certified by Plant authorities.
- Rates of steam should be firm for the year and no hike for any reason, whatsoever, will be granted during the year.
- Electricity unit consumption (rate in rupees), other utilities bill will be deducted like hot water/soft water if required from final bill.

### **Other Requirement**

12. Earnest Money Deposit (EMD): All bidders should deposit EMD i.e. Rupees ten lakhs with the tender through online mode only.  
Any tender bid which is not accompanied with the EMD will be summarily rejected and no exemption shall be granted to any bidders in this regard.  
EMD of unsuccessful bidders would be returned within 60 clear days from the date of opening of the tender bids. However, no interest shall be paid on the EMD for the period which it lies with the department.

13. Liquidated Damages

If the Bidder fails to complete the service/work or part of service /work as per terms & conditions of the order within the delivery schedule,

S.N.	After Prescribed Time Period	Penalty
1	Till 15 Days	1% Total value of project
2	From 16 Days to 30 Days	2% Total value of project
3	After 30 Days	5% Total value of project

Note: - Negligence in above may lead to cancelation of order. In this case BSDS Bhopal reserves the right to impose any penalty fine or recover the amount which BSDS has spent for tender work.

14. All the information / corrigendum / addendum related to this project shall be obtained from our website [www.sanchibhopal.com](http://www.sanchibhopal.com)/[www.sanchidairy.com](http://www.sanchidairy.com) only.
15. Bidders must online submit copies of their valid certificates of PAN / ROC registration, and other prequalifying terms etc with techno commercial bid. All these certificates should be valid as on the date of opening of technical bid of the tender.

CEO, Bhopal **Sahakari** Dugdh Sangh Maryadit reserves the right to reject any or all tender / extend or cancel the tender/tenders at any time without assigning any reason thereof, No cost what so ever shall be claimed on such account by the bidder.

**Pre Qualification terms****Name of Work:**

For Contract for Steam Supply by doing Operation & Maintenance (O&M) of 10TPH solid multi fuel fired Boiler on “Built, Own, Operate and Transfer (BOOT) basis” for a period of 10 years.

**(1.0) Functional Requirement:-**

The participating bidders should understand that steam is required for various process requirement in the dairy plant at **Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal**. The boilers to be installed should be solid multi-fuel fired boiler of 10 TPH capacity and should be able to operate on

- 100% Biomass Briquette
- 100% Biomass Pellets
- Combination of above fuel
- Boiler should have least maintenance period
- The boiler efficiency should not go down when at 40% load

**(2.0) Pre-qualification terms for bidders to participate in the bid**

Participating bidders must satisfy the following criteria to make their bids technically and commercially acceptable to Bhopal Sahakari Dugdh Sangh Maryadit, Habibganj, Bhopal. They shall submit the copies of the following documents online along with their bid:

Sl no	Pre qualification terms
1	Participating bidders / Bidders Company must be a registered company anywhere in India.  Bidders must submit the copy of registration of their company.
2	In case of Partnership firm Bidding Company should be registered with ROC (LLP) or a Company registered with ROC. Bidding company must submit a copy of registration from ROC.
3	Bidder Company or its associate company or its Director / partners should have experience in installation & running of similar plants in State Cooperative dairy on BOOT basis in India. Bidders or its associate company or its Director/ partner having experience of operation & maintenance of biomass briquette fired boiler in any State Cooperative dairy/Reputed Pvt. Dairy/Food Industries on BOOT basis for minimum 5 years, with same or maximum capacity. Similar Operational experience of operating solid fuel boiler on BOOT basis in any State Cooperative dairy in multiple state shall be preferable. The directors / partners having technical qualification in the field shall be preferable. Bidders Company or its associate company or its director / partner must

	upload the scanned copies agreements / Work orders of Minimum one such type of BOOT boilers they have installed and operating the same in India. Bidder shall submit the relevant proof
4	Bidders or its associate company or its director / partner should have experience of manufacturing/Purchase & supply of biomass briquette in India. Please upload at least two copies of supply order of briquette from any client. Work experience of supplying briquette in multiple states shall be preferable. Bidder shall submit the relevant proof
5	Bidders must submit the scanned copy of their Company's PAN
6	Bidders must submit an affidavit on non judicial stamp paper that the director / partners have relevant experience. Self affidavit for additional supporting.
7	Bidders must submit an affidavit of relationship with the associate company or self-affidavit stating as director / partners in the associate company for additional supporting of experience.
8	Bidder must upload the BS / P&L of its associate company for FY 2019-20, FY 2020-21 and FY 2021-22 duly certified by Chartered Accountant Firm.
9	Qualified Bidder to enhance their technical & financial capabilities can go for a Joint Venture / Consortium / Association with any firm / company registered in India, all liabilities and responsibilities against this tender will be Solely of the main Bidder Company who is meeting the above qualification criteria.

**GENERAL TERMS & CONDITIONS**

**(1.0) Functional Requirement:-**

The participating bidders should understand that steam is required for milk process, production of dairy products, and future project related to dairy expansion in the Dairy plant at Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP. The boiler to be installed should be solid multi-fuel fired boiler of 5tph capacity (expandable up to 13 tph) and should be able to operate on

- 100% Biomass Briquette / 100% Biomass Pellets.
- Combination of above fuel
- Boiler should have least maintenance period
- The boiler efficiency should not go down when at 40% load.

**(2.0) General Notes**

Sr no	Description
A	For operation of boiler –Manpower with safety articles like helmets, goggles, gumboots, safety shoes, gloves, soaps, waste cloth etc. for workmen shall be under bidder's scope.
B	Operator to be provided for operation of boiler with all normal tools and tackles e.g., wrenches & spanners (both ring and double ended), adjustable wrenches, pipe wrenches, hacksaw frame and blades, screw drivers, testers etc
C	Obtaining all requisite clearance from statutory authorities shall be in bidder's scope.
D	Bidder should comply with all Safety & Environmental Regulations and Requirement of <u>Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP</u> .
E	All local issues should be taken care of by the bidder for smooth operation of Boiler and <u>Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP</u> under no circumstance, should be involved into these.
F	Labour license, if required, shall have to be obtained by the bidders and also all statutory compliance shall be met by the bidders.
G	The rates to supply the quantity of steam quoted should be firm for the entire year.
H	Seeking all approvals from Pollution Control authority, boiler inspectorate and other Government approvals required shall be in the scope of bidder during the contract period and bidder shall abide by all the norms/take necessary corrective action for its compliance at any point of time during the contract period wherever required

(2.1) Metering and billing:-

The steam flow meter shall be the basis of billing and shall be installed on user side.

- A. The unit of steam quantity measurement shall be Kilogram of steam
- B. For calculation of Average consumption of steam per day billing period average is to be taken into account
- C. Billing unit shall be in Rupees per Kg of steam.
- D. Billing shall be on fortnightly basis to Bhopal **Sahakari** Dugdh Sangh Maryadit, Bhopal, MP.
- E. Providing Steam flow meter shall be in the scope of bidder.
- F. Flow meter will be calibrated twice in a year from experienced/reputed NABL certified lab or government agency.

(3.0) **Requirement of Land for installation of boiler, electrical power, water and fuel for running the boiler**

(3.1) Land requirement for establishment boiler

Land required for the execution of the Project in the premises of the dairy plant shall be provided by Bhopal Sahakari Dugdh Sangh Maryadit and handed over to the successful bidder. For this successful bidder will have to specify the (measurement) size of land required for execution of the project before execution of the agreement /work order to be issued. Should be noted that the successful bidder shall install the boilers in the empty area in the boiler shed only.

(3.2) Electrical Power required for operation of boiler

Electrical Power will be provided on chargeable basis for the operation & maintenance of the boilers. Bhopal Dairy shall provide the terminal point of electricity till the boiler area. Bidder will lay suitable cable with proper termination and distribution to various motors from the main termination area provided by the dairy to the Boiler house.

The amount for unit consumed by the boiler in the previous month shall be deducted in the 2<sup>nd</sup> fortnight bill of the current month. A meter shall be installed separately for the boiler for daily electrical consumption reading.

(3.3) Water required for operation of boiler

- Supply of water shall be in the scope of the dairy and shall be provided at the boiler house.
- Dairy will provide ground water at one point at boiler house through own GI piping connection, Successful bidder / Bidder may use this water on their own discretion for quality water for the boiler.
- Bidder shall install its own softener plant / RO plant for the boilers for redundancy.

(3.4) Fuel required for operation of boiler

- Biomass Briquette /other solid fuel for running the boiler shall be in the scope of the successful bidder.



- Fuel Storage – Nominal Area for Fuel storage for operation of the boiler for a week shall be provided by Bhopal Sahakari Dugdh Sangh Maryaditin the empty area in the boiler shed

(4.0) Duration of Contract

- The duration of contract shall be for a period of 10 (TEN) years from the date of steam generation. After the completion of 10 years of operation complete boiler will be owned by Bhopal Sahakari Dugdh Sangh Maryadit in every respect.
- The contract may be further extended with mutual contract depending upon the requirement, rate, terms & conditions as the boiler will be owned by Bhopal Sahakari Dugdh Sangh Maryadit after the completion of 10 years of operation
- The bidder need to complete the entire mobilization in setting up the boiler obtaining statutory approvals within 1 months of issuance of the Letter of Intent (LOI) or Work Order (WO) whichever is earlier to make the boilers installation functionally complete for the steam generation service in 5 months from the date of issuance of LOI.

(5.0) Taxes & Duties

Taxes & duties will be extra if applicable.

(6.0) Commercial

(6.1) For the purpose of quoting the rates followings should be taken into consideration-

- (i) Billing is to be done on the fortnightly basis.
- (ii) For calculation of Average consumption of steam per day billing period average is to be taken into account
- (iii) Rates of steam supply is to be quoted by bidders as per following table
- (iv) Electrical Power will be provided on chargeable basis. The amount for unit consumed by the boiler in the previous month shall be deducted from the 2<sup>nd</sup> fortnight bill of the current month. A meter shall be installed separately for the boiler for daily electrical consumption.
- (v) Taxes and duties will be extra

Steam Supply BOOT Basis – 10 years

(6.2) Payment Terms

- Measurement of steam from the steam flow meter of Bhopal dairy will be the basis of billing.
- Payment shall be released against Fortnightly RA bills duly certified by our Plant authorities.
- Prices should be firm for the year and no hike for any reason, whatsoever, will be granted during the year.
- Bills to be submitted on fortnightly basis, which will be verified by the authorized officer of the dairy and payment, will be made within 15 days of submission of clear / accepted bill.

(7) Arbitration

1. Any disputes between the parties to the contract, arising out of or relating to the contract, other than those for which the case may be put up to Managing Director, MPCDF Bhopal for resolution. In case of non resolution further action will be taken as per Arbitration Act 1996.
2. The work under the Contract shall continue, during the Arbitration proceedings.

3. The award of the Arbitrator shall be final, conclusive and binding on both the parties.

- (8) Jurisdiction: Notwithstanding anything contained in any other law, the courts in the city of Bhopal along shall have jurisdiction in respect of all or anything arising under this agreement and any award or awards made by the sole arbitrator hereunder shall be filed in the courts in the city of Bhopal only.
- (9) Statutory approval  
It shall be the responsibility of successful bidder to obtain necessary statutory approval from the Boiler Licensing Authority and pollution clearance for running the boiler and produce the same to the CEO, Bhopal **Sahakari** Dugdh Sangh Maryadit, Bhopal, MP before start of the job.
- (10) Provident Fund, If applicable  
The provisions of the EPF & MP Act, 1952 and Rules/Scheme framed there under, shall be complied by the Bidder for the Bidder's manpower to be engaged for this job. Bidder shall furnish the code no. allotted by PF Authority to the CEO, Bhopal Sahakari Dugdh Sangh Maryadit.
- (11) ESI Scheme, If applicable  
Bidder shall also comply with the provisions of the ESI Act, 1984 and Rules framed there under in respect of workers to be engaged for this job if applicable. Bidder shall obtain ESI Code No. from the local ESI Authorities for the said purpose and furnish the Code No. allotted by ESI Authorities to the CEO, Bhopal Sahakari Dugdh Sangh Maryadit
- (12) Insurance Cover for Workmen  
Bidder shall obtain Workmen Compensation policy in respect of Bidder's workmen to be engaged for the work towards compensations as admissible under the Workmen's Compensation Act, 1923 and Rules framed there under upon death/disablement of a worker and the same has to be produced to the CEO, Bhopal **Sahakari** Dugdh Sangh Maryadit, Bhopal, MP. should be the beneficiary.
- (13) Safety Regulation  
Bidder shall follow safety regulations of Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP
- (14) Pollution Regulation  
Bidders are advised to prevent pollution during any job carried out as required by the Environment Policy of the plant.
- (15) Validity of bid  
The bid shall be kept valid for 90 days from due date. Validity shall be extended if so advised by CEO, Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP..
- (16) Right of Acceptance / Rejection  
Mere issue of tender document and submission of bids does not necessarily qualify for consideration of bids. Bhopal **Sahakari** Dugdh Sangh Maryadit, Habibganj, Bhopal reserves the rights to accept or reject any or all tender either in part or in full without assigning any reason whatsoever.

**INSTRUCTION TO BIDDER**

(1.0) **Earnest Money Deposit:**

Earnest Money Deposit (EMD) of Rs.10,00,000 (Rupees Ten Lakh) to be submitted online only.

(2.0) **Cost of Tender document:**

The cost of tender document to be submitted in the form of Rs 2000 (Rupees Two Thousand only) online only

(3.0) **Evaluation of Techno commercial bid / Pre-qualification terms :**

- Tenders of those bidders who fulfill the criteria laid in pre-qualification terms only be considered for opening of their Price Bid.
- Incomplete / invalid tenders are liable for rejection and no correspondence will be entertained in case of rejection.
- Bidders / agencies are subject to be disqualified, even though they meet the qualifying criteria, if they
- Make misleading or false representations in the request, statements and attachments submitted in proof of qualification requirements including holding information and / or have record of poor performance such as abandoning the works, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures, requesting for claims not admissible under the contract conditions, etc.

(4.0) Tender Documents duly filled shall be submitted by bidders within the last date of submission as mentioned in the tender notice. The last date for receipt of Tender will not be extended unless otherwise specified. If the submission date is declared a holiday for Bhopal Sahakari Dugdh Sangh Maryadit for any reason, the next working day will be treated as the last date of receipt of Tender document.

(5.0) **General Information's/Guidelines for Bidders:-**

(5.1) Should a bidder finds discrepancies or omissions or any of the tender documents or should be in doubt as to their meaning he should at once address to the authority inviting tender for clarification. Every Endeavour is made to avoid any errors which can materially affect the basis of the tender but the successful bidders shall take upon himself to provide for the risk of any error which may be subsequently discovered and shall make no subsequent claim on account thereof. The decision of Bhopal Sahakari Dugdh Sangh Maryadit, shall be final and binding on the tenderer in this respect.

(5.2) While quoting their rates, the bidders are advised to take into account all factors of any fluctuations in the market rates, etc. No claims will be entertained on this account after acceptance of the tender

(5.3) If a bidder withdraws his offer after submission of his tender, fails to start the work in accordance with the instructions of the CEO,Bhopal Sahakari Dugdh Sangh Maryadit the

Earnest money deposited by him may be forfeited without prejudice to any other remedy available to the company under the contract.

- (5.4) The earnest money deposit is also liable to be forfeited in case Bhopal Sahakari Dugdh Sangh Maryadit feels that the tender is not bonafide or the tenderer modifies or revokes the tender during the period the tenders are kept open. The decision of Bhopal Sahakari Dugdh Sangh Maryadit whether a tender is bonafide or not, is final and conclusive, and is binding on the tenderer. The earnest money is also liable to be forfeited in case the tenderer produce false information or documents to take the tender or may be black listed from further businesses.
- (5.5) Conditional tenders (in Price bid or Technical bid) will be liable for rejection. Bhopal Sahakari Dugdh Sangh Maryadit reserves the right to accept or reject the tenders with deviation. Request/demand for modifications/changes in Technical or Price bid after submission of bids will not be accepted. In both these cases, EMD of the tenderer will be forfeited. Tenders, which are incomplete, otherwise considered defective and tenders not in accordance, with tender conditions laid down by Bhopal Sahakari Dugdh Sangh Maryadit are liable to be rejected.
- (5.6) Tenders NOT COMPLETE IN ALL RESPECT as detailed in the tender document are liable to be rejected.
- (5.7) this tender notice / Tender Document shall be deemed to form an integral part of the contract to be entered for this work.
- (5.8) The acceptance of the tender rest with Bhopal Sahakari Dugdh Sangh Maryadit, Bhopal, MP Bhopal Sahakari Dugdh Sangh Maryadit does not bind to accept the lowest tender. All tenders, in whom any of the prescribed conditions are not fulfilled or are incomplete in any respect, are liable to be rejected.
- (5.9) the contract is non transferable & cannot be sub contracted.

Note For consideration of the bidders:

1. Tender to be submitted on or before the due date & time.
2. No correction / editing in the content of tender document is permissible, in case any modification / editing is noticed the tender will be rejected summarily.
3. Bhopal Sahakari Dugdh Sangh Maryadit reserves the right to issue / accept any tender, in part or in full or to reject any or all tenders without assigning any reason thereof. Issuance of document shall not be automatically construed qualification of intending tenders.
4. Bidders are advised to keep in touch/visit the dairy website regularly for further corrigendum/ amendment if any, on the tender till last date of issue of tender.
5. The Bidder applying for tender shall furnish the credentials as asked in tender document for Pre Qualification & Technical Qualification.
6. Bhopal Sahakari Dugdh Sangh Maryadit shall not be responsible for the delay or non - receipt of the tenders.

7. Email / Fax offer will be rejected.
8. Late offers will be rejected.
9. The terms and conditions in the Scope of work wherever applicable will supersede the relevant general terms & conditions.
10. The Bidder's responsibility for this contract shall commence from the date indicated in the order of acceptance of his tender.
11. During the contract, the Bidder shall be responsible to make good of all defects or damages which are due to defective workmanship / use of substandard materials at free of cost. If the Bidder fails to make good such defects or damages even after intimation to him within a reasonable time. Bhopal Sahakari Dugdh Sangh Maryadit shall get the same rectified as deemed fit at the Bidders risk and the expenditure incurred by Bhopal Sahakari Dugdh Sangh Maryadit shall be recovered from any bills or deposits of the Bidder either pertaining to this contract or from any other contracts.
12. Words imparting the singular number shall also be deemed to include the plural number and vice versa where the context so requires. Contracts if required in tender documents.
13. If there are varying or conflicting provisions made in any one of the documents forming part of the contract, Bhopal Sahakari Dugdh Sangh Maryadit shall be the sole deciding authority with regard to the intention of the document and its decision in this respect shall be final and binding.
14. The tenderer shall not increase his quoted rates in case Bhopal Sahakari Dugdh Sangh Maryadit for any reasons whatsoever.
15. Canvassing in any form in connection with the tenders is strictly prohibited and the tenders submitted by the Bidders who resort to canvassing will be liable to be rejected.
16. These instructions to tenderers shall be deemed to form an integral part of the contract.

**Acceptance of work/ LOI / Work Order, Signing of Contract, Submission of Security Deposit & Start of work**

- (i) Bhopal Sahakari Dugdh Sangh Maryadit will notify the successful Bidder that its bid has been accepted; Bhopal Sahakari Dugdh Sangh Maryadit will send the bidder the Acceptance letter / LOI / Work Order and Contract agreement copy incorporating all agreements between the parties. The acceptance letter / LOI / Work order also forms part of the contract document and you are requested to sign the copy of Acceptance letter / LOI / Work Order and sent the confirmation of concurrence to the office of the CEO, Bhopal Sahakari Dugdh Sangh Maryadit within 15 days of acceptance letter failing which it would be deemed that you are not interested in the work and action as per contract conditions will be taken.

(ii) Agreement:

The Bidder shall submit the contract agreement along with the security deposit on a stamp paper of Rs.1000/- in a prescribed form dully signed to CEO. Bhopal Sahakari Dugdh Sangh Maryadit

(iii) The earnest money deposit by the successful bidder will be returned after 6 months from the date of successful commissioning of boiler. EMD of unsuccessful bidders will be returned to them as per mp e-tender guidelines. However, no interest will be given in either case for the period of deposit lying with the department.

(17) CONDITIONAL TENDERS:-

All conditional tenders / quotes which are in contravention to Bhopal Sahakari Dugdh Sangh Maryadit contract conditions will be rejected unless even without the pre conditions / conditions, the tenders are L1

However, an undertaking to be is to be given in Technical bid that no conditions are imposed in their price bid.

- Security Deposit:-

**(1) Security Deposit should be paid by the Bidder. The Security Deposit rate will be 5%**

**of Order Value:**

Security Deposit shall not be refunded except in accordance with the terms of Security Bond or Agreement. Security Deposit may be furnished in anyone of the following Terms:

a) Cash Deposit receipt, Pay Order, Demand Draft duly pledged in favour of Bhopal Sahakari Dugdh Sangh Maryadit.

ii) The Bank Guarantee shall be kept valid until the due date for refund of Security Deposit.

iii) No interest shall be allowed on Security Deposit. BSDS shall not be responsible for any loss of Securities due to liquidation for any other reasons, whatsoever or any depreciation in the value of the securities while in their charge or for any loss of interest thereon.

All compensation or other sum of money payable by the Bidder to BSDS under the terms of this contract or under any other contract with BSDS may be deducted from the Security Deposit or from the interest arising there from or from any sum which may be due or may become due to the Bidder by BSDS and in the event of this Security Deposit being deducted by reason of such deductions or sale, as aforesaid the Bidder shall within 7 days thereafter make good in cash or in securities endorsed as aforesaid any sum by which the Security Deposit has been reduced.

**(2) Security Deposit has to be deposited before start of work.**

**Technical specification of Boiler****(1.0) FUNCTIONAL REQUIREMENT**

Providing Boiler Units on BOOT basis including all accessories, statutory approval, setting up the boiler plant and running the unit for steam generation required for various dairy processes at Bhopal dairy of Bhopal Sahakari Dugdh Sangh Maryadit

Supply of fuel, maintenance spares, consumables, etc. shall be part of the system to make it a complete steam generation unit for un-interrupted supply the steam to meet the requirement of steam in Dairy Plant.

**(2.0) The technical specification of required boiler shall be as follows:-**

Sl no	Description	Required specification
1	Capacity of Boiler unit	5 TPh extended to 13 TPH
2	Temperature of Steam	220°C (Maxi)
3	Design Pressure	24.0 Kg/Cm <sup>2</sup>
4	Working Pressure:	10.5 to 21.0 Kg/Cm <sup>2</sup>
5	Fuel to be used	Solid multi fuel Biomass (Briquette/Pellet)
6	Type of Boiler	Water cum Smoke Tube
7	Durability of Boiler	It should be in working condition and compliance to IBR at the time of handing over to BSDSM.

**(3.0) Scope of Supplier / Bidder's work**

Supply of necessary equipment and providing uninterrupted supply of steam of required capacity & quality for our Dairy manufacturing plant along with all machinery, manpower, consumables, maintenance and fulfilling all statutory requirements.

Scope shall include supply, erection, testing & commissioning of uninterrupted generation and supply system of steam complete in all respect:-

- a) Mobilization of boiler
- b) Equipment, transportation, installation, loading & unloading
- c) Erection of boiler
- d) Supply and erection of required specification piping material (pipes, fittings, flanges, gasket), valves and hooking up
- e) Insulation of boiler and piping work
- f) Supply of boiler quality water/pumping arrangement of the same after suitable treatment (Water will be made available by us at one point at site)
- g) Supply and installation of required water tank.
- h) Transportation, storage and handling of fuel for briquette fired boiler
- i) Necessary piping of steam line with insulation
- j) Supply, installation and erection of chimney and hook up
- k) Electrical connection
- l) Arrangement of hydro testing for boiler and testing up to required pressure as per IBR guideline
- m) Preparation of drawing of boiler, steam pipeline with all accessories as per IBR guideline
- n) Statutory Approval from Local Boiler Authority and other statutory bodies (as applicable)
- o) Trained Boiler Operator for operation.

- p) Necessary preventative and breakdown maintenance and de-scaling of boiler wherever required
- q) Ash disposal

(4.0) Accessories / Spares/ Consumables

- a) Raw & Treated water storage tanks as required
- b) Water Feed pump with motor
- c) Softener plant if required to meet soft water requirement of boiler
- d) MS Chimney with flue gas ducting
- e) Steam line with insulation, valves, tapping, drain, steam trap etc. with pressure reducing valves, if required
- f) Safety cutouts – high temp. And low temp. Safety control, low water cutout /alarm etc. wherever applicable
- g) All consumables, spares, lubricants as required running the unit as per process requirement



FORMAT / DRAFT of Steam Purchase Agreement on BOOT basis

Draft BOOT AGREEMENT

between

M/s Bhopal Sahakari Dugdh Sangh Maryadit  
acting through its CEO

AND

Successful bidder

For Design, Build, Operate and Transfer of Boiler for Dairy Plant at Bhopal Sahakari Dugdh  
Sangh Maryadit

STEAM PURCHASE AGREEMENT

This Steam Purchase Agreement (this “Agreement”) is effective upon execution by both M/s Bhopal Sahakari Dugdh Sangh Maryadit (“Bhopal Dairy”) and ..... (“Bidder”). Bhopal Dairy and Bidder together shall be known as the "Parties" or, individually, as the "Party". Party want to Contract for a period of 10 years.

WHEREAS Bidder is in the business of operating and maintaining solid multi fuel fired boiler;  
and

WHEREAS Bhopal Dairy owns and operates dairies; and

WHEREAS Bhopal Dairy distributes and sells milk and milk products at retail for use by its customers; and

WHEREAS Bidder has agreed to supply steam to Bhopal Dairy by doing Operation and Maintenance of 10 Years solid fuel multi fuel fired Boiler on Built, Own, Operate and Transfer (BOOT) basis to be constructed at the dairy premises, which will be owned by Bidder but will be subsequently transferred to Bhopal Dairy after 10 Years ; and

WHEREAS Bhopal Dairy desires to purchase all or substantially all of its steam requirements from Bidder and Bidder desires to supply Bhopal Dairy with all or substantially all of its steam requirements.

WHEREAS,

- A. Bhopal Dairy wants to reduce its cost of production of steam
- B. Bhopal Dairy wants to use green fuel for operation

- C. Bhopal Dairy wants to be competitive in the market by optimizing its product manufacturing cost.
- D. Bhopal Dairy wants to implement CPCB/SPCB norms
- E. Bhopal Dairy had, carried out initial project development work in connection with the Project (as hereinafter defined). The Request for Proposal of which this Agreement forms a part has been approved by the Committee prior to commencement of bid process.
- F. Bhopal Dairy had invited competitive proposals from eligible Bidders for implementing the Project and in response thereto received proposals from several Bidders including the Concessionaire for implementing the Project.
- G. Bhopal Dairy, after evaluating the foresaid Proposals, accepted the Proposal submitted by the Concessionaire and issued Letter of Acceptance No. dated to the Concessionaire for developing the Project.
- H. Bhopal Dairy hereto is required to enter into the Steam Purchase Agreement being these presents to record the terms, conditions and covenants of the contract.
- I. Design, Build, Operate and Transfer of biomass briquette fired boiler at dairy Plant at Bhopal Dairy.
- J. Supply steam by operating and maintaining the biomass briquette fired boiler till the period of agreement.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth below, Bhopal Dairy and Bidder, each intending to be legally bound, hereby agree as follows:

#### 1. DEFINITIONS

- 1.1 "Agreement" shall mean this Agreement, and include any amendments hereto made in accordance with the provisions hereof.
- 1.2 "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.
- 1.3 "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 construction, operation and maintenance of the Project during the subsistence of this Agreement.
- 1.4 "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, cess, electricity, water and other utility charges and encroachments on the Project Facilities.
- 1.5 "Financing Documents" shall mean collectively the documents evidencing Lenders' commitment to finance the Project.
- 1.6 "Proposed Site" shall mean land admeasuring acres bearing Survey number located at (more fully described in Schedule 1) identified and handed over to the Bidder, for the

purpose of designing, financing, constructing, operating and maintaining 10 Years solid fuel fired multi fuel boiler for producing steam during the Delivery Period.

- 1.7 **Cost of Steam:**  
The cost of steam delivered to the Bhopal Dairy by Bidder during a given Service Year
- 1.8 **Annual Reconciliations:**  
The process by which Bhopal Dairy and Bidder reconcile and offset amounts due to each other as provided in Section 2.6.
- 1.9 **Back-Up Boilers:**  
The auxiliary or standby boilers and related equipment described that are to be owned by Bhopal Dairy but interconnected to Bidder's plant.
- 1.10 **Primary Steam Meter and Back-Up Steam Meter:** Has the meaning set forth in Section 6.2.
- 1.11 **Commercial Operation Date (COD):**  
The date that Bidder certifies in writing to Bhopal Dairy that Bidder's plant is capable of producing steam in accordance with the material terms and conditions of this Agreement and that Bidder has accepted (subject to customary punch list items that do not affect reliability) all major systems in Bidder's plant from its Bidders, subBidders, and vendors.
- 1.12 **Good Utility Practice:**  
Those good practices, methods and acts that are commonly used to design, construct, equip, operate, measure, forecast, schedule, test and maintain the relevant facilities and related equipment lawfully and with safety, reliability, efficiency, economy and expedition or, in the absence of such practices, methods and acts, those practices, methods and acts that, at the time in question, in the exercise of reasonable judgment in light of the facts then known, would have been expected to accomplish the desired result consistent with Applicable Law, good business practices, safety, reliability, efficiency, economy and expedition. Good Utility Practice is not intended to require optimum practices, methods or acts, but rather includes a range of acceptable practices, methods or acts that are expected within the energy industry to accomplish the desired results, having due regard for, among other things, preservation of manufacturers' warranties and operating instructions and the requirements of governmental authorities.
- 1.13 **Condensate Recovery Water:**  
Condensate water generated by Bhopal Dairy after using the steam supplied by Bidder
- 1.14 **Manufacturing Year:**  
Each twelve month period beginning April 1st and ending March 31<sup>st</sup> during the Delivery Term. The first and last Manufacturing Year may be less than a twelve month period, and shall consist of the period from the Commercial Operation date until the succeeding March 31, in the case of the first Manufacturing Year, and from the last April 1 during the Delivery Term until the end of the Delivery Term, in the case of the last Manufacturing Year.
- 1.15 **Steam Delivery Point:**  
The location where the Bidder's / Dairy's steam flow meter is installed.
- 1.16 **Steam Price:**  
The price for steam sold under this Agreement, as set forth in Schedule 1.
- 1.17 **Peaceful Possession**  
The Bidder shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole of the Site during the Active Operations Period, and In the event the Bidder is obstructed by any Person claiming any right, title or interest in or over the Sites 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 Sites or any part thereof, the Bhopal Dairy shall, if called upon by the Bidder, defend such

claims and proceedings and also keep the Bidder indemnified against any consequential loss or damages which the Bidder may suffer, on account of any such right, title, interest or charge.

#### 1.18 Financing Arrangement

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

(b) Bhopal Dairy shall endeavour to obtain the carbon credits for the Project by adopting the greenhouse gas mitigation measures. The benefits of such carbon credits, if and when available, shall be kept with Bhopal Dairy.

#### 1.19 Project Implementation: Mobilisation

The Bidder shall in consultation with Bhopal Dairy finalise an implementation schedule for the Project in accordance with the Build, Operate and Transfer of 5 TPH solid fuel fired Biomass Boiler

#### 1.20 Project Implementation: Construction Works

(a) The Bidder shall adhere to the Construction Requirements and achieve COD on or before the Scheduled Project Completion Date.

(b) The Bidder may undertake Construction Works by itself or through a Bidder possessing requisite technical, financial and managerial expertise / capability; but in either case, the Bidder shall remain solely responsible to meet the Construction Requirements.

(c) The Bidder 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 Bhopal Dairy and to be responsible for all necessary exchange of information required pursuant to this Agreement;

(ii) construct, provide and maintain a reasonably furnished site office at the Proposed Site.

(d) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements and O&M Requirements, the Bidder shall with due diligence carry out all necessary and periodical Tests in accordance with the Construction Requirements and O&M Requirements. The Bidder 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.

(e) All Tests shall be conducted in accordance with Construction Requirements. If the Tests are successful and the Project Facilities can be safely and reliably opened for operation, the Bidder shall issue Readiness Certificate. Provided, notwithstanding that certain works or things forming part of Construction Works are not complete, if following Tests, the Bidder determines that the Project Facilities can be safely and reliably opened for operations, the Bidder may issue Provisional Readiness Certificate.

#### 1.21 Project Implementation:

Operation and Maintenance

(a) The Bidder shall operate and maintain the Project Facilities in accordance with the O&M Requirements.

(b) The Bidder shall remain solely responsible to meet the O&M Requirements. Design, Build, Operate and Transfer of 5 TPH solid fuel fired Biomass boiler

(c) The Bidder shall, during the Active Operations Period;

- (i) have requisite organisation and designate and appoint suitable officers / representatives as it may deem appropriate to supervise the Project, to deal with Bhopal Dairy and to be responsible for all necessary exchange of information required pursuant to this Agreement;
- (ii) construct, provide and maintain a reasonably furnished site office accommodation at the Proposed Site;
- (iii) The Bidder shall maintain proper record of all Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.
- (iv) conduct all Tests to ascertain compliance with Construction Requirements and O&M Requirements.

#### 1.22 Land Use:

The Concessionaire shall ensure optimum utilisation of the Site and shall not use the same for any purpose unconnected or which is not incidental to the Project or related activities.

#### 1.23 General Obligations

The Concessionaire shall at its own cost and expense:

- (a) investigate, study, design, construct/ renovate, operate and maintain the Project Facilities in accordance with the provisions hereof;
- (b) obtain all Applicable Permits as required by or under the Applicable Law and be in compliance thereof at all times during the Delivery Period;
- (c) comply with Applicable Law governing the operations of solid multi fuel 5 TPH boiler unit at all times during the Delivery Period;
- (d) 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;
- (e) 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 Bhopal Dairy against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall Bhopal Dairy be treated as employer in this regard;
- (f) make its own arrangements for construction materials and observe and fulfil the environmental and other requirements under the Applicable Law and Applicable Permits;
- (g) Be responsible for all the health, security, environment and safety aspects of the Project at all times during the Delivery Period.
- (h) ensure that the Project Facilities remain free from all encroachments and take all steps necessary to remove encroachments, if any;
- (i) Pay all Taxes, duties and outgoings, including utility charges relating to the Project Facilities.

#### 1.24 HANDBACK OF PROJECT FACILITIES

The Project is Build own Operate and Transfer (BOOT) of solid fuel multi fuel fired 5 TPH Biomass boiler

1.24.1 Ownership

Without prejudice and subject to the Agreement, the ownership of the land of Project, shall at all times remain that of Bhopal Dairy.

1.24.2 Bidder's Obligations

1.24.3 Transfer of the movable and immovable assets by the bidder; after Completion of the Contract i.e. 10 Years to the Bhopal Dairy

- (a) The Bidder shall at the end of the Contract period hand back vacant and peaceful possession of the Project Facilities to Bhopal Dairy and in good operable condition.
- (b) Bhopal Dairy may decide to extend the contract for a period with mutual contract; a letter to this effect shall be given by Bhopal Dairy. On acceptance of the extension a new contract agreement shall be signed and the work shall continue un-interruptedly with use of same equipment and infrastructure etc.
- (C) All Workshops, Communication arrangements etc. and immovable infrastructure/ facilities: On completion of the contract period, the bidder will transfer All Workshop, Communication arrangements etc. and immovable infrastructure/ facilities to Bhopal Dairy, in working conditions, free of cost.

1.25 Purchase and Sale of Steam.

Bhopal Dairy hereby agrees to purchase from successful Bidder, and Bidder hereby agrees to sell to Bhopal Dairy, all of Bhopal Dairy steam requirements.

1.26 Delivery of Steam.

Steam purchased under this Agreement shall be delivered by Bidder to the Steam Delivery Point, at which point title to and risk of loss shall transfer from Bidder to Bhopal Dairy. All steam delivered by Bidder shall meet the specifications set forth on Schedule 1 to this Agreement. The Bidder shall adjust the pressure of the steam delivered to Bhopal Dairy as and when requested by Bhopal Dairy within the range specified in Schedule 1. Bidder shall measure the actual amount of steam supplied to Bhopal Dairy using a meter at the Steam Delivery Point in accordance with Article 6.

1.28 Operation/Maintenance of Plant.

Bidder shall operate and maintain the Bidder's plant, or shall cause it to be operated and maintained, in a manner that complies in all material respects with Good Utility Practices, the requirements of CPCB / SPCB and all applicable laws and regulations, permits and insurance requirements. Bidder agrees to operate and maintain the plant, and all other equipment and systems interconnecting with the Bhopal Dairy Facility in all material respects in accordance with any applicable manufacturer's specifications. Bidder shall keep records with respect to inspections, maintenance, and repairs thereto consistent with Good Utility Practice. Upon request by Bhopal Dairy, Bidder shall make available to Bhopal Dairy during Bidder's regular business hours all plans and records of such inspections, maintenance, and repairs.

1.29 Planned Outages.

Bidder may temporarily cease steam production to conduct reasonable, planned maintenance. On or before the Commercial Operation Date, and before the commencement of each additional Service Year, Bidder shall provide to Bhopal Dairy a schedule of all outages planned for the following Service Year. If Bidder halts steam

production for purposes of conducting planned maintenance, Bidder shall provide to Bhopal Dairy written notice of such planned maintenance thirty (30) days prior to commencing the outage. Such notice shall include a reasonable estimate of the anticipated duration of the outage. Once the outage has begun, Bidder shall keep Bhopal Dairy informed of the status of the maintenance being undertaken and any changes in the anticipated date on which the Bidder's plant will return to commercial operation. Bidder shall generate Replacement Steam using the Backup Boilers. The Steam Price for all steam during any such period shall be the same as in the service year.

1.30. Unplanned Outages.

If Bidder experiences an unplanned outage, it shall notify Bhopal Dairy of the outage as soon as reasonably possible, but in no event later than two hours of becoming aware of such outage, as well as the reason for the outage. The Bidder shall keep Bhopal Dairy informed on an ongoing basis of the expected duration of any unplanned outage and any change in the anticipated duration of such outage. In the event of an unplanned outage or reduction in steam output of the Bidder's plant affecting the quantity of steam available for delivery to Bhopal Dairy or an extended planned outage, Bidder shall take action to restore the plant to normal operation as soon as possible in accordance with Good Utility Practice. No expenses incurred by Bidder for such purposes shall be included as part of any adjustment to the charges to Bhopal Dairy under this Agreement, it being the Parties' intention that all such remedial costs shall be borne solely by the Bidder. Bidder shall generate Replacement Steam using the Backup Boilers. The Steam Price for all steam during any such period shall be the same as in the service year.

1.30.1 Bidder's Failure to Supply Steam.

Without in any way limiting Bidder's obligation pursuant to Section 2.1, during any period when Bidder's plant is unable to deliver sufficient steam to meet Bhopal Dairy requirements, Bhopal Dairy may require that Bidder generate replacement Steam using the Backup Boilers.

In addition, the Bhopal Dairy may in its sole and absolute discretion direct the Bidder to generate steam using the Back-Up Boilers. Bidder shall generate replacement Steam using the Backup Boilers.

1.32 Reconciliation. - Annual Reconciliation.

Within sixty (60) days of the end of each Service Year, Bhopal Dairy and Bidder shall reconcile and offset amounts due to each other. At the end of the Delivery Term, the Annual Reconciliation will be completed no later than sixty (60) days after the expiration of the Delivery Term.

1.33 Back-Up Boilers.

The Back-Up Boilers shall be owned by Bhopal Dairy, and shall be maintained by Bidder using Good Utility Practice. The Back-Up Boilers may be used by the Bidder as necessary to meet Bhopal Dairy's steam requirements under this Agreement. The Bidder shall promptly maintain the Back-Up Boilers to be used at any given time. Bidder shall bear the cost of operating the Back-Up Boilers, including but not limited to the cost of fuel and any labour expense.

### 1.34 Electricity

Electrical Power will be provided on chargeable basis for the operation & maintenance of the boiler. Bhopal Dairy shall provide the terminal point of electricity till the boiler area. Bidder will lay suitable cable with proper termination and distribution to various motors from the main termination area provided by the dairy to the Boiler house.

## 2. BILLING

### 2.1 Billing.

Bidder shall deliver an invoice to Bhopal Dairy weekly setting forth the steam delivered to Bhopal Dairy during the previous fortnight, with the total amount due to the Bidder. Bhopal Dairy will remit full payment for each invoice to Bidder within fortnight (15) calendar days following the date of the applicable invoice.

### 2.2 Deduction of Electricity in the bill

Electrical Power will be provided on chargeable basis (Power Requirement approx–150 to 250 KW) for the operation & maintenance of the boiler. The amount for unit consumed by the boiler in the previous month shall be deducted from the 2<sup>nd</sup> fortnight bill of the current month. A meter shall be installed separately for the boiler for daily electrical consumption and other utilities if required like water supplier charges

### 2.3 Taxes and Duties

Taxes and duties will be extra if applicable.

### 2.4 STARTUP AND TESTING

Bidder shall coordinate with Bhopal Dairy schedule for testing of Bidder's plant, and Bidder shall not cause any disruption of Bhopal Dairy's operations. Bidder shall be responsible for all fuel costs associated with any use of Bidder's plant before the Commercial Operation Date. Bhopal Dairy shall not be responsible to pay for any steam produced by Bidder's plant before the Commercial Operation Date. The Testing shall include all steps necessary to allow Bhopal Dairy to determine that the steam delivered by Bidder meets the specifications set forth on Schedule 1 and is otherwise reasonably satisfactory to Bhopal Dairy. Upon request, Bidder shall provide Bhopal Dairy with a copy of the results of any testing.

### 2.5 Environmental Compliance

The Concessionaire shall, at all times, ensure that all aspects of the Project Facilities and processes employed in the construction, operation and maintenance thereof shall conform with the laws pertaining to environment, health and safety aspects, policies and guidelines related thereto. The Bidder shall obtain and maintain from time to time all necessary clearances from the CPCB/MPPCB or any other similarly empowered Government Agency and for this purpose shall carry out the necessary environmental impact assessment studies and implement appropriate environment management plans in respect of the Project Facilities.



### 3. METERING

There shall be two (2) meters located at the Steam Delivery Point. The meters shall be of a type that is commonly utilized by utilities and/or other providers of thermal energy for such purpose and shall be good quality, mass flow meters that are pressure and temperature compensated.

3.1 The Primary Steam Meter shall be a meter installed and maintained by Bhopal Dairy at their own expense and shall be owned by and be the property of the Bhopal Dairy. Bidder shall also install a Back-Up Steam Meter with its expense. The meters shall be installed in such a manner that they transmit hourly data regarding steam flows.

#### 3.2 Procedure.

The meters installed pursuant to the terms of this Agreement shall be read by Bidder on the last business day of each month. Such readings shall be for the purpose of determining the net steam output delivered to Bhopal Dairy since the immediately preceding readings. Bhopal Dairy may have a representative witness the readings and Bidder shall make a good faith effort to coordinate with Bhopal Dairy to arrange a mutually convenient time for the readings to occur. Bidder shall keep a record of all information obtained at the time of the readings.

3.3 The Primary Steam Meter reading shall be used for billing purposes. In case of any fault in the primary steam flow meter, the reading of secondary flow meter shall be the basis of billing.

#### 3.4 Maintenance of meter

The meters shall be maintained immediately for any defect. A written notice delivered at least 48 hours in advance shall be deemed to be a reasonable opportunity for purposes of this provision.

#### 3.5 Repair, Replacement of Metering System.

Any repair, replacement, or recalibration of the Primary Steam Meter shall be performed by Bhopal Dairy. Bidder shall install a secondary steam flow meter. The secondary flow meter maintained by the Bidder shall include the primary device, pressure and temperature transmitters and a flow totalize /computer. In case of any fault in the primary steam flow meter, the reading of secondary flow meter shall be the basis of billing.

### 4. INDEMNIFICATION

#### 4.1 Indemnification by Bidder.

In addition to any indemnification provisions located elsewhere in this Agreement, Bidder shall indemnify, protect, defend, and hold harmless Bhopal Dairy, its parent, subsidiaries, and affiliated entities, and its and their respective members, directors, officers, employees, from and against any and all claims, liabilities, losses, damages, injuries, demands, actions, causes of action, suits, proceedings, judgments, and expenses, including reasonable attorneys' fees, court costs, and other expenses including, without limitation, those costs incurred at the trial and appellate levels and in any bankruptcy, reorganization, insolvency, or other similar proceedings, and other expenses (collectively, "Indemnifiable Claims") arising from or connected with: (a) any breach by Bidder of any provision hereof or the inaccuracy of any warranty or representation made by Bidder herein, (b) any act or omission to act by Bidder directly or indirectly related to its performance of this

Agreement constituting negligence or reckless or wilful misconduct, and (c) any act or omission relating to steam produced by Bidder prior to the passage of title to the Bhopal Dairy.

#### 4.2 Indemnification by Bhopal Dairy.

Bhopal Dairy shall indemnify, protect, defend, and hold harmless Bidder, its parent, subsidiaries, and affiliated corporations, and its and their respective members, directors, officers, employees, and agents (the “Bidder Indemnities”), from and against any and all Indemnifiable Claims arising from or connected with: (a) any breach by Bhopal Dairy of any provision hereof or the inaccuracy of any warranty or representation made by Bhopal Dairy herein (b) any act or omission to act by Bhopal Dairy directly or indirectly related to its performance of this Agreement constituting negligence or reckless or wilful misconduct, and (c) any act or omission relating to steam delivered by Bidder after the passage of title to the Bhopal Dairy, except such claims as may arise from any breach by Bidder of the specifications set forth on Schedule 1.

#### 4.3 Indemnifiable Claims.

Each Party shall give the other party prompt notice of any Indemnifiable Claim brought against it coming within the purview of these indemnities. Within five (5) business days after receipt of such notice, the inseminator shall undertake the defence of each such Indemnifiable Claim with counsel satisfactory to and approved by the indemnities, which approval shall not be unreasonably withheld. If the inseminator fails to undertake and sustain the defence of any Indemnifiable Claim in the manner required by this Section 15.3, the indemnities may engage separate counsel, pay, settle, or otherwise finally resolve such Indemnifiable Claim for the account and at the risk and expense of the inseminator. Any payment, settlement, or final resolution otherwise by the indemnities shall release the inseminator from liability for such Indemnifiable Claim. If the inseminator undertakes the defence of an Indemnifiable Claim in the manner required by this Section 15.3, the indemnities may, at its own expense, engage separate counsel and participate in the defence of such claim. In such event, the indemnities agree to reasonably cooperate and assist in the defence of such claim.

### 5. Force Majeure

#### 5.1 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 results in Material Adverse Effect shall constitute Force Majeure Event:

- (a) earthquake, flood, inundation and landslide
- (b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances
- (c) fire caused by reasons not attributable to the Concessionaire or any of the employees, Bidders 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 Bidder
- (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/Project Facilities or any part thereof or of the Concessionaire's or the Bidder's rights in relation to the Project,
  - (ii) any judgement or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or the Bidder 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 Bidder'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 Bidder as the case may be is bound.
- (g) Early determination of this Agreement by dairy for reasons of national emergency or national security.
- (h) Any failure or delay of a Bidder caused by any of the sub-clauses (f) and (g) hereinabove, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Bidder.
  - (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 Bidder 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 Bidder

## 5.2 Notice of Force Majeure Event

- (a) As soon as practicable and in any case within 7 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify Independent Consultant 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 Force Majeure Period;
  - (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 5 days of notification by the Affected Party in accordance with the preceding clause (a), the Parties shall along with the Independent Consultant, meet, hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facilities in order to:
  - (i) assess the impact of the underlying Force Majeure Event,
  - (ii) to determine the likely duration of Force Majeure Period 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 Force Majeure Period provide to the other Party and the Independent Consultant regular (not less than weekly) reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the other Party may reasonably require.

### 5.3 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
- (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 Facilities as a result of the Force Majeure Event and to restore the Project Facilities, 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 Independent Consultant 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; and
- (f) Any insurance proceeds received shall be, subject to the provisions of Financing Documents, entirely applied to repair, replace or restore the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

## 5.4 Termination due to Force Majeure Event

### (a) Termination

If a Force Majeure Event, excluding events described under preceding clauses continues or is in the reasonable judgment 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 stated period of 120 days, be entitled to terminate this Agreement.

Notwithstanding anything inconsistent contained in this Agreement, if a Force Majeure Event is an event described under preceding clauses and the same subsists for a period exceeding 365 days, and then either Party shall be entitled to terminate this Agreement.

Provided that dairy may at its sole discretion have the option to terminate this Agreement any time after the occurrence of any event described under preceding clauses.

Bidder and Dairy shall make reasonable efforts to avoid Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance. Neither Party shall be entitled to the benefit of the provision of Force Majeure to the extent the performance is affected by any and all of the following circumstances: (i) the sole or contributory negligence of the party claiming excuse; (ii) the Party claiming excuse failed to remedy the condition and to resume the performance of its covenants and obligations with reasonable dispatch; or (iii) economic hardship.

### (b) Termination Notice

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding clause (a), 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 Bhopal Dairy in accordance with the following clause (d) is paid to the Concessionaire on the Termination Date and
- (ii) The Project Facilities are handed back to Bhopal Dairy by the Bidder on the Termination Date free from all Encumbrances.

### (d) Termination Payment

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

- (i) If Termination is due to a Force Majeure Event, the Concessionaire shall be entitled to receive and appropriate
  - (a) The 100% equipment value less the proceeds of any amounts under insurance policies and
  - (b) If Termination is due to the occurrence of any event described under preceding clauses Bhopal Dairy shall pay to the Concessionaire Termination Payment equal to 100 % of the Book Value as on the Date of Termination Notice. The Concessionaire would also be allowed to appropriate the amounts in the Post Closure Performance Account.
- (ii) If Termination is due to the occurrence of any event described under preceding clause Bhopal Dairy shall subject to the certification of Independent Consultant, pay to the Concessionaire, Termination payment equal to 100% of the Book Value as on the date of Termination Notice.
- (iii) Liability for other losses, damages etc.

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.

## 6. EVENTS OF DEFAULT AND TERMINATION

### 6.1 Events of Default

Event of Default shall mean either Bidder Event of Default or Bhopal Dairy. Event of Default or both as the context may admit or require.

#### (a) Bidder Event of Default

a) Bhopal Dairy at any time may terminate the contract by giving written notice to the bidder.

If the Bidder/ Bidder becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to Bhopal Dairy.

If the Bidder/ Bidder creates events of default of any of the terms and conditions governing the contract or any clause of the contract including those of operation clauses of house to house collection, deployment of right type of vehicles and compactors, transportation of waste, designated processing & disposal of waste etc.

If it is proved that the Bidder is intentionally and deliberately violating the provisions of the contract.

b) Bhopal Dairy requires that the Bidders under this tender observe the highest standards of ethics during the procurement and execution of such Contracts. In pursuance of this policy, Bhopal Dairy defines for the purposes of this provision, the terms set forth as follows:

“Corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of the public official in the procurement process or in contract execution; and

“Fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or execution of the contract to the detriment of Bhopal Dairy, and includes collusive practice among Bidders (prior to or after Tender submission) designed to establish Contract Prices at artificial non-competitive levels and to deprive Bhopal Dairy of the benefits of the free and open competition.

c) If the bidder indulges in Corrupt or Fraudulent Practices, it gets disqualified for tendering or Bhopal Dairy may at any point of time terminate the contract by giving written notice to the Bidder, even after the work is started, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Bhopal Dairy

d) In case of failure to clarify or improve the work to the utmost satisfaction of Bhopal Dairy, letter of termination will be sent to the bidder.

e) If the order /contract is cancelled / terminated after commencing the work, on account of the reasons and / or failure of the Bidder to perform up to the standard as evaluated, Bidder shall;

- Hand over the entire infrastructure, sheds, cabins built, services provided by the service provider, in the premises given by Bhopal Dairy to an authorized representative of Bhopal Dairy; without any compensation.

- Hand over vehicles, equipment, procured for use immediately again to an authorized representative of Bhopal Dairy; without any compensation.

Bhopal Dairy may/shall assign the entire work and its set up to the next willing bidder or any other company or individual for operations of the services along with infrastructure, places and all vehicles and equipment acquired from the Bidder, at the risk and cost of the bidder.

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

- (i) The Bidder has failed to adhere to the Construction Requirements and such failure, in the reasonable estimation of the Independent Consultant, is likely to delay achievement of COD beyond 60 days of the Scheduled Project Completion Date;
- (ii) The Bidder has failed to achieve COD within 60 days of the Scheduled Project Completion Date for any reason whatsoever;
- (iii) At any time during the Concession Period, the Bidder fails to adhere to the Construction Requirements or O&M Requirements and has failed to remedy the same within 60 days;
- (iv) The Bidder is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than 30 days;
- (v) Any representation made or warranty given by the Bidder under this Agreement is found to be false or misleading;
- (vi) A resolution for voluntary winding up has been passed by the shareholders of the Bidder;
- (vii) Any petition for winding up of the Bidder has been admitted and liquidator or provisional liquidator has been appointed or the Bidder 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 Bhopal Dairy, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Bidder under this Agreement.

- (viii) 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;
- (ix) The Bidder has abandoned the Project Facilities;
- (x) The Bidder has unlawfully repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
- (xi) The Bidder has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Affect on the Project and such attachment has continued for a period exceeding 90 days.
- (xii) The Bidder fails to supply the required steam demand in-spite of working of makeup boilers, suitable penalty may be imposed to overcome the incurred losses accrued to Bhopal Dairy.

(b) Bhopal Dairy - Event of Default

- a) The Bidder may at any times request for termination of the contract if desired on default on the part of Bhopal Dairy; such as non payment of bills or resistance from citizens and it does not get resolved by Bhopal Dairy, by giving written communication to Bhopal Dairy, the Bidder may hand over the vehicles, equipment, bins, and fixed assets created by them to Bhopal Dairy.
- b) In case of termination /cancellation of the contract after commencing the work when Bhopal Dairy asks to do so on account of Bhopal Dairy's inability to continue, all the infrastructure, vehicles , equipment, containers brought by the Bidder may be taken over by the Bhopal Dairy; if requested by the Bidder; at the mutually agreed rates.

Any of the following events shall constitute an event of default by Bhopal Dairy Bhopal Dairy -Event of Default”), when not caused by a Bidder Event of Default or Force Majeure Event:

- (i) Bhopal Dairy has failed to make any payments due to the Bidder and more than 180 days have elapsed since such default;
- (ii) Bhopal Dairy is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 90 (ninety) days of receipt of notice thereof issued by the Bidder;
- (iii) Bhopal Dairy has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- (iv) Bhopal Dairy has unreasonably withheld or delayed grant of any approval or permission which the Bidder is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;



- (v) Any representation made or warranties given by the Bhopal Dairy under this Agreement has been found to be false or misleading.

#### 18.1 Termination due to Event of Default

##### (a) Termination for Bidder Event of Default

- (i) Without prejudice to any other right or remedy which Bhopal Dairy may have in respect thereof under this Agreement, upon the occurrence of a Bidder Event of Default, Bhopal Dairy shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement in the manner as set out under this agreement.

Provided however that upon the occurrence of a Bidder Event of Default as specified under this agreement, Bhopal Dairy may terminate this Agreement by issue of Termination Notice in the manner set out under this agreement.

- (ii) If Bhopal Dairy decides to terminate this Agreement pursuant to relevant clauses, it shall in the first instance issue Preliminary Notice to the Bidder. Within thirty (30) days of receipt of the Preliminary Notice, the Bidder shall submit to Bhopal Dairy in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the "Bidder's Proposal to Rectify"). In case of non-submission of the Bidder's Proposal to Rectify within the said period of 30 days, Bhopal Dairy shall be entitled to terminate this Agreement by issuing Termination Notice,
- (iii) If the Bidder's Proposal to Rectify is submitted within the period stipulated therefore, the Bidder shall have further period of 30 days to remedy/ cure the underlying Event of Default. If, however the Bidder fails to remedy/cure the underlying Event of Default within such further period allowed, Bhopal Dairy shall be entitled to terminate this Agreement, by issue of Termination Notice

##### (b) Termination for Event of Default

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

##### (c) Termination Notice

If a Party is having become entitled to do so decide to terminate this Agreement pursuant to the preceding sub article (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 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.

(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 Facilities;
- (ii) The termination payment, if any, payable by Bhopal Dairy in accordance is paid to the Bidder on the Termination Date; and
- (iv) The Project Facilities are handed back to Bhopal Dairy by the Bidder on the Termination Date free from any Encumbrance along with any payment that may be due by the Bidder to Bhopal Dairy.

(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 cost/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 Bhopal Dairy .Event of Default, the Bidder shall be entitled to receive from Bhopal Dairy, termination payment equal to 100% of the Book Value as on Termination Date and amounts in the Post Closure Performance Account.

Upon Termination of this Agreement on account of Bidder Event of Default, Bidder shall be entitled to receive from Bhopal Dairy termination payment equal to 80% of the Book Value as on the Termination Date.

## 6.2 Rights of Bhopal Dairy on Termination

- (a) Upon Termination of this Agreement for any reason whatsoever, Bhopal Dairy shall upon making the Termination Payment, if any, to the Bidder have the power and authority to:
  - (i) enter upon and take possession and control of the Project Facilities i.e. vehicles, workshop etc. forthwith;

- (ii) prohibit the Bidder and any person claiming through or under the Bidder from entering upon/ dealing with the Project Facilities;
- (b) Notwithstanding anything contained in this Agreement, Bhopal Dairy 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 Bidder in connection with the Project, and the hand back of the Project Facilities by the Bidder to Bhopal Dairy shall be free from any such obligation.

### 6.3 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.

## 7. RESOLUTION OF DISPUTES

If a dispute arises under this Agreement, the Parties shall first promptly attempt in good faith to resolve the dispute by negotiation. If such negotiations are unsuccessful, any disputes or claims between the Parties arising out of or relating to this Agreement, or the breach hereof, not settled by negotiation, shall be settled by arbitration in the State of Madhya Pradesh.

## 8. CONFIDENTIALITY

The Bhopal Dairy understands and agrees that, in order to comply with its obligations under this Agreement, from time to time the Bidder may disclose to the Bhopal Dairy certain information that constitutes confidential commercial information of the Bidder, and as such is maintained in strict confidence by the Bidder. The public disclosure of such information is likely to cause substantial harm to the Bidder by disclosing to others sensitive competitive information concerning the Bidder's costs or other matters. The Bhopal Dairy therefore agrees not to disclose any such confidential commercial information, if it is designated by the Bidder as such, to any other person or entity, except (1) its attorneys and consultants on a need to know basis only, (2) to any regulatory agency to which such disclosure is required, but then only after giving prior notice to the Bidder and taking all reasonable steps to obtain confidential treatment of such information, and (3) in response to a subpoena or other mandatory legal process, but then only after giving prior notice to the Bidder and taking all reasonable steps to obtain confidential treatment of such information.

- 8.1 **Entire Agreement.** This Agreement is the final, complete and entire Agreement between the Parties regarding the subject matter hereof, and all prior discussions, negotiations, communications, proposals or agreements, whether oral or written, are hereby superseded.

This Agreement may not be modified, altered, or amended in any way except in writing signed by duly authorized representatives of both Bhopal Dairy and Bidder.

**8.2 Interpretation.** The Parties agree that each Party and its counsel have reviewed this Agreement and the normal rule of construction that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement.

**8.3 Governing Law.** This Agreement shall be construed in accordance with and shall be enforceable under the laws of India without regard to conflict of laws principles.

**21.6 Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

**8.4 Survival.** Any sums due from either Party that by the terms hereof would be payable, or are incapable of calculation until, after the expiration or earlier termination of this Agreement shall survive and remain a continuing obligation until paid. Any obligations of either Party that by the terms hereof are to be performed after the expiration or earlier termination of this Agreement shall survive and remain a continuing obligation until performed. If any term or provision of this Agreement or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned have caused this Steam Purchase Agreement to be duly executed, delivered and effective upon execution by both Parties

**PRICE BID**

**(To be submitted Financial Bid Online only in prescribed excel format)**

**NAME OF THE WORK:** Contract for Steam Supply by doing Operation & Maintenance (O&M) of 5 TPH (Expendable up to 13 TPH) solid multi fuel fired Biomass boiler on Built, Own, Operate and Transfer (BOOT) basis for a period of 10 years in our Main Dairy Plant Habibganj Bhopal

<b>Slab (Consumption of Steam per day in MT)</b>	<b>RATE (Rs/Kg.)</b>
<b>Above 25 MT to less than &amp; equal to 40 MT on bill period average per day.</b>	

IMPORTANT NOTE:

1. Billing period will be average of 15/16 days:
2. GST Extra.

Signature of Bidder