

Volume II

Concession Agreement For Development of Modern Slaughterhouse in Village Karari, District Jhansi, Uttar Pradesh

Dated

**Municipal Commissioner,
Jhansi Municipal Corporation**

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CONCESSION AGREEMENT

THIS CONCESSION AGREEMENT is entered into on this the _____ day of _____ (Month) _____ (201____) at Jhansi, Uttar Pradesh.

BETWEEN,

Jhansi Municipal Corporation, a corporation established under the Uttar Pradesh Municipal Corporation Act, 1959 (No. 2 of 1959), and having its office at _____, Jhansi, Uttar Pradesh (India) acting through its Municipal Commissioner (hereinafter referred to as "**Concessioneing Authority**" / "**JMC**" which expression shall, unless repugnant to the context or meaning thereof, mean and include its successors) of the FIRST PART

AND

M/s. _____, a company incorporated under the Companies Act 1956, having its registered office at _____ (hereinafter referred to as "**Concessionaire**", which expression shall unless repugnant to the context or meaning thereof, mean and include its associate / group companies, successors and assigns), through Mr. _____, duly authorized in this behalf by way of a Board Resolution dated _____, of the OTHER PART.

RECITALS

WHEREAS,

A. JMC is keen to implement a project envisaging design, finance, construction, operation and maintenance of a Modern Slaughterhouse (hereinafter referred to as "**the Project**") as per Prevention of Cruelty to Animals (Slaughter House) Rules, 2001 and amendments thereof (hereinafter referred to as "**Slaughter House Rules**") and in terms of requisites (hereinafter referred to as "**the Project Requisites**", more particularly described in **Schedule "A"**) with private sector participation on Design, Build, Finance, Operate and Transfer (DBFOT) basis and has carried out feasibility study for the Project;

B. The JMC is responsible for the development and maintenance of slaughterhouses in the municipal area falling in its jurisdiction;

C. JMC is the rightful owner of the land admeasuring 5.76 Hec. situated in Village Karari, District Jhansi, Uttar Pradesh (hereinafter referred to as “**the Site/Project Site**”) earmarked for the Project, on which it is proposed to develop the Project.

D. With an objective to seek private sector participation in the development of the aforesaid Project, JMC undertook the process of selection of a suitable Concessionaire through competitive bidding, after issuing a Request for Qualification cum Request for Proposal document (RFQ cum RFP) dated [REDACTED] inviting Bids/ Proposals from prospective Bidders to implement the said Project, containing inter-alia the minimum qualification for a Bidder and the technical and commercial parameters of the Project and the terms and conditions for the implementation of the Project.

E. In response to the aforesaid invitation for tenders, JMC received Bids from several Bidders including the Successful Bidder for implementing the Project;

F. JMC, after evaluating the aforesaid Bids, accepted the Bid submitted by the Successful Bidder and issued the Letter of Award dated [REDACTED] (**LOA**) to the Successful Bidder.

G. In accordance with the requirements of the said tender, the Successful Bidder has incorporated the Concessionaire as a special purpose vehicle to implement the Project on DBFOT basis, and JMC has agreed to grant to the Concessionaire, the Concession (as hereinafter defined) on the terms, conditions and covenants hereinafter set forth in this Agreement.

H. The Successful Bidder, selected through the transparent competitive Bidding Process, met the Eligibility Criteria and quoted the lowest value of the MFPI Grant sought from MFPI for the Development, Operation and Maintenance of the Project.

I. The Concessionaire acknowledges and confirms that it has undertaken a due diligence and audit of all aspects of the Project Site and Project including technical and financial viability, legal due diligence, availability of the Animals in present and in future, and on the basis of its independent satisfaction hereby accepts the Concession and agrees to implement the Project at its own cost and expense in accordance with the terms and conditions of this Concession Agreement.

J. The Concessionaire hereby accepts the Concession granted and undertakes to implement the Project in accordance with the provisions of this Concession Agreement.

NOW THEREFORE, in view of the offer, mutual promises and consideration set out herein, JMC and the Concessionaire (each individually a “Party” hereto, and collectively the “Parties”) hereby agree to be bound by the provisions of this Concession Agreement

ARTICLE 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

- I. **"Accounting Year"** means the financial year commencing from 1st April of any calendar year and ending on 31st March of the next calendar year except in the first and the last calendar year of the subsistence of this Agreement. In the first year of subsistence of this Agreement, it means the period from the Commencement Date to the 31st March of next calendar year. In the last year of subsistence of this Agreement, it means the period from 1st April to the Transfer Date.
- II. **"Agreement"** means this agreement including **Schedules 'A' through 'K'** hereto, and any amendments made thereto in accordance with the provisions of this Agreement.
- III. **"Animal"** means sheep, goat or buffalo as may be permitted to be slaughtered in the State of Uttar Pradesh and any government order in relation thereto in the Modern Slaughterhouse using the Project Facility;
- IV. **"Annuity"** shall have the meaning as given to it in Article 3.1.
- V. **"Applicable Laws"** means all laws, orders promulgated or brought into force and effect by GOI or GoUP, directly or through any of its departments, including regulations and rules made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, as may be in force and effect during the subsistence of this Agreement.
- VI. **"Applicable Permits"** means all clearances, permits, authorizations, consents and approvals under or pursuant to Applicable Laws, required to be obtained and maintained by the Concessionaire, in order to implement the Project and to provide Project Facility in accordance with this Agreement.
- VII. **"Arbitration Act"** means the Arbitration and Conciliation Act, 1996 including the Rules thereunder, if any, and shall include modifications to or any re-enactment thereof as in force from time to time.
- VIII. **"Authority"** shall mean the Jhansi Municipal Corporation (i.e. JMC),
- IX. **"Change in Law"** means the occurrence of any of the following after the date of this Agreement having an adverse bearing on the performance of obligations of Parties under this Agreement:
 - a. the enactment of any new Indian law;
 - b. the repeal, modification or re-enactment of any existing Indian law;
 - c. the commencement of any Indian law which has not entered into effect until the date of this Agreement;

- d. a change in the interpretation or application of any Indian law by a court of record as compared to such interpretation or application by a court of record prior to the date of this Agreement; or
- e. any change in the rates of any of the Taxes.
- X. **"COD"** means the commercial operations date of the Project which shall be the date on which Project Monitoring Committee has issued the Completion Certificate or the Provisional Certificate upon completion of construction of the Project and the Project is ready for its commercial operations.
- XI. **"Commencement Date"** means the date on which the physical possession of the Project Site is delivered by JMC to the Concessionaire, which shall not be later than 60 days from the date of this Agreement subject to Concessionaire fulfilling the below conditions ("**Conditions Precedent**"):
 - a. Submitting to JMC copies (certified as true copies by an authorized officer of the Concessionaire) of the constitutional documents of the Concessionaire;
 - b. Submitting to JMC copies (certified as true by the Director of the Concessionaire) of all resolutions adopted by the Board of Directors of the Concessionaire authorizing the execution, delivery and performance of this Agreement by the Concessionaire;
 - c. Submitting to JMC, from an Indian counsel, a legal opinion with respect to the authority of the Concessionaire to enter into this Agreement and the Project Agreements and the Financing Documents and the enforceability of the provisions thereof;
 - d. Opening jointly with JMC the Project Account;
- XII. **"Completion Certificate"** means the certificate issued by the PMC pursuant to Article 9.3(d).
- XIII. **"Concession"** shall have the meaning ascribed thereto in Article 2.1.
- XIV. **"Concession Period"** means the period as applicable and specified in Article 2.2.
- XV. **"Concessionaire"** means M/s. XXXX and shall include its successors and permitted assigns expressly approved by JMC.
- XVI. **"Concession Agreement Completion Certificate"** means the certificate issued under Article 21.15, after the termination of this Concession Agreement
- XVII. **"Consortium"** means the consortium consisting of (i) AAAA and (ii) BBBB formed/ acting pursuant to the Consortium Agreement dated [REDACTED], annexed hereto as **Schedule 'E'** entered into by them to govern their relations during the Concession Period.
- XVIII. **"Construction Works"** means all works and things necessary to achieve commercial operation of the Project in accordance with the terms of this Agreement.
- XIX. **"Contractor"** means Person with whom the Concessionaire has entered into/ may enter into all or any of the Project Agreements.
- XX. **"Cure Period"** means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default.
- XXI. **"Debt Due"** means the aggregate of the following sums expressed in Rupees outstanding and payable to the Lenders under the Financing Documents:

- (i) the principal amount of the debt provided by the Lenders under the Financing Documents for financing the Project (the "principal") which is outstanding as on the Termination Date but excluding any part of the principal that had fallen due for repayment one year prior to the Termination Date unless such repayment had been rescheduled with the prior consent of JMC; and
 - (ii) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-clause (i) above up to the date preceding the Termination Date but excluding (a) any interest, fees or charges that had fallen due one year prior to the Termination Date, and (b) penal interest or charges payable under the Financing Documents to the Lenders.
- XXII. **"Dispute"** shall have the meaning ascribed thereto in Article 19.1.
- XXIII. **"Dispute Resolution Procedure"** means the procedure for resolution of Dispute set forth in Article 19.
- XXIV. **"Drawings"** means all of the drawings, designs, calculations and documents pertaining to the Project and shall include "as built" drawings of the Project in accordance with the Project Requisites.
- XXV. **"Emergency"** means a condition or situation that is likely to endanger the security of the individuals on or about the Project Site or which poses an immediate threat of material damage to any of the Project Assets.
- XXVI. **"Encumbrance"** means 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 and encroachments on the Project Site.
- XXVII. **"Equity"** means the sum expressed in Rupees representing the equity share capital of the Concessionaire and shall include the funds advanced by any member of the Consortium or by any of its shareholders to the Concessionaire for meeting equity component of the Total Project Cost.
- XXVIII. **"Escrow Account"** means the account to be opened by JMC with a Scheduled Bank in India where the proceeds of MFPI Grant shall come directly as and when disbursed by MFPI in accordance with the MFPI Guidelines in order to be further released to the Concessionaire.
- XXIX. **"Financing Documents"** means the documents executed by the Concessionaire in respect of financial assistance (including refinancing) for the Project, to be provided by the Lenders by way of loans, advances, subscription to debentures and other debt instruments and guarantees, risk participation, take-out financing or any other form of credit enhancement and shall include loan agreements, guarantee agreements, subscription agreements, notes and any documents providing security for such financial assistance, and includes amendments or modifications made thereto.
- XXX. **"Financial Close"** means the date on which the Financing Documents providing for funding by the Lenders have become effective and the

Concessionaire has immediate access to such funding under the Financing Documents.

- XXXI. **"Force Majeure Event"** shall have the meaning ascribed thereto in Article 15.1.
- XXXII. **"GOI"** means the Government of India.
- XXXIII. **"Good Industry Practice"** means those practices, methods, techniques, standards, skills, diligence and prudence which are generally and reasonably expected of and accepted internationally from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and would mean good engineering practices in the design, engineering, construction and project management and which would be expected to result in the performance of its obligations by the Concessionaire and in the operation and maintenance of the Project in accordance with this Agreement, Applicable laws, Applicable Permits, reliability, safety, environment protection, economy and efficiency.
- XXXIV. **"GoUP/State Government"** means Government of State of Uttar Pradesh or any of its Departments acting on behalf of the Government of Uttar Pradesh.
- XXXV. **"Government Agency"** means GOI, GoUP or any state government department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body- central, state, or local, having jurisdiction over the Concessionaire, the Project Assets or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.
- XXXVI. **"Independent Engineer"** means the Engineer designated by JMC under written communication to the Concessionaire, to undertake, perform, carry out such functions, duties, responsibilities, services and activities as set forth in this Agreement.
- XXXVII. **"Interest"** means shareholding percentage of Selected Bidder in the Concessionaire (if Selected Bidder is a single entity) or of each member of the Consortium in the Concessionaire (in case Selected Bidder is a Consortium);
- XXXVIII. **"Lender(s)"** means any developmental / public financial institutions or Nationalized / Scheduled bank, who has provided financial assistance to the Concessionaire under any of the Financing Documents.
- XXXIX. **"Maintenance Manual"** shall have the meaning ascribed to it in Article 9.5.
- XL. **"Maintenance Programme"** shall have the meaning ascribed to it in Article 9.6.
- XLI. **"Material Adverse Effect"** shall mean an event affecting (a) the ability of the Concessionaire to exercise any of its rights to perform / discharge any of its duties / obligations under and in accordance with the provisions of this Agreement and / or (b) the legality, validity, binding nature or enforceability of this Agreement such that it impacts individually the net asset, financial results, financial positions or cash flows of the Concessionaire in an amount greater than 5% of the gross assets of the Concessionaire.
- XLII. **"Material Breach"** means a breach by either Party of any of its obligations under this Agreement which has/ likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure within the Cure Period.

- XLIII. **"Members"** shall mean (i) [REDACTED] and (ii) [REDACTED].
- XLIV. **"Modern Slaughterhouse"** means collectively the structures, equipment, system or mechanism erected or installed for the purpose of slaughtering of Animals using the Project Facility for collection of Slaughter Charges in accordance with the provisions of this Agreement. In addition, it means a place where Animals are butchered/slaughtered using the modern slaughtering practices in order to minimize the torture to the Animals, adopting most hygienic standards of safety for the meat and maximizing the output by way of prudent utilization of the slaughtering byproducts.
- XLV. **"MoFPI"** means Ministry of Food Processing Industry, Government of India.
- XLVI. **"MFPI Grant"** shall have the meaning as given to it in Article 2A
- XLVII. **"O&M"** means the operation and maintenance of the Project during Operations Period including but not limited to functions of maintenance, collection and depositing with JMC of Slaughtering Fee and performance of other services incidental thereto.
- XLVIII. **"O&M Contract"** means the Operation and Maintenance Contract that may be entered into between the Concessionaire and the O&M Contractor for O&M of the Project/Project Facility.
- XLIX. **"O&M Contractor"** means the person or entity with whom the Concessionaire may enter into an O&M Contract for discharging O&M functions for and on behalf of the Concessionaire.
- L. **"O&M Expense"** means expenses incurred by or on behalf of the Concessionaire, duly certified by its Statutory Auditors for all regularly scheduled and reasonably anticipated O&M during Operations Period, including, without limitation (a) all cost of salaries and other employee compensation and contract fee payable to the O&M Contractor, if any, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all franchise, excise, property and other similar taxes and all costs and fees incurred in order to obtain and maintain all Applicable Permits necessary for the O&M of the Project/Project Facility at its full design capacity, (e) all repair, replacement and maintenance costs of the Project/Project Facility, and (f) all other expenditures required to be incurred under Applicable Law or under Applicable Permits necessary for the operation and maintenance of the Project according to the Project Requisites at its full design capacity.
- LI. **"Operations Period"** means the period commencing from COD and terminating at the Transfer Date.
- LII. **"Parties"** means the parties to this Agreement collectively and "Party" shall mean either of the Parties to this Agreement individually.
- LIII. **"Performance Security"** means the Performance Security in the form of Bank Guarantee submitted in terms of Article 3.
- LIV. **"Person"** means any individual, company, corporation, partnership, joint venture, trust, unincorporated organization, government or Government Agency or any other legal entity.
- LV. **"Project"** means setting up of a Modern Slaughterhouse for slaughtering facility of sheep, goat and buffalo, as may be permitted, complete with all services, equipments, piping, cabling, earthing work including civil

construction works, electrical work, Rendering-cum-Carcass Utilization plant and Effluent Treatment Plant (ETP), Chillers. Meat Processing & Packaging unit, etc. on a turnkey basis i.e. setting up the Modern Slaughterhouse along with necessary ancillary plants as well for putting it into successful operation under the existing applicable laws, rules and regulations in Jhansi in the State of Uttar Pradesh.

- LVI. **"Project Account"** means the bank account jointly opened by the Concessionaire and JMC with a Scheduled Bank in India, dedicated for the Project, where the proceeds of MFPI Grant shall be released to the Concessionaire by JMC from time to time as per the time milestones given in **Schedule "J"**.
- LVII. **"Project Agreements"** means collectively this Agreement, any contract for the design, engineering, procurement and construction of the Project, O&M Contract and any other material contract (other than the Financing Documents) entered into or may hereafter be entered into by the Concessionaire in connection with the Project.
- LVIII. **"Project Assets"** means all physical and other assets relating to and forming part of the Project including but not limited to (i) rights over the Project Site in the form of license, right of way or otherwise, (ii) tangible assets such as civil works including foundations, embankments, pavements, slaughter hall, slaughter lines, lairage(s), rendering cum carcass utilization plant, effluent treatment plant, meat processing & processing unit, drainage works, lighting facilities, sign boards, milestones, electrical works for lighting on the Project, telephone and other communication systems and equipment for the Project, rest areas, wayside amenities, administration and maintenance depots, relief centers, service facilities etc. (iii) Project Facility situated on the Project Site, (iv) the rights of the Concessionaire under any Project Agreements, (v) financial assets, such as security deposits for electricity supply, telephone and other utilities, etc., (vi) insurance proceeds subject to Lenders' rights thereto and (vii) Applicable Permits and authorizations relating to or in respect of the Project.
- LIX. **"Project Completion"** shall have the meaning ascribed thereto in Article 9.2.
- LX. **"Project Completion Schedule"** means the progressive Project milestones set forth in **Schedule 'D'** for the implementation of the Project.
- LXI. **"Project Facility"** means collectively the facilities on the Project Site to be constructed, built, installed, erected or provided by the Concessionaire for use of the butchers by implementing the Project and more specifically set out in **Schedule 'C'**.
- LXII. **"Project Monitoring Committee/PMC"** means the Project Monitoring Committee constituted pursuant to Article 7.1.
- LXIII. **"Project Requisites"** means the requisites of the Project as set forth in **Schedule 'A'** and any modifications thereof, or additions thereto.
- LXIV. **"Project Site"** means the real estate particulars whereof are set out in **Schedule 'B'** on which the Project is to be implemented and the Project Facility is to be provided in accordance with this Agreement.
- LXV. **"Provisional Certificate"** shall have the meaning ascribed to it in Article 9.3(e).

- LXVI. **"Punch List"** shall have the meaning ascribed thereto in Article 9.3(e).
- LXVII. **"Quoted MFPI Grant"** shall mean the lowest MFPI Grant as quoted by the Successful Bidder at the RfQ cum RfP Stage entitling it to become the Concessionaire herein.
- LXVIII. **"Rs."** or **"Rupees"** refers to the lawful currency of the Republic of India.
- LXIX. **"SBI PLR"** means the prime lending rate per annum for loans with 1 (one) year maturity as fixed from time to time by the State Bank of India, and in the absence of such rate, the average of the prime lending rates for loans with 1 (one) year maturity fixed by the Bank of India and the Bank of Baroda and failing that any other arrangement that substitutes such prime lending rate as mutually agreed between the Parties.
- LXX. **"Scheduled Project Completion Date"** shall have the meaning set forth in Article 9.2(c).
- LXXI. **"Slaughter Charges"** means the charges/fee levied by the Concessionaire for slaughtering an Animal using the Project Facility.
- LXXII. **"Slaughtering Fee"** means the fee prescribed/notified by the JMC to be paid to it by the Concessionaire on a weekly basis from the Slaughtering Charges levied on per Animal basis and collected for the first shift from the operations of the Modern Slaughterhouse.
- LXXIII. **"Slaughtering Fee Notification"** means the notification as per draft appended hereto as **Schedule 'F'** to be issued by JMC as regards Slaughtering Fee payable to JMC by the Concessionaire and includes a revised Slaughtering Fee Notification, if any, issued pursuant to Article 4.2.
- LXXIV. **"State Government Grant"** shall have the meaning as given to it in Article 2A.2.
- LXXV. **"Statutory Auditors"** means a reputed firm of Chartered Accountants duly licensed to practice in India acting as statutory auditors of the Concessionaire.
- LXXVI. **"Substitution Agreement"** means the agreement to be entered into among the Concessionaire, JMC and the Lenders providing, inter alia, for the substitution of the Concessionaire by another Person subject to and in accordance with the provisions of this Agreement and the Substitution Agreement.
- LXXVII. **"Termination"** means termination of this Agreement and the Concession hereunder pursuant to a Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include the expiry of this Agreement/Concession due to expiry to the Concession Period in the normal course.
- LXXVIII. **"Termination Date"** means the date on which the Termination occurs which shall be the date on which Termination Notice has been delivered or deemed to have been delivered by a Party issuing the same to the other Party in accordance with the provisions of this Agreement.
- LXXIX. **"Termination Notice"** means a communication in writing by a Party to the other Party regarding Termination in accordance with the applicable provisions of this Agreement.

- LXXX. **"Tests"** means the tests to be carried out to determine the Project Completion and its certification by the Independent Engineer prior to commencement of commercial operation of the Project.
- LXXXI. **"Total Project Cost"** means the lowest of the following :
- (a) a sum of Rs. [25.54] Crores;
 - (b) actual capital cost of the Project upon completion of the Project as certified by the Statutory Auditors of the Concessionaire; or
 - (c) total project cost as set forth in Financing Documents.
- LXXXII. **"Transfer Date"** means the day immediately following the last day of the Concession Period, including any extensions thereto or earlier termination thereof, in accordance with the terms of the Concession Agreement
- LXXXIII. **"Works"** means the design, construction, upgradation, completion, testing and commissioning, operation and maintenance and rectifying and/or remedying of defects of the buildings, services, facility as the context may require, and all the appurtenances thereof, any other permanent, temporary or urgent works required under this Concession Agreement.
- LXXXIV. **"WPI"** means the wholesale price index published monthly by the Ministry of Industry, GOI and shall include any index which substitutes the WPI.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

- (a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- (b) references to Indian law shall include the laws, acts, ordinances, rules, regulations, guidelines or byelaws which have the force of law in any State or Union Territory forming part of the Union of India;
- (c) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal entity);
- (d) the headings are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
- (e) terms and words beginning with capital letters and defined in this Agreement including the Schedules shall have the meaning as assigned to them herein;
- (f) the words "include" and "including" are to be construed without limitation;

- (g) references to "construction" include, unless the context otherwise requires investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (i) any reference to day shall mean a reference to a calendar day;
- (j) any reference to month shall mean a reference to a calendar month;
- (k) the Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- (l) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;
- (m) references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;
- (n) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the Independent Engineer, as the case may be, in this behalf and not otherwise;
- (o) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates;
- (p) the damages payable by either Party to the other of them as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty or liquidated damages;
- (q) unless otherwise expressly provided in this Agreement, any documentation required to be provided or furnished by the Concessionaire to JMC and/or the Independent Engineer shall be provided free of cost and in two copies and if JMC and/or the Independent Engineer is required to return any such documentation with their comments and/or approval, they shall be entitled to retain two copies thereof.

1.2.2 Measurements and Arithmetic Conventions

All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down except in Slaughter Charges calculation which shall be rounded off to nearest rupee.

1.2.3 In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (i) between two Articles of this Agreement, the provisions of specific Articles relevant to the issue under consideration shall prevail over those in other Articles;
- (ii) between the Articles and the Schedules, the Articles shall prevail;
- (iii) between any value written in numerals and that in words, the latter shall prevail.

1.3 Priority of Documents

The documents forming part of this Concession Agreement are to be taken as mutually explanatory of one another. If there is an ambiguity or discrepancy in the documents, JMC shall issue necessary clarification or instruction to the Concessionaire, and the priority of the documents shall be as follows:

- i) This signed Concession Agreement (including its Schedules), along with any Addendums issued to the RFQ cum RFP document dated _____;
- ii) Instructions to Bidders (ITB) (Section I of the RFQ cum RFP document dated _____), enclosed/ attached with this signed Concession Agreement; and
- iii) All other documents enclosed/ attached with this signed Concession Agreement.

1.4 General

Unless expressly provided otherwise in this Agreement, any documentation required to be provided or furnished by the Concessionaire to the Concessions Authority and/or the agency or person appointed by the Concessions Authority shall be provided free of cost and in two copies, and if the Concessions Authority and/or the person appointed by the Concessions Authority is required to return any such

documentation with their comments and/or approval, they shall be entitled to retain one copy thereof.

ARTICLE 2

CONCESSION AND PROJECT SITE

2.1 Grant of Concession

Subject to and in accordance with the terms and conditions set forth in this Agreement, JMC hereby grants and authorizes the Concessionaire to investigate, study, design, engineer, procure, finance, construct, operate and maintain the Project/Project Facility and to exercise and/or enjoy the rights, powers, privileges, authorizations and entitlements as set forth in this Agreement, including but not limited to

- a. the right to levy, demand and collect appropriate Slaughter Charges from butchers and Persons liable to pay Slaughter Charges for using the Project/ Project Facility or any part thereof;
- b. Right to sell (including distribution) processed meat products and by-products produced by slaughtering of Animal by using the Project/ Project Facility or any part thereof in domestic and international market; and
- c. Right to obtain Quoted MFPI Grant of Rs Crore subject to the condition that the Concessionaire meets the requirement of Operational Guidelines for the Scheme of Modernization of Abattoirs (**MFPI Guidelines**) provided herewith at **Schedule "K"**

The rights, privileges and authorizations granted under this Clause 2.1 is hereby called "the **Concession**".

2.2 Concession Period

The Concession hereby granted is for a period of 15 years commencing from the Commencement Date (the **Concession Period**) during which the Concessionaire is authorized to implement the Project and to operate Project Facility in accordance with the provisions hereof.

Provided that ;

- a. in the event of the Concession being extended by JMC beyond the above stated Concession Period in accordance with the provisions of this Agreement, the Concession Period shall include the period/aggregate period by which the Concession is so extended, and
- b. in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Commencement Date and ending with the Termination.
- c. JMC retains the right to review and revise the Slaughtering Fee, in mutual negotiation with the Concessionaire keeping in view the WPI, prevailing business environment and such other factor as it may deem fit.
- d. The Concessionaire carries out such renovation, improvement, technology upgradation of the Project as recommended by JMC.
- e. The Concessionaire continues to meet the demand of slaughtering of Animals brought by local butchers.

2.3 Acceptance of the Concession

The Concessionaire hereby accepts the Concession and agrees and undertakes to implement the Project/provide Project Facility, and to perform/discharge all of its obligations in accordance with the terms and conditions set forth in this Agreement.

2.4 Project Site

- a. JMC hereby undertakes to handover to the Concessionaire physical possession of the Project Site free from Encumbrance alongwith land development and approach road within 60 days from the date of this Agreement together with the necessary rights of way/way leaves for the purpose of implementing the Project subject to the Concessionaire fulfilling the Conditions Precedent in accordance with this Agreement.
- b. JMC confirms that upon the Project Site being handed over pursuant to the preceding sub-article (a) the Concessionaire shall have the exclusive right to enter upon, occupy and use the Project Site and to make at its own costs, charges and expenses such further development and improvements in the Project Site as may be necessary or appropriate to implement the Project and to provide Project Facility subject to and in accordance with the provisions of this Agreement.

2.5 Use of the Project Site

The Concessionaire shall not without prior written consent or approval of JMC use the Project Site for any purpose other than for the purposes of the Project/the Project Facility and purposes incidental thereto as permitted under this Agreement or as may otherwise be approved by JMC. Breach of this clause shall be deemed to be treated as a Material Breach of this Agreement.

2.6 Information about the Project Site

The information about the Project Site set out in **Schedule 'B'** is provided by JMC in good faith and with due regard to the matters for which such information is required by the Concessionaire. JMC agrees to provide to the Concessionaire, upon a reasonable request, any further information relating to the Project Site, which JMC may now possess or may hereafter come to possess. Except otherwise stated herein, JMC makes no representation and gives no warranty to the Concessionaire in respect of the condition of the Project Site.

2.7 Peaceful Possession

JMC warrants that :

- a. the Project Site together with the necessary right of way/ way leaves having been acquired through the due process of law belongs to and vests in JMC, and that JMC has full powers to hold, dispose of and deal with the same consistent, inter alia, with the provisions of this Agreement;
- b. the Concessionaire shall have no obligation/liability as to payment of any compensation whatsoever to or the rehabilitation and resettlement of any Person from whom the Project Site or any part thereof had been acquired and that the same shall be the sole responsibility of JMC; and
- c. the Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Project Site during the Concession Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action including any attachment, restraint, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/ charge on the

Project Site or any part thereof, JMC shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any direct or consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

2.8 Rights and Title over the Project Site

- a. The Concessionaire shall have exclusive rights to the use of the Project Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the same by third parties.
- b. The Concessionaire shall allow access to, and use of the Project Site/ Project Facility for telegraph lines, electric lines or such other public purposes as JMC may specify, provided that such access or use does not result in a Material Adverse Effect or closure of Project Facility for a period exceeding 120 days and that JMC undertakes to ensure that the Project Facility is restored at the cost and expenses of JMC. Where such access or use causes any loss of Slaughter Charges to the Concessionaire, JMC shall compensate the Concessionaire for such loss of Slaughter Charges by increasing the Concession Period suitably on a pro-rata basis.
- c. The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Site save and except as set forth and permitted under this Agreement provided however that nothing contained herein shall be construed or interpreted as restriction on the right of the Concessionaire to appoint any Contractor for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project / Project Facility.
- d. The Concessionaire shall allow access to the Project Site/ Project Facility to the officials of MFPI, the JMC, Independent Engineer and such other personnel as permitted by Applicable Law.

ARTICLE 2A

MFPI GRANT

A grant of Rs. crores (Rupees) as quoted by the Concessionaire, as the lowest MFPI Grant, as Bidder at the RfQ cum RfP Stage

(**Quoted MFPI Grant**) shall be made available to the Concessionaire subject to the condition that it meets the MFPI Guidelines for release of the grant. JMC does not guarantee the MFPI Grant disbursement, however, all required assistance shall be extended to the Concessionaire for the Quoted MFPI Grant approval and disbursement at every stage it is due as per the MFPI Guidelines. Subject to expressly provided herein, rest of the Project Cost shall be arranged by the Concessionaire from its own resources or through Bank Finance to complete the Project in the time period as provided in this Agreement. The Quoted MFPI Grant will be disbursed through the Project Account as jointly opened by the Concessionaire and the JMC in stages as provided in **Schedule "J"** to this Agreement. Concessionaire shall complete the construction of the Project within the time specified herein from its own sources of funds in case of any delay in disbursement(s) of the MFPI Grant.

ARTICLE 3

ANNUITY & PERFORMANCE SECURITY

3.1 Annuity

- a. In consideration of the rights, privileges and interests granted by JMC to the Concessionaire in terms of this Agreement, the Concessionaire shall pay to JMC an annual amount of Rs. 72,00,000/- (Rupees Seventy Two Lacs only) (**Annuity**) in advance, to be enhanced by an inflation adjustment factor of 10% after every three years, starting from the Commencement Date and until the expiry/termination of the Concession Period. JMC shall notify in writing the Commencement Date in advance to the Concessionaire.
- b. The Annuity shall be payable by the Concessionaire to JMC in advance every year through demand draft drawn in favour of Jhansi Municipal Corporation, Jhansi, payable at Jhansi, Uttar Pradesh. The first Annuity shall be due and payable from the Commencement Date and accordingly, the Concessionaire shall deposit the Annuity 7 (seven) days prior to the same date every year.

In the event of delay up to four weeks in payment of Annuity by the Concessionaire, the Concessionaire shall be required to pay to JMC interest at the rate of SBI medium term Prime Lending Rate plus 4% per annum. In the case of delay beyond such four weeks, it shall be treated as a Concessionaire Event of Default.

3.2 Adjustment of the Annuity

- a. The Annuity shall not be adjusted for changes in the cost of labour, materials or other matters. The Annuity/ Concession Period shall only be adjusted as expressly and explicitly stated in the Articles to this Concession Agreement, and there shall be no other implied adjustments for any other reasons whatsoever.
- b. Subject to Article 5.3, the Concessionaire shall pay all applicable Taxes, fees, duties, levies, as per the Applicable Laws.
- c. Any reference to payment or cost payable by JMC to the Concessionaire under this Concession Agreement, except with respect to Termination Payments, shall be treated as a reference to adjustment of the Concession Period only.

3.3 Performance Security

3.3.1 The Concessionaire shall maintain at all times during the Concession Period Performance Security of an amount equal to 1.25 times the value of the Annuity as may be annually due to JMC by the Concessionaire during the Concession Period.

3.3.2 The Performance Security shall be procured from a Scheduled Bank or a financial institution approved by JMC.

3.3.3 Upon the occurrence of a Concessionaire Event of Default, JMC shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate relevant amounts from the Performance Security as damages after issuing Encashment Notice in accordance with the provisions of Article 16. The Concessionaire shall within 30 (thirty) days of the Encashment Notice replenish the Performance Security, in case of partial appropriation, to its original level and in case of appropriation of entire Performance Security shall provide a fresh Performance Security, failing which JMC shall be entitled to terminate this Agreement in accordance with the provisions of Article 16. The provisions set forth in this Article 3.3.3 shall apply mutatis mutandis to such fresh Performance Security

3.3.4 The Performance Security shall remain in full force and effect for a period of six months beyond the date of the expiry of the Concession Period. It shall be duly discharged and released to the Concessionaire after the period of six months from the date of the expiry of Concession Period and upon transfer of the Project facilities to JMC.

ARTICLE 4

SLAUGHTERING FEE

4.1 Levy, Collection and appropriation of Slaughtering Fee

- a. Subject to the provisions of this Agreement, the Concessionaire shall during Operations Period be entitled to levy, demand and collect Slaughter Charges in accordance with the Slaughter Charges as may be fixed by it in consultation with JMC.
- b. JMC undertakes to issue the Slaughtering Fee Notification as per **Schedule 'F'** within 180 days before the Scheduled Project Completion Date.
- c. The Concessionaire shall not levy and collect any Slaughter Charges until it has received Completion Certificate or the Provisional Certificate in the format as prescribed in **Schedule "H"** hereto.
- d. The Concessionaire shall conspicuously display the Slaughter Charges at the Project Site.
- e. The Concessionaire shall collect the Slaughtering Fee on per Animal basis for each Animal slaughtered in the first shift from the operations of the Modern Slaughterhouse and deposit the same to the JMC on a weekly basis through the JMC Notified Person.
- f. Subject to the provisions of this Agreement and Applicable Laws, the Concessionaire shall during the Operations Period be entitled to sell the meat and other products including their value added/processed products obtained by slaughtering of Animals in the second shift using the Project Facility in local markets in Jhansi or other domestic and international market, be it in wholesale or retail, as per applicable industry practices.
- g. Subject to the provisions of this Agreement and Applicable Laws, the Concessionaire shall during the Operations Period be entitled to sell by-products, raw waste products and processed waste products obtained by slaughtering of Animals.

4.2 Revision of Fee

In the event of any extension in Concession Period in accordance with provisions of this Agreement, JMC may issue revised Slaughtering Fee Notification(s) keeping into consideration the WPI.

ARTICLE 5

OBLIGATIONS AND UNDERTAKINGS

In addition to and not in derogation or substitution of any of the obligations set out elsewhere in this Agreement, the Parties agree and undertake as under :

5.1 General Obligations of the Concessionaire

The Concessionaire shall at its own cost and expense :

(i) investigate, study, design, finance, construct, operate and maintain the Project Assets/Project Facility in accordance with the provisions of this Agreement, Good Industry Practice and Applicable Laws;

(ii) obtain all Applicable Permits in conformity with the Applicable Laws and be in compliance with thereof at all times during the Concession Period;

(iii) 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;

(iv) ensure and procure that each Project Agreement contains provisions that would entitle JMC or a nominee of JMC to step into such agreement at JMC's discretion, in place and in substitution of the Concessionaire in the event of Termination pursuant to the provisions of this Agreement;

(v) provide all assistance to the Independent Engineer as may reasonably be required for the performance of its duties and services under this Agreement;

(vi) provide to the Project Monitoring Committee reports on a regular basis during the Implementation Period and the Operations Period in accordance with the provisions of this Agreement;

(vii) appoint, supervise, monitor and control the activities of Contractors under their respective Project Agreements as may be necessary;

(viii) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of the Concessionaire's obligations under this Agreement;

(ix) develop, implement and administer a surveillance and safety program for the Project/Project Facility and the users thereof and the Contractors' personnel engaged in the provision of any services under any of the Project Agreements including correction of safety violations and deficiencies, and taking of all other actions necessary to provide a safe and hygienic environment in accordance with Applicable Laws and Good Industry Practice;

(x) not to place or create nor to permit any Contractor or other person claiming through or under the Concessionaire to create or place any Encumbrance over all or any part of the Project Assets, or on any rights of the Concessionaire therein, save and except as expressly set forth in this Agreement;

(xi) observe and fulfill the environmental and other requirements under the Applicable Laws and Applicable Permits at all time during the Concession Period;

(xii) be responsible for safety, soundness and durability of the Project Facility including all structures forming part thereof and their compliance with the Project Requisites;

(xii) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;

(xiv) make payment to Municipal Department or any Government Agency that is authorized to levy the same, for provision of such services as are not provided in the normal course or are available only on payment;

(xv) operate and maintain the Project at all times during the Operations Period in conformity with this Agreement including but not limited to the Project Requisites, the Maintenance Programme and Good Industry Practice;

(xvi) remove promptly according to Good Industry Practice, from the Project Site, all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials and waste water), rubbish and other debris and keep the Project Site in a neat, clean and hygienic condition and in conformity with the Applicable Laws and Applicable Permits.

(xvii) open jointly with the JMC the Project Account to receive the proceeds of Quoted MFPI Grant as and when disbursed by the concerned authority as per the terms of this Agreement. Project Account shall be exclusively dedicated to the Project whereby all the receipts and expenditures related to the Project shall be governed i.e. paid and received through this account only and through no other account.

(xviii) to timely apply for and deposit with MFPI and/or the GoUP relevant documents and information as may be required in accordance with "Schedule J" and "Schedule K" respectively to become entitled to receive the Quoted MFPI Grant.

(xix) fulfill the Conditions Precedent; In the event that any of the Conditions Precedent has not been fulfilled within 45 (forty five) days of the signing of this Agreement or any extension thereof and also, JMC has not waived them fully or partially, this Agreement shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Agreement, except the right of the JMC to forfeit the Performance Security for causing delay in the Project implementation by the Concessionaire, and JMC shall not be liable in any manner whatsoever to the Concessionaire or persons claiming through or under it.

5.2 Obligations of the Concessionaire during Implementation Period

(a) The Concessionaire shall, before commencement of construction of the Project;

(i) submit to the Independent Engineer alongwith Project Completion Schedule and Scheduled Project Completion Date, its design, engineering and construction time schedule and shall formulate and provide Critical Path Method (CPM)/ Project Evaluation and Review Technique (PERT) charts for the completion of the said activities;

(ii) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project and to deal with the Independent Engineer/the Project Monitoring Committee and to be responsible for all necessary exchange of information required pursuant to this Agreement;

(iii) undertake, do and perform all such acts, deeds and things as may be necessary or required to adhere to the Project Completion Schedule and to achieve Project Completion under and in accordance with this Agreement;

(iv) provide and maintain an adequately equipped field laboratory as required for the Project Site to have a control on the quality of materials and the Construction Works.

(b) The Concessionaire shall, at all times, afford access to the Project Site, to the Project Monitoring Committee, the authorized representatives of JMC, the Independent Engineer and officer of any Government Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

(c) The Concessionaire shall:

(i) apply for and obtain all necessary clearances and/or approvals for the construction of Modern Slaughterhouse from all the concerned Governmental Agencies including the Airport Authority of India (AAI);

(ii) shall apply for and obtain all necessary approvals of the detailed designs and all construction drawings for the construction of Modern Slaughterhouse from the concerned Governmental Authorities;

(iii) make payments, if any, to the concerned Governmental Authority for (a) approval of designs, (b) provision of connected/ancillary utilities, (c) safety features, (d) supervision of construction and (e) maintenance during the Concession Period;

(d) The Concessionaire shall be responsible for ensuring that any existing utility of public use on, under or above the Project Site is kept in continuous satisfactory use, if necessary, by the use of suitable temporary or permanent diversions.

(e) The Concessionaire shall obtain at its cost such facilities on or outside the Project Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

(f) While undertaking the Project, the Concessionaire shall be responsible for the following:

- i. All relevant and concerned norms, directions, instructions and Legislations issued from time to time by the GoUP, JMC, MFPI or Gol or by a competent authority or authorized agency/department, shall have to followed by the Concessionaire in designing, construction, installation and operation of the Project.
- ii. The Concessionaire shall procure all the requisite statutory permissions/approvals for the Project from Gol, GoUP, State Electricity Board, State/Central Pollution Control Board, Airport Authority of India (AAI) or any other institutes/organization

- departments as may be applicable, with requisite fees to be furnished by the Concessionaire without any financial implication of the same on JMC.
- iii. All Taxes and duties applicable shall be payable by the Concessionaire at all the time during the establishment, maintenance and operation of the Project until the same is transferred back to the JMC as per the terms of this Agreement.
 - iv. The Concessionaire may be able to mortgage the land of the Project for the arrangement of funds only for the purpose of the Project after getting specific permission in writing from JMC.
 - v. The Concessionaire will submit progress report of the proposed development work of the Project and coordinate with the agency appointed by JMC.
 - vi. The Concessionaire shall obtain all the necessary permissions from the relevant authorities before starting the work and/or as and when required and will submit a copy of the same with the JMC.
 - vii. The Concessionaire will be responsible for payments of electricity bills, water charges, direct & indirect taxes and duties as imposed by the concerned authorities for the entire Concession Period.
 - viii. The Concessionaire will be responsible for day to day running expense of the Project and proper repair and maintenance of its plant and machinery.
 - ix. The Concessionaire will hand over the Project to the JMC after completion of the Concession Period in reasonable working and running condition.
 - x. All the employees and staff employed by the Concessionaire will be the sole responsibility of the Concessionaire. JMC will not be responsible for any employment or related obligation of the said Project, whether statutory or contractual.
 - xi. The Concessionaire shall comply with directives/provisions of all the rules, regulations, laws and bylaws enforced by local body, State Govt., Central Govt. including any modification/amendment thereof and shall comply with the standards and norms of Central and State Pollution Control Board and guidelines issued by the competent Courts of law.
 - xii. The Concessionaire shall ensure adherence to execution of works based on approved quality and take adequate precaution in observing safety of personnel and property.
 - xiii. The Concessionaire shall make necessary arrangements with the reputed manufactures/suppliers for procurement and installation of required successful erection, testing and commissioning of the Project followed by treatment and disposal of solid and liquid wastes and operation/ maintenance of the Project during the Concession Period as per State Pollution Control Board and Central Pollution Control Board rules.
 - xiv. All required safety measures shall be provided and followed by the Concessionaire in conformity with the prevailing law. The

Concessionaire shall all time during the Concession Period, comply fully with all existing Acts, regulations and bye-laws, including all statutory amendments and re-enactments of State Govt. or Corporation and other local authorities and any other enactment, notification and acts, that may be passed in future, either by the State Govt. or JMC or by statutes including Indian Workman's Compensation Act, Contract Labour (Regulation and Abolition) Act, and Equal Remuneration Act, Industrial Disputes Act, Uttar Pradesh Contract Labour Regulation and Abolition Rules, Factories Act, Minimum Wages Act, Provident Fund Regulation, Employees Provident Fund Act and scheme made under the same Act, health and sanitary arrangements for workmen, insurance and other benefits and shall keep JMC indemnified in case any action is commenced for contravention by the Concessionaire.

- (g) The Concessionaire shall make timely and due payment of the Slaughtering Fee and Annuity Fee as per the terms of this Agreement at all time during the Concession period.
- (h) The Concessionaire shall maintain the Performance Security as per the terms of this Concession Agreement.
- (i) The Concessionaire shall timely make good the shortfall in the Performance Security as and when due.
- (j) The Concessionaire shall from time to time and to avail the disbursement of the MFPI Grant provide to JMC with all the requisite certificates, affidavits, documents, drawings, purchase order invoices, expenditure details etc as stipulated in the MFPI Guidelines in order to enable JMC to timely submit the same with MFPI, after verifying the same at its own end, to claim the disbursal of the grant as per the milestones as stipulated in **Schedule "J"**. Any delay by the Concessionaire in this regard shall be to the account of the Concessionaire.

5.3 Obligations of JMC.

JMC shall:

- (a) hand over the physical possession of Project Site together with necessary right of way/ way leaves to the Concessionaire on the Commencement Date, free from any Encumbrance subject to Concessionaire fulfilling the Conditions Precedent;
- (b) grant in a timely manner all such approvals, permissions and authorizations which the Concessionaire may require or is obliged to seek from JMC in connection

with implementation of the Project and the performance of the Concessionaire's obligations under this Agreement;

(c) subscribe to the Substitution Agreement within 15 days of intimation by the Concessionaire regarding Financial Close;

(d) ensure peaceful use of the Project Site by the Concessionaire under and in accordance with the provisions of this Agreement without any let or hindrance from JMC or persons claiming through or under it;

(e) procure that no obstacles/barriers are erected or placed by JMC or any Governmental Agency on the Project Facility/Project Site, except on account of any law and order situation or upon national security considerations;

(f) provide all assistance to the Concessionaire in opening the Project Account jointly with the Concessionaire;

(g) issue Slaughtering Fee Notification in accordance with Article 4.1 (b).

ARTICLE 6

INDEPENDENT ENGINEER

6.1 Appointment of Independent Engineer

- a. The Concessionaire shall within 30 days from the date hereof submit to JMC a panel consisting of atleast three reputed firms or companies or body corporate or a combination thereof, having necessary expertise as may be prescribed by JMC for the appointment of the Independent Engineer, to undertake, perform, carry out the duties, responsibilities, services and activities as set forth in this Agreement.
- b. JMC shall within 15 days from the date of receipt of such panel, appoint the Independent Engineer from out of such panel, and communicate the same to the Concessionaire.
- c. The Independent Engineer shall submit to the Project Monitoring Committee reports at least once every month or more frequently as the situation may warrant on the progress of implementation of the Project.

- d. Concessionaire shall pay the fee of the Independent Engineer in a timely manner as and when the bills are raised on it by the Independent Engineer and shall keep JMC indemnified from any claim of fee by the Independent Engineer at all times during the Concession Period.
- e. If either Party disputes any advice, instruction or decision of the Independent Engineer, the same shall be resolved in accordance with the Dispute Resolution Procedure.

6.2 Termination and Fresh Appointment

If JMC or the Concessionaire has reasons to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, JMC may terminate the appointment of the Independent Engineer and appoint another Independent Engineer in accordance with the preceding sub - articles (a) and (b) of Article 6.1 above.

ARTICLE 7

PROJECT MONITORING COMMITTEE (PMC)

7.1 Constitution

JMC shall through an office order, constitute a Project Monitoring Committee comprising of representatives each of the JMC, and the Concessionaire, within 30 days of this Agreement. Such PMC shall formulate a chart of its duties under the terms of this Agreement in consultation with JMC and the Concessionaire within a period of 15 days from the date of its appointment. Each of the Party herein shall be responsible for the fee and/or expenses of its representatives in the PMC.

7.2 Functions

The Project Monitoring Committee shall hold meetings at least once every three months to review the progress during the Implementation Period and every six months during the Operations Period. The Project Monitoring Committee shall carry

out such functions and exercise such powers as are prescribed/conferred under this Agreement.

ARTICLE 8

DRAWINGS

8.1 Preparation of Drawings.

The Concessionaire shall, at its own costs, charges and expenses, cause Drawings to be prepared in accordance with the Project Requisites. The Concessionaire may, for this purpose, adopt with or without any modifications the Drawings, if any, made available by JMC, provided, notwithstanding such adoption, the Concessionaire shall be solely responsible for the adequacy of the Drawings.

8.2 Review and Approval of Drawings.

- a. The Concessionaire shall promptly and in such sequence as is consistent with the Project Completion Schedule, submit a copy each of all Drawings to the Independent Engineer and the Project Monitoring Committee.
- b. By forwarding the Drawings to the Independent Engineer and the Project Monitoring Committee pursuant to sub-article (a) above, the Concessionaire represents that it shall determine and verify that the design and engineering including field construction criteria related thereto are in conformity with the Project Requisites.
- c. Within 15 (fifteen) days of the receipt of the Drawings, Independent Engineer shall review the same taking into account, inter alia, comments of the Project Monitoring Committee, if any, on such Drawings made available to the Independent Engineer, and convey its comments/observations, if any, thereon to the Concessionaire with particular reference to the conformity or otherwise with the Project Requisites. It is expressly agreed that notwithstanding any review or failure to review by the Independent Engineer or the Project Monitoring Committee or any comments/observations of the Independent Engineer/ Project Monitoring Committee, JMC shall not be liable for any inadequacy of the Drawings and that the Concessionaire shall solely be responsible therefor and shall not be

relieved or absolved in any manner whatsoever of its obligations, duties and liabilities as set forth in this Agreement.

- d. If the comments/observations of Independent Engineer indicate that the Drawings are not in conformity with the Project Requisites, such Drawings shall be revised by the Concessionaire to the extent necessary and resubmitted to Independent Engineer for further review. Independent Engineer shall give its observations and comments, if any, within 15 (fifteen) days of the receipt of such revised Drawings. Provided, however, that any observations or comments of Independent Engineer or failure of Independent Engineer to give any observations or comments on such revised Drawings shall not relieve or absolve the Concessionaire of its obligation to conform to such Project Requisites.
- e. If the Independent Engineer does not object to the Drawings submitted to it by the Concessionaire within a period stipulated in above sub-article (c) or (d) as applicable, the Concessionaire shall be entitled to proceed with the Project accordingly.
- f. The Concessionaire shall be responsible for delays in Project Completion and consequences thereof caused by reason of any Drawings not being in conformity with the Project Requisites and shall not be entitled to seek any relief in this regard from JMC.
- g. Within 60 (sixty) days of the COD, the Concessionaire shall furnish to JMC three copies of "as built" Drawings duly vetted by the Independent Engineer reflecting the Project as actually designed, engineered and constructed, including without limitation an "as built" survey illustrating the layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facility.

ARTICLE 9

PROJECT IMPLEMENTATION AND OPERATIONS

9.1 Monitoring and Supervision during Implementation

- a. During the Implementation Period, the Concessionaire shall furnish to the Project Monitoring Committee quarterly reports on actual progress of the Construction Works and furnish any other relevant information as may reasonably be required by the Project Monitoring Committee.
- b. For the purposes of determining that Construction Works are being undertaken in accordance with Project Requisites and Good Industry Practice and for quality assurance, the Concessionaire shall carry out such Tests at such time and frequency and in such manner as may be required by the Independent Engineer or as may be necessary in accordance with Good Industry Practice. The Concessionaire shall with due diligence carry out all such Tests in accordance with the instructions and under the supervision of the Independent Engineer. The Concessionaire shall promptly carry out such remedial measures as may be necessary to cure the defects or deficiencies, if any, indicated in such Test results. The Independent Engineer shall furnish the results of such Tests to the Project Monitoring Committee within seven days thereof and also promptly report to the Project Monitoring Committee the remedial measures taken by the Concessionaire to cure the defects/deficiencies if any indicated in the Test results.
- c. If the Independent Engineer reasonably determines that the rate of progress of the construction of the Project is such that the Project Completion is not feasible on or before the Scheduled Project Completion Date, it shall so notify the Concessionaire and the Project Monitoring Committee. Thereupon, the Concessionaire shall within 15 (fifteen) days thereof notify the Project Monitoring Committee and the Independent Engineer about the steps it proposes to take to expedite progress and the period within which it shall achieve COD.
- d. Upon recommendation of the Independent Engineer, Project Monitoring Committee may, by written notice, require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if in the reasonable opinion of the Project Monitoring Committee such work is being carried on in a manner which threatens the safety of the Construction Works or the users of the Project.
- e. The Concessionaire shall upon, instructions of the Project Monitoring Committee pursuant to sub-article (d) above suspend the Construction Works or any part thereof as the case may be, for such

time and in such manner as may be specified by Project Monitoring Committee and the costs if any incurred by JMC during such suspension to properly protect and secure the Construction Works or such part thereof as is necessary in the opinion of the Project Monitoring Committee ("**Preservation Costs**"), shall be borne by the Concessionaire.

- f. If the Project Monitoring Committee issues any instructions requiring suspension of Construction Works for any reason other than default or breach of this Agreement by the Concessionaire –
 - i. the Project Completion Schedule and the Scheduled Project Completion Date shall be extended by the period of suspension, and
 - ii. the Concession Period shall be extended in accordance with the recommendations of the Independent Engineer.

9.2 Project Completion

- a. The Project shall be deemed to be complete and functional only when the Completion Certificate or the Provisional Certificate is issued by the PMC in accordance with the provisions of Article 9.3 (the "**Project Completion**").
- b. The Concessionaire guarantees that the Project Completion shall be achieved in accordance with the provisions of this Agreement on or before the COD ("the **Scheduled Project Completion Date**").
- c. If the Project Completion is not achieved by the Scheduled Project Completion Date for any reason other than Force Majeure or reasons attributable to JMC, the Concessionaire shall be liable to pay liquidated damages for delay beyond the Scheduled Project Completion Date, to the extent of Rs. 5,000 per day for every day of delay. Provided that such liquidated damages do not exceed in aggregate 5% of the Total Project Cost failing which JMC shall subject to the provisions of this Agreement relating to excuse from performance of the Concessionaire's obligations hereunder, be entitled to Terminate this Agreement in accordance with the provisions of Article 16.2. Provided further that nothing contained in this sub-article (c) shall be deemed or construed to authorize any delay in achieving Project Completion.

9.3 Tests

- a. At least 30 (thirty) days prior to the likely completion of the Project, the Concessionaire shall notify the Independent Engineer and the Project Monitoring Committee of the same and shall give notice to them of its intent to conduct Tests. The Concessionaire shall give the Independent Engineer and the Project Monitoring Committee at least 10 (ten) days prior notice of the actual date on which it intends to commence the Tests and at least 7 (seven) days prior notice of the commencement date of any subsequent Tests.
- b. All Tests shall be conducted in accordance with the Applicable Laws and Applicable Permits. The Project Monitoring Committee shall have the right to suspend or postpone any Test if it is reasonably anticipated or determined during the course of the Test that the performance of the Project or any part thereof does not meet the Project Requisites. The Project Monitoring Committee may designate a representative with suitable qualifications and experience to witness and observe the Tests.
- c. The Independent Engineer shall monitor the results of the Tests to determine the compliance of the Project with the Project Requisites and shall provide to the Project Monitoring Committee copies of all Test data including detailed Test results.
- d. Upon the Independent Engineer determining the Tests to be successful, PMC shall forthwith issue to the Concessionaire a certificate substantially in the form set forth in **Schedule 'H'** (the "**Completion Certificate** ").
- e. The PMC may at the request of the Concessionaire issue a provisional certificate of completion ("**Provisional Certificate**") if the Tests are successful and all parts of Project can be legally, safely and reliably opened for commercial operation though certain works or things forming part thereof are not yet complete. In such an event, Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire ("**Punch List**"). All Punch List items shall be completed by the Concessionaire within 120 (One Hundred Twenty) days of the date of issue of such Provisional Certificate. Upon completion of all Punch List items to the satisfaction of the Independent Engineer, PMC shall issue the Completion Certificate to the Concessionaire. In the

event of the Concessionaire's failure to complete the Punch List items within the said period of 120 days, JMC may, without prejudice to any other rights or remedy available to it under this Agreement, have such items completed at the risk and costs of the Concessionaire. The Concessionaire shall reimburse to JMC on demand the entire costs incurred by JMC in completing the Punch List items within a period of Seven (7) days from the estimate of such costs being furnished to the Concessionaire by the JMC. In case of failure by the Concessionaire to reimburse this amount, JMC shall be within its rights to curtail the Concession Period proportionate to the amount liable to be paid by the Concessionaire.

- f. If the PMC certifies that it is unable to issue the Completion Certificate or Provisional Certificate because of events or circumstances which excuse the performance of the Concessionaire's obligations in accordance with this Agreement and as a consequence thereof the Tests could not be held or had to be suspended, the Concessionaire shall re-schedule the Tests and hold the same as soon as reasonably practicable.
- g. The Concessionaire shall bear all the expenses relating to Tests under this Agreement.

9.4 Operation and Maintenance

The Concessionaire shall operate and maintain the Project/Project Facility by itself, or through a Contractor and if required, modify, repair or otherwise make improvements to the Project/ Project Facility to comply with Project Requisites, and other requirements set forth in this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits and manufacturer's guidelines and instructions with respect to Modern Slaughterhouse. More specifically, the Concessionaire shall be responsible for :

- (i) ensuring smooth and uninterrupted slaughtering of Animals during normal operating conditions;
- (ii) charging and collecting the Slaughtering Charges and depositing with JMC Notified Person the Slaughtering Fee in accordance with the Slaughtering Fee Notification and this Agreement on a weekly basis; Non deposition of the Slaughtering Fee continuously for a period of one month, except for reasons attributable to Force Majeure Event shall result into Concessionaire Event of Default under the terms of this Agreement. JMC shall in this regard notify the authorized

person to collect the Slaughtering Fee (**JMC Notified Person**), from the Concessionaire;

(iii) minimizing disruption to slaughtering activity in the event of failure of any part of the Project Facility or other incidents affecting the safety and use of the Project/Project Facility by providing a rapid and effective response and for this purpose maintaining liaison with emergency services;

(iv) undertaking routine maintenance of the Modern Slaughterhouse and/or any part thereof including prompt repairs of potholes, cracks, concrete joints, drains, lighting and power back ups, maintenance of vehicles for transport of Animals (both live and slaughtered) ;

(v) undertaking maintenance works in accordance with Maintenance Manual and the Maintenance Programme;

(vi) preventing with the assistance of concerned law enforcement agencies where necessary, any unauthorized use of the Project Facility;

(vii) preventing with the assistance of the concerned law enforcement agencies where necessary, any encroachments on the Project/Project Site and preserving the right of way of the Project;

(viii) adherence to the safety standards as applicable for the Project.

9.5 Maintenance Manual

The Concessionaire shall in consultation with the Project Monitoring Committee evolve not later than 120 (one hundred twenty) days before the Scheduled Project Completion Date, a manual for the regular and preventive maintenance (the "**Maintenance Manual**"), and shall ensure and procure that at all times during the Operations Period, the Project is maintained in a manner that complies with the Project Requisites. The Concessionaire shall supply, at least two months before the COD, 10 (ten) copies of the Maintenance Manual to the Project Monitoring Committee.

9.6 Maintenance Programme

(a) Not later than forty five (45) days before the beginning of each Accounting Year, the Concessionaire shall provide to the Independent Engineer, its proposed programme of preventive and other scheduled maintenance of the Project at all

times in conformity with the Project Requisites(the "**Maintenance Programme**"). Such Maintenance Programme shall include but not be limited to the following:

- (i) intervals and procedures for the carrying out of inspection of all elements of the Project;
 - (ii) criteria to be adopted for deciding maintenance needs;
 - (iii) preventive maintenance schedule;
 - (iv) intervals at which the Concessionaire shall carry out periodic maintenance; and
 - (v) intervals for major maintenance and the scope thereof.
- (b) Maintenance shall include replacement of equipment and consumables, and also horticultural maintenance and repairs to equipment, pavements, buildings, structures and other civil works which are part of the Project/Project Facility.
- (c) The Concessionaire shall keep the Project Facility in a clean, tidy and orderly condition free of litter, waste material (whether solid or liquid) and debris.
- (d) The Concessionaire shall be responsible for the maintenance of the internal approach roads to the various buildings and/or structures of the Modern Slaughterhouse within the Project Site in accordance with Good Industry Practice.

9.7 Machine Breakdown and Accident

- a. In the case of unsafe conditions, machine breakdowns and accidents, the Concessionaire shall follow the relevant operating procedures. Such procedures shall be in accordance with Applicable Laws, Applicable Permits and the provisions of this Agreement.
- b. The Concessionaire shall ensure that any defect or disorder in the Project Facility is remedied without delay.

9.8 Emergency De-commissioning

- a. If, in the reasonable opinion of the Concessionaire there exists an Emergency which warrants decommissioning and closure of whole or any part of the Project/Project Facility, the Concessionaire shall be entitled to de-commission and close the whole or the relevant part of the Project for so long as such Emergency and the consequences thereof warrant. Provided, however, that such decommissioning will be notified to the Independent Engineer promptly. The Independent Engineer may issue such directions as it may deem appropriate to the

Concessionaire for dealing with such an Emergency and the Concessionaire shall abide by the same.

- b. The Concessionaire shall re-commission the Project/Project Facility or the affected part thereof as quickly as practicable after the Emergency leading to its de-commissioning and closure has ceased to exist.
- c. The Concessionaire shall not close any part of the Project/Project Facility for undertaking maintenance or repair works except with the prior written approval of the Independent Engineer. Such approval shall be sought by the Concessionaire through a written request to be made at least 7 (seven) days before the proposed closure of part and shall be accompanied by particulars indicating the nature and extent of repair works and the arrangements made for safe slaughtering of the Animals, the section required to be closed and the period of closure. The Concessionaire shall also furnish particulars indicating the minimum time required for completing such repair works. Within 5 (five) days of receiving such request, the Independent Engineer shall grant permission with such modifications as he may deem necessary. Upon receiving such permission, the Concessionaire shall be entitled to close the part in accordance with such permission and re-open it within the period stipulated in such permission.
- d. Save and except as otherwise expressly provided in this Agreement, if the Project or any part thereof shall suffer any loss or damage during the Concession Period, from any cause whatsoever, the Concessionaire shall, at its own cost and expense rectify and remedy such loss or damage in a manner so as to make the Project conform in every respect to the Project Requisites, quality and performance as prescribed by this Agreement and/or under the Applicable Law and the Applicable Permits.
- e. In the event the Concessionaire does not maintain and/ or repair the Project or part thereof upto and in accordance with the Project Requisites and / or in accordance with the Maintenance Programme or the Maintenance Manual or the O&M Inspection Report, as the case may be, and shall have failed to commence remedial works within (30) thirty days of notice in this behalf from the Independent Engineer, JMC shall, without prejudice to its rights/remedies under this Agreement, including Termination, be entitled to undertake to cause the repair and maintenance of the Project at the risk and cost of the Concessionaire. The Concessionaire shall, reimburse to JMC within

seven days of demand the costs and expenses incurred for undertaking such repairs and maintenance.

- f. If the Concessionaire commences any works for curing any defects or deficiencies in the Project, it shall complete such works expeditiously in accordance with Good Industry Practice.
- g. The Concessionaire shall not be considered in breach of its obligations under this Agreement if any part of the Project Facility is not available for slaughtering activity on account of any of the following for the duration thereof:
 - (i) Force Majeure Event;
 - (ii) measures taken to ensure the safe use of the Project except when unsafe conditions of the Project Facility occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or
 - (iii) compliance with a request from JMC/PMC or the directions of any Government Agency the effect of which is to close all or any part of the Project.

Notwithstanding the above, the Concessionaire shall keep all unaffected parts of the Project open for slaughtering and use provided they can be safely operated and kept open for slaughtering.

9.9 Monitoring and Supervision during Operations

- a. The Concessionaire shall undertake periodic inspection of the Project in accordance with the Maintenance Manual, the Maintenance Programme, Project Requisites and this Agreement and shall submit reports of such inspection ("**Maintenance Reports**") to the Project Monitoring Committee and the Independent Engineer.
- b. The Independent Engineer shall undertake periodic (at least once every calendar quarter) inspection of the Project jointly with the Concessionaire to determine the condition of the Project including its compliance in general or otherwise with the Maintenance Manual, the Maintenance Programme, Project Requisites and this Agreement

and make out a report of such inspection (the "**O&M Inspection Report**") and forward it to the Concessionaire with a copy thereof to the Project Monitoring Committee. The O&M Inspection Report shall set forth defects and deficiencies, if any, and may also require the Concessionaire to undertake such tests as may be specified by the Independent Engineer for the purpose of determining that the Project is at all times in conformity with the Project Requisites. The Concessionaire shall within 30 (thirty) days of the receipt of the O&M Inspection Report from the Independent Engineer remedy the defects and deficiencies and undertake such tests, if any, set forth therein, without any delay and furnish compliance thereto and/or results thereof to the Independent Engineer along with a report (**O&M Inspection Compliance Report**) with a copy to the Project Monitoring Committee specifying in reasonable detail the measures, if any, that have been undertaken for curing the defects or deficiencies indicated in such results. Such inspection or submission of O&M Inspection Compliance Report by the Concessionaire shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever. Where the remedying of such defects or deficiencies and/or undertaking such tests is likely to take more than 30 (thirty) days in accordance with Good Industry Practice, the Concessionaire shall undertake the works in accordance with such practice and submit progress reports of such works every fortnight and finally the O&M Inspection Compliance Report.

ARTICLE 10

FINANCING ARRANGEMENT

10.1 Financing Arrangement

- a. The Concessionaire shall at its cost, expenses and risk make such financing arrangement as would be necessary to finance the Project and to meet its obligations under this Agreement in a timely manner.
- b. In the event of the Concessionaire employing the funds borrowed from the Lenders to finance the Project, the provisions relating to Lenders including those relating to Financial Close and Substitution Agreement shall apply.

- c. The Concessionaire shall within 7 days of achieving Financial Close submit to JMC one set of Financing Documents evidencing Financial Close.

10.2 Amendments to Financing Documents

For the avoidance of doubt the Parties agree that no amendment made to the Financing Documents without express consent of JMC shall have the effect of enlarging in any manner, the obligation of JMC under this Agreement.

ARTICLE 11

SUPERVISION

11.1 Supervision

All works under or in the course of execution/ or executed in pursuance of this Agreement shall at all times be open to the inspection and supervision by the authorized representatives of JMC/PMC. The Concessionaire shall at all the times during the usual working hours and at all other times at which reasonable notice of the intention of the representatives of PMC and/or JMC to visit the work shall have been given to the Concessionaire, have a responsible agent/representative present at the Project site for that purpose.

ARTICLE 12

INSURANCES

12.1 Insurance during the Implementation Period

The Concessionaire shall, at its cost and expense, purchase and maintain during the Implementation Period such insurances as are necessary, including but not limited to the following:

- (a) builders' all risk insurance;
- (b) comprehensive third party liability insurance including injury or death to personnel of Persons who may enter the Project Site;

- (c) workmen's compensation insurance;
- (d) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets (against loss, damage or destruction at replacement value) including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (d) above.

12.2 Insurance during the Operations Period

The Concessionaire shall, at its cost and expense, purchase and maintain during the Operations Period insurance to cover against:

- (a) loss, damage or destruction of the Project Facility, at replacement value;
- (b) the Concessionaire's general liability arising out of the Concession;
- (c) liability to third parties; and
- (d) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable and not otherwise covered in items (a) to (c) above.

12.3 Insurance Companies

The Concessionaire shall insure all insurable assets comprised in the Project Assets and/or the Project Facility through Indian insurance companies and if so permitted by applicable law as well as JMC, through foreign insurance companies, to the extent that insurances are necessary to be effected through them.

12.4 Evidence of Insurance Cover

The Concessionaire shall, from time to time, provide to JMC copies of all insurance policies (or appropriate endorsements, certifications or other satisfactory evidence of insurance) obtained by the Concessionaire in accordance with this Agreement.

12.5 Application of Insurance Proceeds

Subject to the provisions of the Financing Documents, all moneys received under insurance policies shall be promptly applied by the Concessionaire towards repair or renovation or restoration or substitution of the Project Facility or any part thereof

which may have been damaged or destroyed. The Concessionaire may designate the Lenders as the loss payees under the insurance policies/assign the insurance policies in their favour as security for the financial assistance. The Concessionaire shall carry out such repair or renovation or restoration or substitution to the extent possible in such manner that the Project Facility or any part thereof, shall, after such repair or renovation or restoration or substitution be as far as possible in the same condition as they were before such damage or destruction, normal wear and tear excepted.

12.6 Validity of the Insurance Cover

The Concessionaire shall pay the premium payable on such insurance policy(ies) so as to keep the policy(ies) in force and valid throughout the Concession Period and furnish copies of the same to JMC. Each insurance policy shall provide that the same shall not be cancelled or terminated unless 10 Days' clear notice of cancellation is provided to JMC in writing. If at any time the Concessionaire fails to purchase and maintain in full force and effect any and all of the insurances required under this Agreement, JMC may at its option purchase and maintain such insurance and all sums incurred by the JMC therefor shall be reimbursed by the Concessionaire forthwith on demand, failing which the same shall be recovered by the JMC by exercising right of set off against the Concession Period or otherwise.

ARTICLE 13

CHANGE OF SCOPE

13.1 Change of Scope

JMC may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition/deletion to the works and services on or about the Project which are beyond the scope of the Project as contemplated by this Agreement ("**Change of Scope**"), provided such changes do not require expenditure exceeding 5% of the Total Project Cost and do not adversely affect the Scheduled Project Completion Date. All such changes shall be made by JMC by an order (the "**Change of Scope Order**") issued in accordance with the procedure set forth in Article 13.2.

13.2 Procedure for Change of Scope

- a. JMC shall whenever it desires provision of addition/deletion of works and services referred to in Article 13.1 above, issue to the Concessionaire a notice of Change of Scope (the "**Change of Scope Notice**") through the Independent Engineer.
- b. Upon receipt of Change of Scope Notice, the Concessionaire shall, within a period of 15 (fifteen) days, provide to the Independent Engineer such information as is necessary and reasonable together with preliminary documentation in support of the following:
 - i. the impact which the Change of Scope is likely to have on the Project Completion Schedule if the work is required to be carried out before COD, and
 - ii. the cost to the Concessionaire of complying with such Change of Scope Notice
- c. Independent Engineer shall review the information provided by the Concessionaire, determine the additional cost to the Concessionaire as a result of such Change of Scope, and determine the extension, if any, to the Concession Period. The Independent Engineer shall communicate its recommendation to the Project Monitoring Committee within a period of 15 (fifteen) days from the receipt of information from the Concessionaire. The PMC shall further communicate its approval for such Change of Scope with any amendments, as may be necessary, to JMC within a period of 15 (fifteen) days from the receipt of the recommendation of the Independent Engineer.
- d. JMC shall issue the Change of Scope Order within a period of 15 (fifteen) days from the date of communication of approval by the PMC in accordance with preceding sub-article (c) above.
- e. The Change of Scope Order shall be effective and binding upon receipt thereof by the Concessionaire. Notwithstanding a Dispute regarding cost and time for implementation of such order, the Concessionaire shall proceed with the performance of such order promptly following receipt thereof. Any Dispute regarding the extension in the Concession Period recommended by the Independent Engineer shall be resolved in accordance with the Dispute Resolution Procedure.
- f. All claims made by the Concessionaire pursuant to this Article 13.2 shall be supported by such documentation as is reasonably sufficient

for Independent Engineer to determine the accuracy thereof, including invoices from Contractors and certification of such claims by the Statutory Auditors.

ARTICLE 14

MEDICAL CERTIFICATION

14.1 Medical Certification of the Animals

- a. The JMC shall be entitled to have at least two veterinary doctors attached to the Modern Slaughterhouse in order to have the Animals examined before being slaughtered. Such veterinary doctors shall examine medically each Animal being slaughtered and keep a record of the Animals being slaughtered on a daily basis. The Concessionaire shall appoint such further veterinary doctors as may be required under the Applicable Law considering the number of Animals being slaughtered.
- b. The Concessionaire shall follow the advice of such doctors in case the doctors find that any Animal is not medically fit for the purpose of slaughtering and exclude such Animal from the slaughtering lot of the Animals. Only those Animals for which a medical certificate provides "no objection" to slaughtering shall be slaughtered by the Concessionaire. Any breach of this clause shall be treated as a Material Breach of this Agreement.
- c. The monthly fee of the veterinary doctors shall be informed by the JMC to the Concessionaire at the time of their appointments and the same shall be paid by the Concessionaire on or before 7th of every month. Non payment of the same for a continuous period of three months shall result into a Material Breach of the terms of this Agreement by the Concessionaire giving the JMC the right to take appropriate action against the Concessionaire to recover the amount either by right of set off against the Concession Period by giving at least 15 days advance notice in writing or by invoking the Performance Security to that extent.

ARTICLE 15

FORCE MAJEURE

15.1 Force Majeure Event

As used in this Agreement, a Force Majeure Event shall mean occurrence in India of any or all of events as defined below which prevent the Party claiming Force Majeure (the "**Affected Party**") from performing its obligations under this Agreement and which act or event (i) is beyond the reasonable control and not arising out of the fault of the Affected Party, (ii) the Affected Party has been unable to overcome such act or event by the exercise of due diligence and reasonable efforts, skill and care, and (iii) has a Material Adverse Effect on the Project.

15.2 Force Majeure Events

For the purposes of Article 15.1 hereinabove, Force Majeure Event shall mean one or more of the following acts or events:

(i) acts of God or events beyond the reasonable control of the Affected Party which could not reasonably have been expected to occur, exceptionally adverse weather conditions, lightning, earthquake, cyclone, flood, volcanic eruption or fire (to the extent originating from a source external to the Project Site or beyond design specifications for the Construction Works) or landslide;

(ii) radioactive contamination or ionizing radiation;

(iii) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period exceeding 30 (thirty) days in an Accounting Year:

(iv) any judgment or order of any court of competent jurisdiction or statutory authority in India made against the Concessionaire in any proceedings for reasons other than failure of the Concessionaire to comply with any Applicable Law or Applicable Permits or on account of breach thereof, or of any contract, or enforcement of this Agreement or exercise of any of its rights under this Agreement by JMC;

(v) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion, or politically motivated sabotage which prevents collection of

Slaughter Charges by the Concessionaire for a period exceeding a continuous period of 30 (Thirty) days in an Accounting Year;

(vi) Industry wide or state wide or country wide strikes or industrial action which prevents collection of Slaughter Charges by the Concessionaire for a period exceeding a continuous period of 30 (Thirty) days in an Accounting Year; or

(vii) Change in Law, only when provisions of Article 17 cannot be applied;

(viii) Expropriation or compulsory acquisition by any Government Agency of any Project Assets or rights of the Concessionaire or of the Contractors; or

(ix) Any unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause any consent or approval required by the Concessionaire or any of the Contractors to perform their respective obligations under the Project Agreements (other than a consent the obtaining of which is condition precedent) provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contactor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such consents or permits.

(x) any event or circumstances of a nature analogous to any of the foregoing.

15.3 Effect of Force Majeure Event

Upon occurrence of any Force Majeure Event, the following shall apply:

(a) There shall be no Termination of this Agreement except as provided in Article 15.5 hereinafter;

(b) Where the Force Majeure Event occurs before COD, the dates set forth in the Project Completion Schedule, and the Concession Period shall be extended by the period for which such Force Majeure Event shall subsist;

(c) Where a Force Majeure Event occurs after COD, the Concessionaire shall continue to make all reasonable efforts to operate the Project and/or to collect Slaughter Charges, but if it is unable or prevented from doing so, the Concession Period shall, having due regard to the extent of the impact thereof as determined by the Project Monitoring Committee, be extended by the period for which collection of Slaughtering Charges remains affected on account thereof.

15.4 Allocation of costs during subsistence of Force Majeure

During a Force Majeure Event, the Parties shall bear their respective costs and neither Party shall be required to pay to the other Party any costs arising out of any such Force Majeure Event.

15.5 Termination

If a Force Majeure Event continues or in the reasonable judgment of the Parties is likely to continue beyond a period 180 days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall, after the expiry of the said period of 180 days, be entitled to terminate this Agreement by issuing Termination Notice.

15.6 Dispute Resolution

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

15.7 Liability for other losses, damages etc.

Save and except as expressly provided in this Article 15, 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 or exercise of any right pursuant to this Article 15.

15.8 Duty to Report

The Affected Party shall discharge the following obligations in relation to reporting the occurrence of a Force Majeure Event to the other Party:

(a) The Affected Party shall not claim any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party in writing of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event within 7

(seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence and the probable material affect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

(b) Any notice pursuant to this Article 15.8 shall include full particulars of:

(i) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 15 with evidence in support thereof;

(ii) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

(iii) the measures which the Affected Party is taking, or proposes to take, to alleviate the impact of such Force Majeure Event; and

(iv) any other information relevant to the Affected Party's claim.

(c) For so long as the Affected Party continues to claim to be affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) written reports containing information as required by this Article 15.8 and such other information as the other Party may reasonably request the Affected Party to provide.

15.9 Excuse from performance of obligations

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

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party written notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 16

EVENTS OF DEFAULT AND TERMINATION

16.1 Concessionaire Event of Default

Any of the following events shall constitute an event of default by the Concessionaire ("**Concessionaire Event of Default**") unless such event has occurred as a result of Force Majeure Event;

- (1) The Concessionaire fails to commence the Construction Works within 30 days from the Commencement Date.
- (2) The Concessionaire fails to achieve COD within 180 days from the Scheduled Project Completion Date.
- (3) Any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading.
- (4) The Concessionaire creates any Encumbrance on the Project Site/ Project Facility in favour of any Person save and except as otherwise expressly permitted under Article 21.1.
- (5) The aggregate shareholding of the members of the Consortium falls below the minimum prescribed under Article 20.
- (6) The transfer, pursuant to law of either (a) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or (b) all or material part of the Concessionaire except where such transfer in the reasonable opinion of JMC does not affect the ability of the Concessionaire to perform, and the Concessionaire has the financial and technical capability to perform, its material obligations under the Project Agreements.
- (7) A resolution is passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire.
- (8) Any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction, provided that, as part of such amalgamation or reconstruction, the property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the

obligations of the Concessionaire under this Agreement and the Project Agreements, and provided that:

(i) the amalgamated or reconstructed entity has the technical capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

(ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at Commencement Date; and

(iii) each of the Project Agreements remains in full force and effect.

(9) 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.

(10) The Concessionaire suspends or abandons the operations of the Project without the prior written consent of JMC, provided that the Concessionaire shall be deemed not to have suspended/ abandoned operation if such suspension/ abandonment was (i) as a result of Force Majeure Event and is only for the period such Force Majeure is continuing, or (ii) is on account of a breach of its obligations under this Agreement by JMC.

(11) The Concessionaire repudiates this Agreement or otherwise evidences an intention not to be bound by this Agreement.

(12) The Concessionaire suffers an attachment being levied on any of its assets causing a Material Adverse Affect on the Project and such attachment continues for a period exceeding 45 days.

(13) The Concessionaire fails to pay Slaughtering Fee or the Annuity, as applicable, as per the terms of this Agreement.

(14) The Concessionaire has delayed any payment that has fallen due under this Agreement and if such delay exceeds 90 (ninety) days.

(15) The Concessionaire fails to procure and maintain the Performance Security as per the terms of this Agreement.

(16) The Concessionaire is otherwise in Material Breach of this Agreement.

16.2 Termination due to Concessionaire Event of Default

(1) Without prejudice to any other right or remedy which JMC may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, JMC shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire, provided that before issuing the Termination Notice, JMC shall by a notice in writing inform the Concessionaire of its intention to issue the Termination Notice (the "**Preliminary Notice**"). In case the underlying breach/default is not cured within a period of 60 (sixty) days from the date of the Preliminary Notice (**Cure Period**) JMC shall be entitled, to terminate this Agreement by issuing the Termination Notice. Provided further, that

(a) if the default is not cured within 30 (thirty) days of the Preliminary Notice, JMC shall be entitled to encash the Performance Security with a notice to the Concessionaire (**Encashment Notice**),

(b) if the default is not cured within 30 (thirty) days of the Encashment Notice and a fresh Performance Security is not furnished within the same period in accordance with Article 3.3, JMC shall subject to the provisions of the Substitution Agreement be entitled to issue the Termination Notice.

(2) The following shall apply in respect of cure of any of the defaults and/or breaches of this Agreement :

(i) The Cure Period provided in this Agreement shall not relieve the Concessionaire from liability for damages caused by its breach or default;

(ii) The Cure Period shall not in any way be extended by any period of suspension under this Agreement;

(iii) If the cure of any breach by the Concessionaire requires any reasonable action by Concessionaire that must be approved by JMC or the Government Agency hereunder; the applicable Cure Period shall be extended by the period taken by JMC or the Government Agency to accord the required approval.

16.3 Rights of JMC on Termination pursuant to Concessionaire Event of Default

a. Upon Termination by the JMC as described above, the Concessionaire hereby acknowledges that no termination payment shall be due or payable by the JMC. In addition to this, the JMC shall forfeit the entire amount of the Performance Security. Concessionaire acknowledges that within 10 days of termination, the Concessionaire shall vacate the Project Site. Concessionaire acknowledges that once the Agreement is terminated, the land allocated shall be returned back to JMC. In such case, the

license in respect of the Project Site will stand cancelled ipso facto and Project Site is returned to JMC automatically. The entire construction made by the Concessionaire till that date on the Project Site as part of the scope of work shall get transferred to the JMC at nill (zero) cost.

b. In addition to above, upon Termination of this Agreement pursuant to above, JMC shall have the power and authority to

(i) take possession and control of Project Assets forthwith;

(ii) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Project Assets/dealing with or any part thereof;

(iii) step in and succeed upon election by JMC without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as JMC may in its discretion deem appropriate with effect from the date of communication of such election to the counter party to the relative Project Agreements. Provided, any sums claimed by such counter party as being due and owing for work and services performed or accruing on account of any act, omission or event prior to such date of election shall and shall always constitute debt between the Concessionaire and such counter party and JMC shall in no way or manner be liable or responsible for such sums. The Concessionaire shall ensure that the Project Agreements contain provisions necessary to give effect to the provision of this Article 16.3.

c. Upon Termination of this Agreement it shall be the responsibility of the Concessionaire to:-

(i) Hand over the Project Site, Works and Facility to JMC in accordance to Article 18.

(ii) Provide all relevant data, design and drawings, records and information access to all reasonable requests from JMC in connection with taking over the Project Site/ Project Facility.

(iii) Cease all further Works, except for such essential Works as may be necessary and as instructed by JMC, for the purpose of making safe, protecting or continuing operations on the Project.

(iv) Hand over all the Construction Documents, Plant and Machinery and Materials to JMC.

(v) Remove all Concessionaire's equipments, which is on the Project Site, and repatriate all its staff and labour from the Project Site, except for such essential equipment, staff and labour as may be necessary and as instructed by JMC, for the purpose of making safe, protecting or continuing operations of the Project, and

(vi) Co-operate with JMC and the Substitute Entity nominated by the Lenders and comply with all reasonable requests thereof, including the execution of any documents and other actions, provided JMC bears any reasonable costs incurred by the Concessionaire relating thereto.

16.4 JMC Event of Default

Each of the following events or circumstances, to the extent not caused by a default of the Concessionaire or Force Majeure, and if not cured within the Cure Period, which shall be 60 (sixty) days (unless provided otherwise in this Concession Agreement), from the date of notice of default (the "**Default Notice**") from the Concessionaire, shall be considered for the purpose of this Agreement as events of default of JMC ("**JMC Event of Default**"):

- a. Any defect in the title, ownership and possession of the JMC with respect to the Project Site;
- b. GoUP or any Competent Authority have by an act of commission or omission created circumstance that has a Material Adverse Effect on the Concessionaire, and JMC has failed to compensate the Concessionaire for the same through an adjustment to the Concession Period.
- c. JMC is in breach of its obligations under this Concession Agreement, which has a Material Adverse Effect upon the Concessionaire or the Project and this breach is not cured within a cure period of 90 days from the date of Default Notice.
- d. JMC is in breach of any representation or warranty made under this Agreement, or it repudiates this Concession Agreement.

16.5 Termination due to JMC Event of Default

(1) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of a JMC Event of Default, Concessionaire shall be entitled to terminate this Agreement by issuing a

Termination Notice to JMC provided that before issuing the Termination Notice, Concessionaire shall by a notice in writing inform JMC of its intention to issue the Termination Notice (the "**Preliminary Notice**"). In case the underlying breach/default is not cured within a period of 60 (sixty) days from the date of the Preliminary Notice (**Cure Period**) Concessionaire shall be entitled, to terminate this Agreement by issuing the Termination Notice.

16.6 Rights of Concessionaire on Termination pursuant to JMC Event of Default

a. Upon Termination of this Agreement by the Concessionaire on account of the JMC Event of Default, the Concessionaire shall be entitled to receive from JMC by the way of Termination Payment a sum equal to the lowest of the following (i) or (ii):

- i. 100% of Book Value of Project Assets based on historic investment (net of depreciation) created by the Concessionaire exclusively from its own resources less Intangible Assets. It is specially clarified here that the cost of Project Assets would not include the cost of original Project Facility which was provided to the Concessionaire and the cost of the Project Assets/equipments /and other immovable and moveable property that has been purchased/procured /created on the Project Site using the MFPI Grant released to the Concessionaire as on the date of termination of the Agreement on account of JMC Event of Default.
- ii. 100% of debt due less pending insurance claims

In addition to this, the Performance Security shall be released by JMC.

b. All payments due to the Concessionaire as calculated under Article 16.6a shall be made within 30 (thirty) days of termination of the Concession Agreement.

16.7 Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to 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. All rights and obligations of either Party under this Agreement, shall survive the Termination of this Agreement to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 17

CHANGE IN LAW

17.1 Change in Law

If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net revenues or other financial burden, the Concessionaire may notify the same to JMC and propose amendments to this Agreement so as to put the Concessionaire in the same financial position as it would have occupied had there been no such Change in Law resulting in such cost increase, reduction in return or other financial burden as aforesaid.

17.2 Extension of Concession Period

The Project Monitoring Committee shall upon being notified by the Concessionaire of the Change in Law and the proposed amendments to this Agreement, assess the change in the financial position as a result of such Change of Law and determine the extension to the Concession Period so as to put the Concessionaire in the same financial position as it would have occupied had there been no such Change in Law and recommend the same to JMC. JMC shall, within 30 days of receipt of such recommendation, extend the Concession Period by such period as has been recommended by the Project Monitoring Committee.

ARTICLE 18

HANDOVER AND DEFECT LIABILITY PERIOD

18.1 Handing Over of the Project Assets

Upon the expiry of the Concession by efflux of time and in the normal course, the Concessionaire shall at the end of the Concession Period, hand over peaceful possession of the Project Assets including Project Site/Facility at nil cost and free from all Encumbrances to JMC.

18.2 Joint Inspection and Removal of Deficiency

The handing over process shall be initiated at least 12 months before the actual date of expiry of the Concession Period by a joint inspection of the Independent Engineer and the Concessionaire. The Independent Engineer shall, within 15 days of such inspection prepare and furnish to the Concessionaire a list of works/jobs/additions/alterations, if any, to be carried out to bring the Project to the prescribed level of service condition at least two months prior to the date of expiry of the Concession Period. In case the Concessionaire fails to carry out the above works, within the stipulated time period the JMC shall be at liberty to have these works executed by any other Person at the risk and cost of the Concessionaire and any cost incurred by JMC in this regard shall be reimbursed by the Concessionaire to JMC within 15 days of receipt of demand. For this purpose, JMC shall, without prejudice to any other right/remedy available to it, under this Agreement, have the right to appropriate the Performance Security to the extent required/ available and to recover deficit amount, if any, from the Concessionaire.

ARTICLE 19

DISPUTE RESOLUTION

19.1 Amicable Resolution

(a) Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this Agreement including non completion of the Project between the Parties and so notified in writing by either Party to the other (the "**Dispute**") in the first instance shall be attempted to be resolved amicably by the JMC and the Chairman of the Board of Directors of the Concessionaire. Either Party may refer the Dispute to the appointed authorities herein. Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 (fifteen) days of such meeting between the two, either Party may refer the Dispute to the Project Monitoring Committee.

(b) Upon such reference, the PMC shall discuss and attempt to amicably resolve the Dispute within 15 days of such reference. If the Dispute is not amicably settled within such time period, either Party may refer the Dispute to arbitration in accordance with the provisions of Article 19.2 below.

19.2 Arbitration

a) Arbitrators

Any Dispute which is not resolved amicably as provided in Article 19.1 above shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. A Party requiring arbitration shall appoint an arbitrator in writing, and inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If the other Party fails to appoint its arbitrator, the Party appointing arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996 or re-enactment of the same being valid at that point of time.

b) Place of Arbitration

The place of arbitration shall be Jhansi, Uttar Pradesh.

c) English Language

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

d) Procedure

The procedure to be followed within the arbitration, including appointment of arbitrator / arbitral tribunal, the rules of evidence which are to apply shall be in accordance with the Arbitration and Conciliation Act, 1996 or any other subsequent enactment of such Act.

e) Enforcement of Award

Any decision or award resulting from arbitration shall be final and binding upon the Parties. The Parties hereto hereby waive, to the extent permitted by law, any rights to appeal or to review of such award by any court or tribunal. The Parties hereto agree that the arbitral award may be enforced against the Parties to the arbitration proceeding or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof.

f) Fees and Expenses

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and paid by respective Parties subject to determination by the arbitrators. The arbitrators may provide in the arbitral award for the reimbursement to the prevailing party of its costs and expenses in bringing or defending the arbitration claim, including legal fees and expenses incurred by Party.

g) Performance during Arbitration

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

ARTICLE 20

REPRESENTATIONS AND WARRANTIES, DISCLAIMER

20.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to JMC that:

- (i) it is duly organized, validly existing and in good standing under the laws of India;
- (ii) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (iii) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- (iv) it has the financial standing and capacity to undertake the Project;
- (v) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (vi) it is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;

(vii) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any member of the Consortium or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(viii) there are no actions, suits, proceedings, or investigations pending or, to the Concessionaire's knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Concessionaire under this Agreement or which individually or in the aggregate may result in any Material Adverse Effect;

(ix) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in any Material Adverse Effect or impairment of the Concessionaire's ability to perform its obligations and duties under this Agreement;

(x) it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other Civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;

(xi) *(Where the Selected Bidder was a single entity)* it shall ensure that no divestment/transfer of the Interest or any part thereof, as held by the Selected Bidder in the Concessionaire, shall take place for a period of two (2) years from the Commercial Operation Date of the Project (i.e. **Lock In Period**) and that it shall not recognize any such transfer of its Interest or any part thereof which is in contravention with the provision herein.

OR

(Where the Selected Bidder was a Consortium) it shall ensure that no divestment/transfer of the Interest or any part thereof, as held by Members in the Concessionaire, shall take place for a period of two (2) years from the Commercial Operation Date of the Project (i.e. **Lock In Period**) and that it shall not recognize any such transfer of its Interest or any part thereof which is in contravention with the provision herein.

(xii) *(Where the Selected Bidder was a single entity)* it shall allow any divestment/transfer of the Interest or any part thereof by the Selected Bidder after the Lock In Period subject to its maintaining a minimum Interest of 51% at all time during the remaining Concession Period and that it shall not recognize any such

transfer of the Interest or any part thereof which is in contravention with the provision herein.

OR

(Where the Selected Bidder was a Consortium) it shall allow any divestment/transfer of the Interest or any part thereof by the Consortium Members after the Lock In Period subject to the condition that:

- i. the Lead Member as per the RfQ cum RfP dated continues to be the Lead Member of the Consortium and shall maintain at least 51% equity holding in the Consortium at all time during the remaining Concession Period;
- ii. the Member satisfying Technical qualification as per the RfQ cum RfP dated continues to be the same and shall continue to maintain at least 26% equity holding in the Concessionaire at all time during the remaining Concession Period.
- iii. Where the Technical Member is the also the Lead Member it shall hold a minimum of 51% shares in the shareholding of the Concessionaire at all time during the remaining Concession Period.
- iv. The networth criteria is fulfilled and maintained

and that it shall not recognize any such transfer of the Interest or any part thereof which is in contravention with the provision herein.

(xiii) that each of the Consortium Members shall, for a period of 2 (two) years from the Commercial Operation Date of the Project, hold Interest in the Concessionaire of not less than 5% (five per cent) of the Total Project Cost and that it shall not recognize any such transfer of the Interest or any part thereof which is in contravention with the provision herein.

(xiii) After the Lock-In Period and subject to other restrictions relating to minimum involvement period in the Project, the Consortium Members may sell their respective shareholding in the Concessionaire to any other investor interested in the Project subject to its offering the other shareholder(s) in the Consortium the right of first refusal. In case the other existing shareholders refuse to exercise their right, the Consortium Member may sell its shares to any other financially sound person whose net worth is not less than that of the selling shareholder subject to execution of a Deed of Adherence in the format as annexed hereto as **Schedule "I"** by such transferee.

(xiv) Concessionaire is duly organized and existing under the laws of the jurisdiction of its incorporation and has full power and authority to consent to and has validly consented to and requested JMC to enter into this Agreement with the

Concessionaire and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

(xv) upon the Termination of the Agreement herein, all rights and interests of the Concessionaire in and to the Project Assets shall pass to and vest in JMC on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or JMC;

(xvi) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to JMC or to any Government Agency in relation to Applicable Permits contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and

(xvii) no sums, in cash or kind, have been paid or will be paid, by or on behalf of the Concessionaire, to any person by way of fees, commission or otherwise for securing the Concession or entering into of this Agreement or for influencing or attempting to influence any officer or employee of JMC in connection therewith.

20.2 Disclaimer

(a) Without prejudice to any express provision contained in this Agreement, the Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Project Requisites, Project Site and all the information provided by JMC, and has determined to the Concessionaire's satisfaction the nature and extent of such difficulties, risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

(b) The Concessionaire further acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in (a) above and hereby confirms that JMC shall not be liable for the same in any manner whatsoever to the Concessionaire.

20.3 Representations and Warranties of JMC

JMC represents and warrants to the Concessionaire that:

(i) JMC has full power and authority to grant the Concession herein;

(ii) JMC has taken all necessary action to authorize the execution, delivery and performance of this Agreement;

(iii) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

ARTICLE 21

MISCELLANEOUS

21.1 Assignment and Charges

(a) Subject to sub-articles (b) and (c) herein below, this Agreement shall not be assigned by the Concessionaire save and except with prior consent in writing of JMC, which consent JMC shall be entitled to decline without assigning any reason whatsoever.

(b) Subject to sub-article (c) herein below, the Concessionaire shall not create nor permit to subsist any Encumbrance over or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which Concessionaire is a party except with prior consent in writing of JMC, which consent JMC shall be entitled to decline without assigning any reason whatsoever.

(c) Restraint set forth in sub-articles (a) and (b) above shall not apply to:

(i) liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;

(ii) mortgages/pledges/hypothecation of goods/assets other than Project Site, as security for indebtedness, in favour of the Lenders for the Project;

(iii) assignment of Concessionaire's rights, title and interest under this Agreement to or in favour of the Lenders pursuant to and in accordance with the Substitution Agreement as security for their financial assistance.

(d) Upon occurrence of the Concessionaire Event of Default the Lenders shall have the right of substitution as provided in the Substitution Agreement.

21.2 Liability And Indemnity

(a) General Indemnity

(i) The Concessionaire shall indemnify, defend and hold JMC harmless against any and all proceedings, actions and, third party claims arising out of a breach by Concessionaire of any of its obligations under this Agreement.

(ii) JMC will, indemnify, defend and hold harmless the Concessionaire against any and all proceedings, actions, third party claims for loss, damage and expense of whatever kind and nature arising out of defect in title of Project Site and/or the rights of JMC and/or arising out of a breach by JMC, its officers, servants and agents of any obligations of JMC under this Agreement except to the extent that any such claim has arisen due to Concessionaire Event of Default.

(b) Without limiting the generality of this Article 21.2 the Concessionaire shall fully indemnify, save harmless and defend JMC including its officers servants, agents and subsidiaries from and against any and all losses and damages arising out of or with respect to (a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits, (b) payments of taxes relating to the Concessionaire's Contractors, suppliers and representatives income or other taxes required to be paid by the Concessionaire without reimbursement hereunder, or (c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its Contractors which are payable by the Concessionaire or any of its Contractors.

(c) Without limiting the generality of the provisions of this Article 21.2, the Concessionaire shall fully indemnify, save harmless and defend the JMC from and against any and all damages which the JMC may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit, claim or proceedings, the Project, or any part, thereof or comprised therein is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for JMC a license, at no cost to JMC, authorizing continued use of the infringed work. If the Concessionaire is unable to secure such license within a reasonable time, the Concessionaire shall, at its own expense and without impairing the Project Requisites either replace the affected work, or part, or process thereof with non-infringing work or parts or process, or modify the same so that it becomes non-infringing.

(d) In the event that either Party receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 21.2 (the '**Indemnified Party**') it shall notify the other Party ("**Indemnifying Party**") within 14 (fourteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim it may conduct the proceedings in the name of the Indemnified Party subject to the Indemnified Party being secured against any costs involved to its reasonable satisfaction.

(e) Defense of Claims

(i) The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder and their reasonable costs and expenses shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the person indemnified in respect of loss to the full extent provided by this Article 21.2, the Indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding liabilities, payments and obligations at its expense and through counsel of its choice provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defense. The Indemnifying Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnified Party unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure, the loss to be indemnified hereunder to the extent so compromised or settled.

(ii) If the Indemnifying Party has exercised its rights under Article 21.2(d) above, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the indemnifying Party (which consent shall not be unreasonably withheld or delayed).

(iii) If the Indemnifying Party exercises its rights under Article 21.2(d) above, then the Indemnified Party shall nevertheless have the right to employ its own counsel and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party, as and when incurred, unless:

- (1) the employment of counsel by such party has been authorized in writing by the Indemnifying Party; or
- (2) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defense of such action; or
- (3) the indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the Indemnified Party to assume the defense of such action and shall have been so notified by the Indemnified Party; or
- (4) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either
 - (a) that there may be specific defenses available to it which are different from or additional to those available to the Indemnifying Party; or
 - (b) that such claim, action, suit or proceeding involves or could have a material adverse effect upon it beyond the scope of this Agreement, provided that if sub-articles (2), (3) or (4) of Article 21.2(e)(ii) shall be applicable, counsel for the Indemnified Party shall have the right to direct the defense of such claim, action, suit or proceeding on behalf of the Indemnified Party and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

21.3 Governing Law and Jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and the competent Courts at Uttar Pradesh, India shall have jurisdiction over all matters arising out of or relating to this Agreement.

21.4 Waiver

- (a) Waiver by either Party of any default by the other Party in the observance and performance of any provision of or obligations or under this Agreement:
 - (i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement:
 - (ii) shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
 - (iii) shall not affect the validity or enforceability of this Agreement in any manner.

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

21.5 Survival

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

21.6 Amendments

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

21.7 Notices

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

If to JMC

Fax No. -----

If to the Concessionaire

The Managing Director,

----- Limited,

-----.

Fax No. -----

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by recognized international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

21.8 Severability

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

21.10 No Partnership

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

21.11 Language

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

21.12 Exclusion of Implied Warranties etc.

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

21.13 Counterparts

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

21.14 Transfer of the Project

(a) On the Transfer Date, the Concessionaire shall transfer and assign to JMC or its nominated agency, as the case may be, free and clear of any charges, liens and Encumbrances created or suffered by the Concessionaire after the Commencement Date of all the Concessionaire's right, title and interest in and to the Project, Project Assets and Project Facilities thereto including the Project Site. The Concessionaire shall also deliver to JMC or its nominated agency on such date such operating manuals, plans, design drawings, reports, accounts and other information as may reasonably be required by JMC or its nominated agency to enable it to continue the operation of the Modern Slaughterhouse either directly or by its nominated agency. The personnel of the Concessionaire shall continue to be the employees of the

Concessionaire and the transfer of the Project with all its assets shall not in any manner affect their status as employees of the Concessionaire and they shall have no claim to any type of employment or compensation from JMC or its nominated agency.

(b) The Concessionaire shall to the extent possible assign to JMC or its nominated agency at the time of transfer all unexpired guarantees and warranties by the Contractors and suppliers and all insurance policies. The Concessionaire shall ensure that any rights, which are to be so assigned, are capable of assignment and the counterpart to the Concessionaire has approved such assignment under the terms and conditions of the relevant contract.

(c) The Concessionaire shall, to the extent possible at the time of transfer, assign to JMC or its nominated agency all contracts, equipment contracts, supply contracts and all other contracts relating to the Project entered into by the Concessionaire and subsisting at the time of transfer except any contracts with employees.

(d) The transfer of the Project and its assets shall be treated as a transfer on a going concern basis. With the transfer of immovable property comprising the Project it shall be deemed to be a termination of all sub-license agreement/arrangements in relation to the Project Site and the title to all such immovable property shall automatically revert to JMC or its nominated agency. The movable property comprising Project Assets shall be deemed to be transferred to JMC or its nominated agency by constructive delivery and possession.

(e) At the time of transfer, the Project shall be in such condition as is reasonable under all the circumstances taking into account their age, the design, materials used and maintenance carried out.

(f) The handing over process before the Transfer Date shall be as per the provisions of Article 18.2.

(g) Until the Transfer Date, all risks shall lie with the Concessionaire for loss of or damage to the whole or any part of the Project, unless such loss or damage is due to an act or omission of JMC in contravention of its obligations under this Concession Agreement.

(h) The Concessionaire shall provide fair and just compensation to its employees as required under the Applicable Laws or under this Concession Agreement, and shall indemnify JMC against any claims from any such employees for their loss of office, redundancy, loss of employment or otherwise. JMC shall accept absolutely no liability on account of any matter pertaining to the Concessionaire's employees, staff, labour etc.

(i) On the Transfer Date, all the sub-license agreements/arrangements shall be terminated. The Concessionaire shall hand over the Project Site and Project Assets including Project Facilities to JMC or its nominated agency at zero cost and the Concessionaire, its Contractors, agents, employees and sub licensees shall vacate the Project Site and Project Assets.

(j) From the Transfer Date, the obligations and the rights of the Concessionaire under this Concession Agreement shall terminate vis-à-vis JMC and JMC or its nominated agency shall take over the Project any other rights or obligations arising out of this Concession Agreement which either expressly or implicitly survive termination of this Concession Agreement; the Concessionaire shall no longer act in its capacity as Concessionaire in relation or pursuant to this Concession Agreement.

(k) On completion of the transfer by the Concessionaire to JMC of all rights, titles and interests in the Project and Project Site, JMC shall issue a '**Concession Agreement Completion Certificate**' to the Concessionaire. The Concession Agreement Completion Certificate will have the effect of constituting evidence of transfer of all rights, titles and interests in the Project and Project Site by the Concessionaire and their vesting in JMC hereto.

21.15 Concession Agreement Completion Certificate

21.15.1 Subject to Concessionaire's obligations under Article 21.14, within 90 (ninety) days of the end of the Concession Period, JMC shall issue the "Concession Agreement Completion Certificate", which concludes the Concessionaire's liability under this Concession Agreement. This certificate shall be issued after the Concessionaire submits to JMC, a request for issue of such certificate. The form shall be as approved by JMC, and shall include a detailed condition survey of the Project.

21.15.2 The Performance Security furnished by the Concessionaire shall be released only after the issuance of the Concession Agreement Completion Certificate.

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

SIGNED SEALED AND DELIVERED

For and on behalf of

The JMC/ Authority by:

_____ (Signature)

_____ (Name)

_____ (Designation)

SIGNED SEALED AND DELIVERED

For and on behalf of

Concessionaire by:

_____ (Signature)

_____ (Name)

_____ (Designation)

In the presence of

1. _____ (Signature)

_____ (Name)

_____ (Designation)

2. _____ (Signature)

_____ (Name)

_____ (Designation)

SCHEDULES

Schedule 'A'

A. Project Requisites

MULTI-SPECIES MODERN SLAUGHTERHOUSE/ABATTOIR OF JHANSI MUNICIPAL CORPORATION, JHANSI, U.P

- a. **Project Site:** At Village Karari, District Jhansi, Uttar Pradesh. A land measuring 5.76 Hectares has been identified and acquired for this purpose. The site is about 6 kms from Jhansi City on the Jhansi-Gwalior Highway. The site has a Kachha approach road of about 300 meters from the Highway.
- b. **Components of the Project:** (i) Backward linkage and Livestock reception yard (ii) Lairage building block (iii) Slaughter lines for each of the sheeps/goats and buffalo (iv) Effluent Treatment Plant (ETP) (v) Dry Rendering Plant (vi) Forward linkage with Meat transport facility under cold chain system (vii) Meat Processing & Packaging Plant.
- c. **Slaughter Capacity :**
 - i. Buffalo –150 animals on an 8 hours shift basis, i.e. 300 animals per day.
 - ii. Sheep /Goat (Halal &Jhatka) -100 animals on an 8 hours shift basis, i.e. 200 animals per day.
- d. **Plant and Machinery:** Indigenous plant, machinery and equipment will be preferred in the Project failing which the same may be imported for the successful implementation and running of the Project.
- e. **Effluent Treatment Plant:** Proposed on the ground floor with the minimum capacity of 340 KLD (kilo liters per day)
- f. **Blood Segregation Plant:** Plant for segregation of blood and blood plasma
- g. **Meat Processing Plant:** There shall be a meat processing plant where the meat shall be processed for preparation of value added products.
- h. **Water storage tank :** Proposed with a minimum capacity of 50 KL
- i. **Rendering cum Carcass Utilization Plant:** For disposal of cadavers (dead animals) and meat waste of minimum of 30 tons per day.
- j. **Common Utilities:** Cold water supply, pump and piping, integrated water treatment plant, compressed dry air system, hot water generator, biogas plant, electric substation, DG sets, fire fighting equipments and adequate placement of firefighting system, refrigerated vehicles for transport of meat, cold room, chiller, laboratories for each of the Modern Slaughterhouse, Rendering Plant

and ETP to focus on results of anti and post mortem inspections, quality control parameters of slaughter halls, chilling plant and dispatch area and for certification of carcasses/meat/offal and rejects etc.

- k. **Estimated cost as per Detailed Project Report (DPR) :** Rs.25.54 crores
- l. **Project implementation period :** 24 months
- m. **Use of Byproducts :** The Successful Bidder shall be entitled to make use of entire byproducts of the Rendering-cum-Carcass utilization Plant for its own profit

B. Scope of Work

The scope of work of the Selected Bidder will broadly include the following:

- i. Construction of modern slaughterhouse with the capacity of slaughtering upto 300 buffaloes and upto 200 goat / sheep per day on turn key basis in two shifts of 8 hours each. The first/morning shift shall be dedicated exclusively to public use and second shift shall be for the self use of the Selected Bidder;
- ii. Construction of Effluent Treatment Plant of 340 KLD minimum capacity and Rendering-cum-Carcass Utilization plant of minimum 30 tons capacity per day. The rendering plant shall incorporate dry rendering process (DRP) in order to minimize the discharge of contaminating waste materials in the environment;
- iii. Installation of Plant and Machinery as per the requirements given under DPR and shall be as per suggested specifications of JMC;
- iv. Installation of civil, mechanical and electrical items;
- v. Electrical and plumbing works including water distribution lines and sanitary works, LT & HT cables, DG sets and all other ancillary accessories;
- vi. Installation of cold and hot water supply system and electrical supply system of the required load, etc.;
- vii. Commissioning the Project plant;
- viii. Operation and maintenance of the Project plant as per the specified terms and conditions thereof under the Concession Agreement and handing it back to the JMC at the end of the Concession Period with no encumbrance thereon

Schedule 'B'**Project Site Details**

Land having an area of 5.76 Hectare at Village Karari, District Jhansi, Uttar Pradesh has been earmarked for the Project. The site is about 6 kms from Jhansi City on the Jhansi- Gwalior Highway. The site has a Kachha approach road of about 300 meters from the Highway. The Project land is spread over parcels of 7 nos. land parcels having distinguished Gata numbers. The Gata details of the lands are as below:

S. No.	Gata No.	Area (in Hectares)
1	1268	0.554
2	1269	0.417
3	1270	0.506
4	1271	1.569
5	1272	0.053
6	1273	0.384
7	1274	2.277
	TOTAL:	5.76

Schedule 'C'

Project Facility/Components of the Project

The Project Facilities shall include:

Slaughter Lines

1. Halal Slaughter line of goat/sheep
2. Slaughter line for buffalo

Both the lines will be provided with the facilities mentioned below:

1. Reception area for animals
2. Veterinary doctor's Chamber
3. Isolation pen for sick animals
4. Lairage for fit animals including facilities for ante-mortem inspection
5. Staff Change Facility
6. Slaughter area which includes the following:
 - a) Stunning and slaying area
 - b) Process area
 - c) Quarantine area for suspected carcasses
 - d) Freezer
 - e) Blood collection area
 - f) Handling of defective carcass and rendering material collection area
 - g) Other non-meat area
 - h) Skin collection and treatment area
 - i) Slaughter area should have provision of:
 - i. HVAC in Slaughter Area

ii. Provision of Hot and Cold Water

iii. Supply of treated water

Meat Processing Plant cum Packaging Facility

Forward linkage with Meat transport facility under cold chain system

Other Central Facilities:

The slaughter lines will be catered by central services area with the following facilities:

1. Central Rendering Plant
2. Quality Control Laboratory
3. Administrative Building with canteen and First Aid centre
4. Central Water Supply System: Water Treatment plant, provision of supply of cold and hot water in slaughtering lines.
5. Central Effluent Treatment Plant
6. Sewerage & Drainage System
7. Road network
8. Power Backup and DG Set

Schedule 'D'

Project Completion Schedule

(The Project Completion Schedule as agreed to with the Concessionaire would need to be set out).

Sr. No.	Project Milestone	Date for Completion

Schedule 'E'
Consortium Agreement (If Applicable)

(To be Inserted)

Schedule 'F'

Slaughtering Fee Notification

Municipal Commissioner, Jhansi

NOTIFICATION

Uttar Pradesh, the --- th ---- 201...

S.O. ----- . – In exercise of powers conferred by Sections and of the Municipal Act, (.... of), the Municipal Commissioner hereby notifies that there shall be levied and paid fees on Animals (sheep, goat and buffalo) (per Animal basis), for the use of the Modern Slaughterhouse at the rates specified in Schedule hereunder and having regard to the Concession Agreement dated ----- entered into with _____ (*Name of the Concessionaire*) -----, having its registered office at ----- to design, finance, build, operate and transfer the Modern Slaughterhouse at Village Karari, Jhansi, Uttar Pradesh and for service provided by it, hereby authorize the said _____ (*Name of the Concessionaire*) or its authorized legal representative to collect and retain fees at the rates specified in the said Schedule from the _____ (*Scheduled Project Completion Date*) to (*Last day of the Concession Period*)

SCHEDULE

Schedule 'G'

Performance Security

Performa for Bank Guarantee for Performance Security – JMC

[To be issued by SBI or any Nationalized Bank or Indian Scheduled Commercial Bank]

From:

[Name and Address of Bank/ Financial Institution]

To,

Municipal Commissioner,
Jhansi Municipal Corporation
Jhansi, UTTAR PRADESH
Tele : (O) [REDACTED], FAX : [REDACTED]

1. In consideration of the Jhansi Municipal Corporation represented by Municipal Commissioner, JMC (hereinafter called "the JMC") having agreed to exempt _____ [hereinafter called "the said Developer/ Concessionaire(s)"] from the demand, under the terms and condition of an Agreement, dated _____ made between _____ and JMC for Design, Build, Finance, Operate and Transfer "Modern Slaughterhouse in Village Karari, Jhansi, Uttar Pradesh" (hereinafter called "the said Concession Agreement/Agreement"), of performance security for the due fulfillment by the said Developer of the terms and conditions contained in the said Agreement, on production of a bank guarantee for Rs. Only (Rupees only), We, _____ (hereinafter referred to as "the Bank") at the request of Developer do hereby undertake to pay to JMC an amount not exceeding Rs. /- (Rupees) in the event of any loss or damage caused to or suffered or would be caused to or suffered by JMC by reason of any breach by the said Developer(s) of any of the terms or conditions contained in the said Agreement.

2. We _____ (indicate the name of bank) do hereby undertake to pay the amounts due and payable under this guarantee without any demur, merely on a demand from JMC stating that the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by JMC by reason of breach by the said Developer of any of the terms or conditions contained in the said Agreement or by reason of the Developer's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding Rs. /- (Rupees).

3. We undertake to pay to JMC any money so demanded notwithstanding any dispute or disputes raised by the Developer in any suit or proceeding pending before any court or Tribunal relating to our liability under these present being absolute and unequivocal, unless otherwise directed by such Court or Tribunal. The payment so made by us under this guarantee shall be a valid discharge of our liability for payment there under.

4. We _____ (Indicate the name of bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of JMC under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till JMC certifies that the terms and conditions of the said Agreement, have been fully and properly carried out by the said Developer and accordingly discharges this guarantee, however not exceeding six months beyond the date of expiry of the Concession Period. Unless a demand or claim under this guarantee is made on us in writing on or before the date of expiry of the Agreement, we shall be discharged from all liability under this guarantee thereafter.

5. We _____ (indicate the name of Bank) further agree with JMC that JMC shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Developer from time to time or to postpone for any time or from time to time any of the powers exercisable by JMC against the said Developer and to forbear or enforce any of the terms and conditions relating in the said Agreement and we shall not be relieved

from our liability by reason of any such variation or extension being granted to the said Developer or for any forbearance, act or commission on the part of JMC or any indulgence by JMC to the said Developer or by any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have effect of so relieving us.

6. This guarantee will not be discharged due to the change in the constitution of the Bank or the Developer.

7. We, _____ lastly undertake not to revoke this guarantee during (indicate the name of bank)'s currency except with the previous consent of JMC in writing.

SEAL OF *[BANK/FINANCIAL INSTITUTION]*

NAME OF *[BANK/FINANCIAL INSTITUTION]*

SIGNATURE

NAME

TITLE

DATE

Schedule 'H'

Completion Certificate

I, (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated (the "Agreement"), for Establishment of Modern Abattoir/Slaughter House at (Name of Location) on design, build, finance, operate and transfer (DBFOT) basis through (Name of Concessionaire), hereby certify that the tests have been successfully carried out as per the provisions of the Agreement to determine compliance of the Modern Slaughter House with the provisions of the Agreement, and I am satisfied that the Modern Slaughter House can be safely and reliably placed in commercial service. It is certified that, in terms of the aforesaid Agreement, all works forming part of the Modern Slaughter House have been completed, and the Modern Slaughter House is hereby declared fit for entry into commercial operation on this the day of 20.....

SIGNED, SEALED AND DELIVERED

For and on behalf of

The INDEPENDENT ENGINEER by:

(Signature)

(Name)

(Designation)

(Address)

PROVISIONAL CERTIFICATE

I, (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated (the "Agreement"), for Establishment of Modern Abattoir/Slaughter House at on design, build, finance, operate and transfer (DBFOT) basis through (Name of Concessionaire), hereby certify that the tests have been carried out as provision of the

Agreement to determine compliance of the Modern Slaughter House with the provisions of the Agreement.

Construction works that were found to be incomplete and/or deficient have been specified in the Punch List appended hereto, and the Concessionaire has agreed and accepted that it shall complete and/or rectify all asuch works in the time and manner set forth in the Agreement. (Some of the incomplete works have been delayed as a result of reasons attributable to JMC or due to Force Majeure and the Provisional Certificate cannot be withheld on this account. Though the remaining incomplete works have been delayed as a reslt of reasons attributable to the Concessionaire. (Strike out if not applicable) I am satisfied that having regard to the nature and extent of such incomplete works, it would not be prudent to withhold commercial operations of the Modern Slaughter House, pending completion thereof.

In view of the foregoing, I am satisfied that the Project can be safely and reliably placed in commercial service, and in terms of the Agreement, the Modern Slaughter House is hereby provisionally declared fit for entry into commercial operation on this the Day of

..... 20.....

SIGNED, SEALED AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of

For and on behalf of

The CONCESSIONAIRE by:

The Independent Engineer by:

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

Schedule 'I'

DEED OF ADHERENCE

THIS DEED OF ADHERENCE is entered into on _____ day of _____

200_ between:

_____, a company registered under the provisions of the Companies Act, 1956 having its registered office/office at _____ (hereinafter called the "**Transferor**", which shall include its Associates and successors; and

_____, a company registered under the provisions of the Indian Companies Act, 1956, having its registered office at _____ (hereinafter called the "**Transferee** or _____" which expression shall include its successors; through its _____, duly authorized in this behalf by way of a Board Resolution dated _____; and

_____, a company registered under the provisions of the Companies Act, 1956, having its registered office at _____ (hereinafter called the "**Company/Concessionaire**", which shall include its successors); and

JHANSI MUNICIPAL CORPORATION, JHANSI, UTTAR PRADESH, acting through and represented by the Municipal Commissioner, Jhansi, (hereafter referred to as the "**JMC**" which expression shall include its successors.

RECITALS:

WHEREAS JMC and Concessionaire had entered into a Concession Agreement dated _____ (CA) for the setting up of a Modern Slaughterhouse at Village Karari, Jhansi, Uttar Pradesh. A copy of the said CA is annexed hereto as **Annexure I**.

WHEREAS the said CA incorporates the terms and conditions based on which the Modern Slaughterhouse would be implemented and operated upon;

AND WHEREAS and are the shareholders of the Company acting as Concessionaire, holding and numbers of equity shares of face value of Rs...../- each constituting ...%, and ...% of the issued, subscribed and the paid up capital of the Company.

AND WHEREAS, it is a condition of CA that each of the new party to the Agreement (an Associate/New Shareholder/Transferee) that is going to hold the shares in the Company/Concessionaire pursuant to the terms of the said CA shall execute a Deed of Adherence and undertake to be bound by the terms and conditions of the CA dated _____, 201... before becoming member(s) in the Company;

NOW THIS DEED WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES :-

1 DEFINITIONS AND INTERPRETATION

a. Capitalized terms used but not defined in this Deed shall, unless the context otherwise requires, have the respective meanings ascribed thereto in the CA.

b. The Parties mutually agree that recitals and annexure(s) hereto shall form part and parcel of this Deed of Adherence.

2. COVENANT BY ASSOCIATE/ TRANSFEEE/ NEW SHAREHOLDER

a. _____ (Name of Associate/Transferee) for itself or any of its Associates now or hereafter holding any shares, hereby undertakes to exercise all of its rights and to perform all of the rights and obligations of Transferor (Name of the Transferor) under the CA in accordance with the terms thereof and agrees not to revoke its undertakings and to ensure that the aforesaid designation remains valid and the provisions of this Deed are complied with and are and remain enforceable for so long as it holds any shares during the terms of the CA.

b. _____ (Name of Associate/New Shareholder/Transferee) hereby acknowledges that it has heretofore received a copy of and has read and understood, the CA and covenants thereof and agrees and confirms that it shall be bound by all provisions of the CA as if it was an original Party thereto, and the CA shall have a full force and effect on it and shall be read and construed to be binding on it.

3. COVENANT BY TRANSFEROR

a. Transferor hereby undertakes, agrees and declares that in the event of the default in discharging obligation as specified in the CA by the Transferee, Transferor shall perform all obligations attached to the shares transferred to the Transferee under the CA pursuant hereto notwithstanding the transfer of such shares in favour of the Transferee.

4. JOINT COVENANT

a. Transferor and the Transferee together undertake that each of them shall abide by its respective obligations under the CA and shall be accountable for any breach of the same as per the terms of the CA.

5. COMPANY COVENANT

a. The Company hereby agrees that it shall do all the needful to recognize the Transferee as the member of the Company by way of registering transfer of shares in the Company records in the time and manner as prescribed under the Applicable Law.

6. GOVERNING LAW

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

The terms and conditions of the CA in relation to the provisions regarding arbitration and other terms and conditions shall be deemed to have been incorporated in this Deed and expressly agreed to between the Parties hereto.

b. This Deed is subject to the Foreign Exchange Management Act, 1999 for the issue/allotment/holding of shares of the Company, so far as it requires the consent of the Reserve Bank of India or the Foreign Investment Promotion Board as the case may be.

IN WITNESS WHEREOF the parties hereto have executed this Deed as of the date and year first hereinabove mentioned.

SIGNED, SEALED AND DELIVERED

By, the Authorized Signatory)

FOR _____)

SIGNED, SEALED AND DELIVERED)

By , the Authorized Signatory)

FOR _____)

SIGNED, SEALED AND DELIVERED)

By, the Authorized Signatory)

By The Municipal Commissioner, the Authorized Signatory)

For and on behalf of the JMC)

Schedule 'J'

DISBURSEMENT SCHEDULE OF MFPI GRANT

Schedule 'K'
MFPI Guidelines

Speed Post

F. No.30-18/2008-Abattoir
Government of India
Ministry of Food Processing Industries
Panchsheel Bhawan, August Kranti Marg
New Delhi-110049

Dated: 25.11.2013

To
The Principal Secretaries/ Secretaries (UD) / Municipal Affairs of all State/UT
Governments

Subject: Revision of Guidelines of the Scheme for Setting up/ Modernization of
Abattoirs.

Sir,

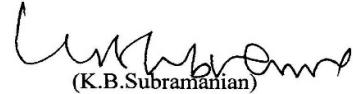
I am directed to enclose a copy of the revised guidelines of the Scheme for
Setting up/ Modernization of Abattoirs for the projects to be approved during the
12th Plan by the Ministry of Food Processing Industries under the above scheme.
The substantive revisions carried out in these guidelines are indicated below in
brief:-

- i) It has been clarified that modernisation of existing abattoirs will also
include upscaling of infrastructure of existing abattoirs (para 1.2).
- ii) The guidelines to be followed in case of PPP projects has been
indicated (para 1.3).
- iii) In para 4 of the guidelines, for Government/public sector funded
projects the requirement of various clearances/approvals required from
various agencies has been given in detail. The requirement of appraisal
report of bank/financial institution regarding the technical and financial
viability of the project has also been included (para 4.3.A (f to h)).
- iv) Again in para 4 of the guidelines, details relating to the documents
required to be submitted in case of PPP projects for availing financial
assistance under the scheme have been given (para 4.3.B (a to j)).
- v) Similarly, the procedure for project appraisal and approval for PPP
projects has been given in para 5.B (5.5 to 5.12).
- vi) The implementation period of the project has been increased from 18
months to 24 months (para 7).
- vii) The annexures have also been modified/revised in line with above
changes.

2. These guidelines would be applicable with effect from the date of issue of this
letter.

This issues with the concurrence of IFW vide their Diary No.2553/IFD/2013,
dated 06.11.2013.

Yours faithfully,



(K.B. Subramanian)

Deputy Secretary to the Govt. of India
Phone No. 26499177
Email: kb.su40@nic.in

Copy to:

1. Shri Asgar Naqvi, Associate Vice President, Government & Infrastructure Advisory, Grant Thornton Advisory Private Limited, 21st floor, DLF Square, Jacaranda Marg, DLF Phase II, Gurgaon 122002.
2. Shri Dilip Kulkarni, Sr. Vice President (Banking Finance and Market Research Division), MITCON Consultancy and Engineering Services Ltd, Kubera Chambers, Shivajinagar, Pune - 411 005, Maharashtra .
3. Shri T.R.Shanmukha, Managing Director/Chief Consultant/Proprietor, Ahara Technology Group, 12-13-521/3, Street No.14, Lane No.13, Nagarjuna Nagar, Tarnaka, Hyderabad - 500 017.
4. Shri.G.K.Sen and Associates,Unit No - UPTC0222, Upohar Town Center. 2052, Chak Garia. Kolkata - 700094.

Copy also to,

1. PS to Minister (A&FPI)
2. PS to MOS (A&FPI) (Dr. Charan das Mahant)
3. PS to MOS (A&FPI) (Shri Tariq Anwar)
4. Sr.PPS to Secretary (FPI)/PS to AS&FA/PS to JS(JPM)/PS to JS(AP)/PS to JS (UV)/PS to JS (KP)/PS to EA (GB).
5. IFD, Ministry of Food Processing Industries, Panchsheel Bhawan, New Delhi.
6. PSA, NIC for uploading the revised guidelines on the website.

Copy also to Secretaries of State Governments looking after NMFP and Mission Directors of NMFP in State Governments

Government of India
Ministry of Food Processing Industries

Operational Guidelines for the Scheme for Setting up/ Modernization of Abattoirs

1. The Scheme

1.1 The Ministry of Food Processing Industries had launched the scheme for Setting up/ Modernization of Abattoirs during 2008-09. This is a comprehensive scheme, which includes establishment of modern abattoirs and modernization of existing abattoirs.

1.2 The Scheme has been scaled up during the 12th Five-Year Plan to cover setting up of 25 new and modernization of 25 existing abattoirs for first two years of the 12th Five Year Plan i.e. 2012-13 and 2013-14. Modernisation of existing abattoirs will also include upscaling of infrastructure of existing abattoirs. The scheme will be implemented with the involvement of local bodies (Municipal Corporations and Panchayats)/ Public Sector Undertakings/ Co-Operatives/Boards under Government and will have flexibility for involvement of private investors on PPP basis.

1.3 The proposals that are to be implemented under PPP mode shall follow the guidelines for financial support to Public Private Partnerships (PPPs) in infrastructure, issued by Department of Economic Affairs, Ministry of Finance, Government of India, as adopted by each State Government.

1.4 Regulatory functions will continue to be discharged through local bodies.

2. Objectives of the Scheme

- Scientific and hygienic slaughtering of animals.
- Application of modern technology for slaughter waste management and pollution control.
- More humane treatment of animals/ minimizing transportation of animals.
- Better by - product utilization/ value addition.
- Providing chilling facility to prevent microbial activity in slaughtered animals.
- Better hygiene, safety and retail cold chain management.
- Better forward linkage facilities for finished meat & meat products.

3. Pattern of Assistance

3.1 The scheme envisages a grant of 50% in general areas and 75% in difficult areas for cost of Plant and Machinery (P&M) and Technical Civil Work (TCW) and other eligible items subject to a maximum of Rs.15.00 crore per abattoir. Difficult areas include North Eastern

States including Sikkim, Jammu & Kashmir, Himachal Pradesh, Uttarakhand and ITDP notified areas of the States.

3.2 Cost of the following components of the project will be considered eligible for the grant under the scheme:


- (i) Technical Civil Work would include lairage, isolation pen for sick animals, animal washing area, area for the stunning, bleeding, flaying, evisceration, splitting of carcass, processing area, packaging area, blood collection area, skin collection and treatment area, value added meat processing area and offal treatment area, etc.
- (ii) Plant and Machinery would include all the equipment and machinery required for various slaughter operations including overhead rails, conveyers and gambrels/shackles, on line weighing machines, etc and equipment and machinery for processing.
- (iii) Technical Civil Work and Plant & Machinery of basic infrastructure would include laboratory (including equipment), cold storage including pre-cooling chambers, chillers, freezers, etc., rendering plant, effluent treatment plant, water supply system, sewerage and drainage system, power supply system (including DG set), services area like rain water harvesting, etc.
- (iv) Forward Linkages would include cost of reefer vans and cost of Technical Civil Work and plant and machinery of upto five (5) modern meat outlets (excluding land cost).
- (v) Project Implementation Expenses would include cost of preparation of DPR, appraisal of DPR by bank/financial institution and project consultancy and supervision expenses, etc.

4. How to avail the scheme

- 4.1 Project promoter will submit application in the prescribed form as given at **Annexure "A"**.
- 4.2 Definition of "Project Promoter" – Local bodies (Urban/Rural local bodies)/Public Sector Undertakings/ Cooperatives/ Boards under Government.
- 4.3 The project promoter will be required to submit following documents along with the proposal:

A For Government/Public Sector Funded Projects

- a) Application in the prescribed form at Annexure 'A'.
- b) Detailed Project Report (DPR) complete in all respects to be submitted along with application. The DPR will contain, inter alia, identified potential location of the


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modern abattoir, need for modern abattoir in the identified area, proposed capacity, the proposed level of investment including the estimated project cost and the means of finance, technical, financial, commercial, institutional and O&M details of the project including details of plant and machinery and other assets, details of plant building and civil work and the financial benchmarks (DER/ DSCR/ BEP and IRR). The DPR would also bring out technical and financial viability, commercial sustainability and socio economic importance of the project along with backward and forward linkages and direct and indirect employment generation. The DPR would also contain operation and maintenance structure and would clearly establish commercial sustainability of the abattoir project.

- c) Land details (Copy of sale deed/ lease deed for not less than 20 years/ land allotment papers of State Government, etc.)
- d) Sketch plans and drawings of civil work along with details of estimated cost of technical and non-technical civil work duly certified by Chartered Engineer (Civil).
- e) Sketch plan of plant & machinery, design and engineering flow chart along with estimated cost of plant and machinery (component wise) duly certified by Chartered Engineer (Mechanical) along with quotations.
- f) Copies of various clearances/approvals for the project (from Pollution Control Board, NOC from local authority, airport authority etc.) / certificate to the effect that such clearances shall be obtained and submitted before release of the first instalment of the grant. An undertaking to the effect that the Project Promoter shall comply with all rules and regulations stipulated by FSSAI Act, Pollution Control Board and Animal Welfare Board during the construction and operation of the proposed abattoir.
- g) A copy of appraisal report of bank/financial institution confirming technical and financial viability of the project.
- h) If project loan availed, copy of project loan sanction letter of bank.
- i) An affidavit in compliance with GFR 209(1).
- j) The application along with above documents is to be forwarded by the State Government (Secretary/Principal Secretary, Department of Urban Development) with due recommendation in prescribed form given at **Annexure "B"**.

B For PPP Projects

- a) Application in prescribed form at Annexure 'A'.
- b) Detailed Project Report (DPR) complete in all respects to be submitted along with application. The DPR will contain, inter alia, identified potential location of the


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modern abattoir, need for modern abattoir in the identified area, proposed capacity, the proposed level of investment including the estimated project cost and the means of finance, technical, financial, commercial, institutional and O&M details of the project including details of plant and machinery and other assets, details of plant building and civil work. The DPR would also bring out technical and financial viability, commercial sustainability and socio economic importance of the project along with backward and forward linkages and direct and indirect employment generation. The DPR would also contain operation and maintenance structure and would clearly establish commercial sustainability of the abattoir project.

- c) Land details (Copy of sale deed/ land allotment papers of State Government, etc.)
- d) Sketch plans and drawings of civil work along with details of estimated cost of technical and non-technical civil work duly certified by Chartered Engineer (Civil).
- e) Sketch plan of plant & machinery, design and engineering flow chart along with estimated cost of plant and machinery (component wise) duly certified by Chartered Engineer (Mechanical) along with quotations.
- f) Copies of various clearances/approvals for the project (from Pollution Control Board, NOC from local authority, airport authority etc.)/ certificate to the effect that such clearances shall be obtained and submitted before release of the first instalment of the grant. An undertaking to the effect that the Project Promoter shall ensure compliance with all rules and regulations stipulated by FSSAI Act, Pollution Control Board and Animal Welfare Board during the construction and operation of the proposed abattoir.
- g) A copy of appraisal report of bank/financial institution confirming technical and financial viability of the project.
- h) An affidavit in compliance with GFR 209(1).
- i) A confirmation from the State Government concerned that the project adheres/shall adhere to the guidelines for financial support to Public Private Partnerships (PPPs) in infrastructure, issued by Department of Economic Affairs, Ministry of Finance, Government of India, as adopted by that State Government.
- j) The application along with above documents to be forwarded by the State Government (Secretary/Principal Secretary, Department of Urban Development) with due recommendation in prescribed form at Annexure "B" to the MFPI.

5. Procedure for project appraisal and approval

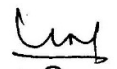
A For Government/Public Sector Funded Projects


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- 5.1 Detailed Project Report (DPR) complete in all respects will be prepared by the Project Promoter and submitted along with application in the form given at Annexure 'A'.
- 5.2 The Technical Consultants/ Programme Management Agency (PMA) empanelled by MFPI will appraise the proposal in accordance with the scheme guidelines. The deficiency of any information or document will be intimated by the PMA/MFPI to Project Promoter. PMA will appraise the proposal for technical and financial viability of project on the basis of submitted documents, site visits and physical verification of the project details. PMA will submit its detailed appraisal note (covering all details of the project with SWOT analysis) for due consideration of the project by MFPI.
- 5.3 The Project Promoter will remove the deficiencies, if any, and resubmit the project proposal within three weeks from the date of issue of intimation letter of deficiencies.
- 5.4 After receipt of the detailed appraisal report of the PMA, the division will calculate the eligible grant in accordance with the cost estimated in the Chartered Engineer Certificate and quotations submitted by the applicant and compliance of checklist as mentioned in para 4.3.1 and 4.3.2. Thereafter, the proposal will be submitted for the consideration of grant by the Approval Committee chaired by Secretary, Ministry of Food Processing Industries. After approval by the Approval Committee, Ministry will convey the approval to the project promoter and the State Government concerned subject to compliance with scheme guidelines and removal of deficiencies, if any, observed by the Approval Committee. The first installment of the grant shall be released only after complying with conditions as prescribed in these guidelines and in the letter conveying Ministry's approval.

B For PPP projects

- 5.5 Detailed Project Report (DPR) complete in all respects will be prepared by the Project Promoters and submitted along with application at Annexure 'A' and required enclosures to the Ministry through State Government (Secretary/Principal Secretary, Department of Urban Development).
- 5.6 The Technical Consultants/ Programme Management Agency (PMA) empanelled by MFPI will appraise the proposal in accordance with the scheme guidelines. The deficiency of any information or document will be intimated by the PMA/MFPI to Project Promoter. PMA will appraise the proposal for technical and financial viability of project on the basis of submitted documents, site visits and physical verification of the project details. PMA will submit its detailed appraisal note (covering all details of the project with SWOT analysis) for due consideration of the project by MFPI.
- 5.7 After appraisal of the DPR by the PMA as mentioned in para 5.7 above, the proposal will be placed before the Approval Committee chaired by Secretary, Ministry of Food Processing Industries for in-principle approval of the grant-in-aid for the project for in


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After approval by the Approval Committee, Ministry will convey the in-principle approval to the project promoter and the State Government concerned subject to compliance with scheme guidelines and removal of deficiencies, if any, observed by the Approval Committee. The first instalment of the grant shall be released only after complying with conditions as prescribed in these guidelines and in the letter conveying Ministry's approval.

- 5.8 The private partner for the project shall be selected through a transparent and open competitive bidding process. The criterion for bidding shall be the amount of the Government grant for implementing the project where all other parameters are comparable.
- 5.9 The project promoter will publish the invitation for bids for selection of the private partner in at least two National dailies. A copy of the advertisement and the bid documents should also be placed on the website of the State Mission Directorate under the National Mission on Food Processing (NMFP). A copy should also be forwarded to the National Meat & Poultry Processing Board (NMPPB) for uploading on their website (nmppb.gov.in).
- 5.10 After selection of the private partner, the project promoter will submit the proposal for the amount of grant actually required for the project, duly recommended by the State Government (Secretary/Principal Secretary, Urban Development). The proposal shall include the cost of the project and the means of finance along with the financial benchmarks (DER, DSCR, BEP and IRR) as also copies of various clearances/approvals for the project (from Pollution Control Board, NOC from local authority, airport authority etc.)/certificate to the effect that such clearances shall be obtained and submitted before release of the first instalment of the grant. If project loan availed, copy of project loan sanction letter of bank will also be submitted.
- 5.11 The proposal shall be resubmitted to the Approval Committee chaired by Secretary, Ministry of Food Processing Industries, for final approval of the grant-in-aid for the project.
- 5.12 The proposal for final approval shall be submitted by the project promoter duly recommended by the State Government, within a period of eight (8) months from the date of the letter conveying the in-principle approval, failing which the in-principle approval may be withdrawn.


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6. Pattern of release of grant

The MFPI grant will be disbursed in four (4) instalments in following manner.

Percentage of approved grant to be released	Condition to be fulfilled
10%	<p><u>For public funded projects:-</u> On submission of – • Certificate of possession of land by the project promoter • NOC from local body • Surety Bond Letter of Scheduled bank in which Escrow account is maintained by Project Promoter • Affidavit in compliance of GFR 209(1) • NOC from State Pollution Control Board • Financial closure of the project</p> <p><u>For PPP projects:-</u> On submission of – • Certificate of possession of land by the project promoter (Government/statutory entity) and its transfer to the selected private partner • NOC from local body • Surety Bond from project promoter Letter of Scheduled bank in which Escrow account is maintained by Project Promoter • Affidavit in compliance of GFR 209(1) • NOC from State Pollution Control Board • Financial closure of the project</p>
30%	<p>On submission of – • Utilization Certificate (UC) of 1st instalment • Chartered Accountant's certificate certifying that 40% of equity and term loan have been utilized • Progress report of project duly signed by Project Implementation Agency (PIA) and Promoter • Submission of copy of purchase order of main Plant & Machinery • Chartered Engineer's certificate of 50% completion of eligible civil and structural work out of total civil work • Inspection-cum-Verification report of PMA with recommendation for release of 2nd instalment</p>
40%	<p>On submission of – • Utilization Certificate (UC) of 2nd instalment • Chartered Accountant's certificate certifying that 80% of equity and term loan have been utilized • Progress report of project duly signed by PIA and Promoter • Details of receipt of main Plant & Machinery on the site • Chartered Engineer's certificate of 100% completion of eligible civil and structural work • Inspection cum Verification report of PMA with recommendation for release of 3rd instalment</p>
20%	<p>On submission of – • Utilization Certificate (UC) of 3rd instalment • Completion of the project duly certified by a Chartered Engineer • Obtaining of necessary clearance/NOC for operation from the Environmental Agency/State Pollution Control Board • Declaration by Project Promoter/ PIA confirming the start of commercial production.</p>

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7. The Implementation schedule

The implementation schedule for the project would be about 24 months from the date of approval/final approval of project unless extended by the Approval Committee.

8. Project Monitoring and Evaluation

The Ministry will undertake Quarterly Review of the progress of the projects under the scheme. Besides PMA shall furnish monthly report to the Ministry on the progress achieved on the projects.

9. Approval Committee

The proposal with project details will be submitted for consideration and approval of financial assistance by the Approval Committee in which representatives from Ministry of Agriculture, APEDA, Planning Commission and Ministry of Urban Development will be nominated as members. Approval Committee will also include the Financial Adviser of the Ministry as member and will be headed by Secretary (Ministry of Food Processing Industries).

10. The role and responsibilities of State Government, Project Promoter, Project Management Agency (PMA) and Project Management Consultant (PMC) are at Annexure C. PMA would assist the Ministry in carrying out evaluation and appraisal of feasibility studies and DPRs of the projects.


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