

Jharkhand Skill Development Mission Society

Request for Proposal for Selection of Private Partner to Establish, Operate & Maintain Mega Skill Training Centres in Jharkhand on PPP mode

March 2018

RFP No. JSMD/RFP/03/2018

Date of issue of RFP	23 rd March 2018
Last date for submission of Proposals	19 th April 2018



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ABBREVIATIONS

Abbreviations

Abbreviation	Full Form
RFP	Request for Proposal
PPP	Public Private Partnership
QP	Qualification Pack
NOS	National Occupational Standards
JSDMS	Jharkhand Skill Development Mission Society
NSDC	National Skill Development Corporation
NSQF	National Skills Qualifications Framework
RFP	Request for Proposal
SSC	Sector Skill Council

In the interpretation of these terms, unless the context otherwise requires:

- (a) The words and expressions beginning with capital letters and defined in this document shall, unless the context otherwise requires, have the meaning ascribed thereto herein. The words and expressions beginning with capital letters and not defined herein, but defined in the other standard Bidding Documents, shall, unless the context otherwise requires, have the meaning ascribed thereto therein;
- (b) Words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;
- (c) Terms "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" regardless of whether such terms are followed by phrases of like import;
- (d) For the purpose of this RFP, the terms “Bid” and “Proposal” are interchangeable and imply the same, unless repugnant to the context.

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DISCLAIMER

The information contained in this Request for Proposal ("**RFP**") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of Jharkhand Skill Development Mission Society (hereinafter "**JSDMS**") is provided to interested parties on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor an invitation by JSDMS to interested parties (henceforth "**Bidders**") who apply for establishing, operation & maintenance of Mega Skill Training Centres in Jharkhand on PPP mode (henceforth "**Project**") in response to this RFP. The purpose of this RFP is to provide Bidders with information that may be useful to them in preparing and submitting their proposals ("**Proposal**") for the Project with Jharkhand Skill Development Mission Society for providing skill development training in Jharkhand as per notified norms.

JSDMS makes no representation or warranty and shall have no liability to any person or Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained herein or deemed to form part of this RFP or arising in any way from this bidding process.

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

The issue of this RFP does not imply that JSDMS is bound to select any Bidder(s) for any project. JSDMS reserves the right to reject all or any of the Bidders without assigning any reason whatsoever.

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

1 INTRODUCTION

1.1 Contents of this RFP

- 1.1.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.7.

Section 1	Introduction
Section 2	Instructions to Bidders
Section 3	Evaluation of Bids
Section 4	Fraud and Corrupt Practices
Section 5	Pre-Bid Meeting
Section 6	Miscellaneous
Section 7	Schedules
Section 8	Appendices

1.2 About Jharkhand Skill Development Mission Society

- 1.2.1 Jharkhand Skill Development Mission Society ("**JSDMS**") was registered on 1st October, 2013 under the Societies Registration Act, 1860 to function as an autonomous organisation under Department of Planning and Development, Government of Jharkhand. Through a Government of Jharkhand notification dated 18 June 2015, JSDMS was made an autonomous body under Department of Labour, Employment, Training & Skill Development, Government of Jharkhand.

- 1.2.2 The primary objectives of JSDMS are:

- (a) To increase the employability of the youth and empower them to take part in the economic growth of Jharkhand and India and thereby reduce unemployment, under-employment, poverty and socio-economic inequality;
- (b) To provide skill development training to the youth of the State;
- (c) To develop self-employment and entrepreneurial skills for youths of Jharkhand;
- (d) To assist in creating an enabling environment to attract investment in professional and skill development sector;
- (e) To assist the State Government in formulating appropriate policy, legislations and/or measures to fulfil the skill gap;
- (f) To monitor the costs and quality of training imparted to produce targeted number of high quality skilled personnel across various strata of youth and workers, especially from amongst the disadvantaged sections of the society;
- (g) To create effective convergence between school education, professional

courses and various skill development efforts of Central and State Governments;

- (h) To promote and carry out, on its own or on behalf of the State Government, activities to generate awareness, research and study on skill demand;
- (i) To increase the skill training facility in the state of Jharkhand.

1.3 Objective of the Project

- 1.3.1 The key objective of the project is to establish Mega Skill Centres across districts with a skill training capacity of 3000 to 5000 beneficiaries per year for both residential and non-residential training. These centres shall emerge as Centre of Excellence for the skill training in their respective sectors.
- 1.3.2 In order to foster skilling initiatives in the state, JSDMS seeks to invite proposals from entities, which are eligible to apply for the Project as per Clause 2.1.
- 1.3.3 Projects shall be awarded to the Bidders achieving the required Overall Score based on evaluation of the technical and financial capability of Bidders in line with the criteria described in Clause 2.1 and 3.3 of this RFP. As part of the project, Authority (Revenue Department, Government of Jharkhand) may identify and provide the right to use of existing buildings owned by Authority to the Preferred Bidders for the Mega Skill Training Centres. In case building is offered by Authority, training fee payable to the private partner shall be reduced at the rate of 15% and 10% of the training fee for municipal and non- municipal areas respectively. Wherein such buildings are not available, the Authority subject to availability, shall identify suitable land and provide right to use the land to the private partner at a nominal agreed cost. The private partner has to construct the required infrastructure, procure & install equipment, operate and maintain the Mega Skill Training Centre. In such case no reduction of training fee shall be envisaged. The private partner has also the option to set up their own facility under the project. These will be decided during negotiation prior to signing of Concession Agreement.
- 1.3.4 The Bidder shall apply under Type 1 or Type 2 as defined in the eligibility criteria
- 1.3.5 The Preferred Bidders are required to procure & install equipment, operate and maintain the Mega Skill Training Centre and impart skill training as per the terms of concession agreement during the Concession Period. Costing of sanctioned work shall be determined in accordance with the Common Norms notified by the Ministry of Skill Development and Entrepreneurship (relevant extracts in Schedule-A) and subject to subsequent amendments from time to time or any notification by JSDMS from time to time.

1.4 General Terms

- 1.4.1 Bidders must be eligible to apply for the Project as per Clause 2.1. Bidder could either be a Single entity or a Consortium of not more than 2 members.

- 1.4.2 To apply under one or more sectors listed at Clause 1.4.6, the Bidder will require to be affiliated with respective SSC before issue of any Work Order by JSDMS and have the QP-NOS Compliance certificate for the course/ trade concerned.
- 1.4.3 The tenure of the Project shall be for a period of **five (5)** years from the date of award of work order which would be renewed for an additional period of five (5) years at the discretion of Authority (the “**Concession Period**”) subject to:
- the private partner continuing to meet the eligibility and qualifications criteria as required by the prevailing conditions for the project, or as may be amended by JSDMS from time to time; and
 - the satisfactory performance of the private partner under the project as per terms of agreement to be signed with private partner;
- 1.4.4 JSDMS, at its discretion, can modify or terminate the Project earlier than the expiry of the Concession Period in the event of change in law or due to other relevant reason(s).
- 1.4.5 JSDMS, at its discretion, can terminate the Project earlier than the expiry of the Concession Period in the event of failure of private partner to remain eligible in view of prevailing eligibility conditions (as revised from time to time) or to perform as per contract deliverables or other relevant reason(s) given in writing to the private partner.
- 1.4.6 The Bidders need to apply for one or more than one of the training sectors, defined by Ministry of Skill Development & Entrepreneurship, Govt. of India:

1. Agriculture	21. Leather
2. Apparel	22. Life Sciences
3. Automotive	23. Logistics
4. Beauty & Wellness	24. Management
5. Banking, Financial Services & Insurance (BFSI)	25. Manufacturing
6. Capital Goods	26. Marine Engineering
7. Chemical	27. Media & Entertainment
8. Construction	28. Mining
9. Education & Skill Development	29. Music
10. Electronics	30. Plumbing
11. Fast Moving Consumer Goods	31. Power & Energy
12. Food Processing Industries	32. Retail
13. Furniture & Furnishing	33. Rubber
14. Gems & Jewellery	34. Security
15. Green Skills	35. Sports
16. Handloom & Handicrafts	36. Telecom
17. Healthcare	37. Textile
18. Instrumentation	38. Tourism & Hospitality
19. Iron & Steels	39. Traditional/Conventional Sector

20. IT/ITES	40. Other Sector (any other sector not covered above)
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1.5 Description of Bidding Process

- 1.5.1 Interested Bidders deemed eligible as per Clause 2.1 can participate in the Bidding Process by submitting their proposal online in the format given in the Appendix. Each Bidder must submit a single proposals including all of the sectors in which the Bidder wishes to start the Project. A Bidder may choose to apply in more than 1 sector.
- 1.5.2 Along with the Proposal, a Bidder is required to deposit a non-refundable processing fee (“the **Processing Fee**”) of INR 5,000/- (Rupees Five Thousand only). The Processing Fee must be in the form of a crossed demand draft drawn on any scheduled bank in favour of “Jharkhand Skill Development Mission Society”, payable at par in Ranchi. Scanned copy of the same needs to be attached to the technical proposal.
- 1.5.3 Bidders shall also require to submit refundable bid security of INR 2,00,000.00 either in the form of Bank Guarantee in favour of “Jharkhand Skill Development Mission Society” from any Nationalized/ Scheduled Bank valid for a period of 210 days from due date of submission of bid. The bid security of unsuccessful bidders shall be returned within 30 days of communication to the unsuccessful bidders about their disqualification. The bid security of successful bidders shall be returned upon signing of agreement by the private partner and submission of performance security by the Preferred Bidder. Scanned copy of the same needs to be attached to the technical proposal. Bid processing fee and Refundable bid security shall be submitted offline as per the schedule given in clause 1.5.4.
- 1.5.4 JSDMS shall endeavour to adhere to the following schedule but reserves the right to alter the same. The date of all the events shall be notified on JSDMS website:

S. No.	Details	Tentative Dates
1.	Date of Issue of Tender Document	23 rd March 2018 2018
2.	Last date for sending pre bid queries	5 th April 2018 till 11.00 AM
3.	Pre-Bid Meeting	5 th April 2018 at 11.30 AM at JSDMS office, Ranchi
4.	Publishing of pre-bid queries	6 th April 2018 on www.jharkhandtenders.gov.in
5.	Last date for submission of bids	19 th April 2018 up to 3.00 PM
6.	Last date for submission of hardcopy of Bid Processing Fees and EMD	20 th April 2018 up to 3.00 PM

S. No.	Details	Tentative Dates
7.	Date of opening of Technical Proposals	20 th April 2018 at 3.00 PM
8.	Technical Presentation	Yes, date shall be communicated by JSDMS

1.6 Terms and Scope of Work

1.6.1 Bidders selected for a particular sector would be awarded work to establish Mega Skill Training Centre and impart skill training in that sector.

1.6.2 The following is the broad scope of work for Preferred Bidder. Detailed scope of work shall be incorporated into the agreement to be signed with the private partner. Based on the modifications on the national guidelines and state priorities, JSDMS may modify the scope in accordance to the same.

(a) Equipping

- The Preferred Bidder shall be required to ensure the infrastructure readiness for the skill training program including but not limited to construction, establishment or renovation of the required infrastructure and deployment of required resources including human resources, tools and equipment for the operations of Mega Skill Centre.

(b) Mobilisation of Trainees

- Prior to initiation of training, ground-level mobilisation must be done by the private partner at their own cost in areas identified in consultation with JSDMS.
- Mobilisation should be accompanied by counselling wherein the private partners are expected to provide candidates all possible information on the nature of work in the sector/trade, availability of jobs, potential pay and entitlements, growth prospects and risks involved, with the aim of helping candidates and their families make informed choices.
- Registration of trainees must be linked to their Aadhaar identity, which the private partner are expected to facilitate before trainee registration.

(c) Mapping Youth Aspiration

- Every Mega Skill Training Centre needs to establish Mobilization & Counselling Centre. Here private partners will undertake research to determine youth aspirations so as to determine youth aspirations so as to determine their attitudes towards migration for placement etc.
- Private partner will develop a pool of trained counsellors, suitable counselling tools and techniques with consultation of JSDMS. Private

Partner can outsource this Mobilization & Counselling centre also, to experts / specialists in the field.

(d) OTP (Offer Train Place) Model implementation

- Private Partners need to tie-up (signing MoUs) with reputed employers in India and abroad for placement. After selecting candidate for training private partners need to give a conditional offer letter stating an assured placement after successful completion of training.

(e) Batch management

- A training batch would consist of not less than 15 and not more than 30 trainees.
- During the programme if the number of trainees remains below 15 for six consecutive days, the batch will be considered shut down and the private partner shall not be eligible for payment for that batch.

(f) Training Centre and Infrastructure

- A minimum area required for establishing Mega Skill Training centre would be 25000 Sq. Ft. excluding hostel. A separate hostel with all amenities for boys and girls within or outside campus with all prescribed norms need to be established.
- Training shall be residential as well as non-residential in nature. A minimum of 50% candidates should be trained under the residential mode.
- In the Mega Skill Training Centres, the private partner can run courses only funded by JSDMS. In order to run any other Government Programmes/ CSR funded courses/ fee based courses for a particular period the private partner need to take prior written approval from JSDMS.
- Training centres must be verified and approved by the concerned Sector Skill Council (SSC) and JSDMS prior to initiation of training.
- Each training centre must be equipped with the infrastructure prescribed under the relevant Qualification Pack by the concerned Sector Skill Council for the job roles in which training will be imparted.
- Training centre infrastructure may be owned or hired.
- Biometric attendance is mandatory at each Center.
- Bidder will be eligible for all benefits relating to provision of land and building infrastructure being provided to industries in Jharkhand. In this context, benefits of Jharkhand Industrial and Investment Promotion Policy 2016 and other relevant notifications of Department of Industries

pertaining to land and building infrastructure, will be provided to bidders Skill Development Centres. Budgetary provisions for these incentives will be made by Department of Higher Technical Education and Skill Development.

- Industrial Power Certificate shall be accorded to all the Skill Development Connections (Power Meter), and exclusively used by the Skill Development centres for their operations, even in multiple locations/meters by the bidders.

(g) Training delivery

- Bidders are not allowed to provide training through a franchisee arrangement. No part of training centre or training shall be sub-let to any agency/individual in any form.
- The selected partner shall be responsible for all aspects of the training including centre readiness, quality of training delivery, assessment and certification, and outcomes required from the training.

(h) Curriculum

- Curriculum must be based on the National Occupational Standards (NOS) and Qualification Packs (QPs) developed by Sector Skill Councils established under the National Skill Development Corporation (NSDC).
- The training curriculum must have mandatory modules on soft skills including career counselling, computer literacy, financial literacy and entrepreneurship.
- Being a Skill Development program, the focus should be “hands on approach” and acquiring Competency in the Skill training being provided.

(i) Trainers

- Persons deployed as trainers by the private partner must be competent instructors in possession of requisite knowledge, skills and experience in their domain.
- For each trade offered under the Project, instructors must have completed Training of Trainer (TOT) and be SSC-certified trainers.

(j) Assessment and Certification

- An independent assessment of trainees by a third-party agency authorised by the relevant Sector Skill Council is mandatory for all skill trainings provided under the Scheme.
- After assessment, each successful candidate must be awarded a certificate issued by the Certifying Agency approved by the relevant

Sector Skill Council to ensure acceptability in the industry.

- Apart from third-party external assessment, continuous internal assessment in the form of quizzes, assignments and tests should be a part of the course curriculum.

(k) Facilitating Trainees in securing Wage or Self Employment

- Along with providing wage employment to the beneficiaries, self-employment shall also be considered under the Project. Achievement of outcomes, in terms of sustainable wage or self-employment being facilitated for trainees, shall be one of the element for assessing the performance of the private partner. The detailed parameters for assessing performance would be as per the agreement to be signed between JSDMS and selected private partner.
- Prior to batch initiation or towards closer of each skill training course will be recorded as being geared towards wage employment or self-employment.
- Release of Payment to private partners would be in line with the notified Common Norms as detailed in Schedule–A. To promote and foster establishment of mega skill centre, JSDMS shall provide a mobilisation advance of maximum 10% of project cost against a bank guarantee, which shall be adjusted proportionately during the next five years of the project. The project cost shall be determined as the total cost of training being awarded by JSMDs to the Preferred Bidder. The requirement of bank guarantee can be waived off for those TSPs who have at least six months of satisfactory performance track record on any JSDMS scheme and further such waiver is approved by the Governing Body of JSDMS.

The submission of bank guarantee of equivalent amount of Mobilization Advance will not be required in case the Concessionaire/Preferred Bidder or its Associate is setting up or operating an industrial unit in the state of Jharkhand with an investment of INR 500 Cr or more. In such case following documents will be required to be submitted by the Concessionaire as a precondition for payment of Mobilization Advance by the Authority:

- Copy of MOU / Agreement with Department / Agency of Government of Jharkhand for setting up the industrial unit in the state of Jharkhand.
- Letter of assurance from the Banker of parent company towards the repayment of the mobilization advance in duly manner and as per the terms and conditions stated in the Agreement.
- For courses aimed at wage employment, trainees should secure a job

within one (1) months of completion of training and should retain the same/similar job for a subsequent period of three (3) months for the trainee to be considered 'successfully placed' as mentioned in the clause 7.1.3 (b).

- For courses aimed at self-employment, trainees should become gainfully employed in livelihood enhancing occupations. This should be evidenced through a newly acquired trade license, or proof of setting up of an enterprise or becoming a member of a producer group, or proof of additional earnings (bank statement) or any other suitable and verifiable document.

(l) On the Job Training (OJT) Provision

- On the Job Training or apprenticeship would be an integral part of skill trainings in Mega Skill Training Centres. JSDMS will give preference to the partners who has an agreement with industry for OJT.
- OJT could be organized in various modes:
 - Production cum training centres
 - OJT arrangement in industry premise with hostel facility

(m) Post Placement Tracking and Support

- To ensure sustained benefits from training, the private partner are required to track and report successfully placed candidates for a period of 12 months. The formats and periodicity of reporting shall be mentioned in the terms of work in the agreement.
- For candidates provided with wage employment in any industry, information like appointment letter, remuneration, etc. must be maintained and submitted to JSDMS as per terms of the Agreement between JSDMS and the private partner. For candidates setting up their own enterprises, the private partner would track the progress of the enterprises for a period of 12 months.
- Contact details of successful trainees should be passed on to JSDMS for sample checking.

- 1.6.3 Under the project, all records including but not limited to those pertaining to attendance, class progress, assessment, certification, and training outcomes, must be maintained both manually (hard copies submitted to JSDMS as per terms of Agreement to be signed with private partner) as well as uploaded on HUNAR, the state's Labour Market Information System (LMIS). Likewise, attendance of trainees and trainers must be maintained through biometric records uploaded on HUNAR.

2 INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 Eligibility of the Bidders

2.1.1 An eligible Bidder must be a legal entity in the form of Proprietorship Firm / Partnership Firm / Private Limited Company / Public Limited Company / Society / Trust.

2.1.2 Bidder could be either a Single entity or a Consortium of not more than 2 members.

2.1.3 The Preferred Bidder shall hold, directly or indirectly, at least 51% (fifty one per cent) of the total Equity in the SPV during a period of 3 (three) years following commercial operation date and at least 26% (twenty six percent) of the total Equity of SPV thereafter for the remaining Concession Period.

2.1.4 In case of Consortium,

(a) The lead member shall hold, directly or indirectly, at least 26% (twenty six percent) of the total Equity in the SPV throughout the Concession Period;

(b) Other member of the consortium shall hold, directly or indirectly, at least 26% (twenty six percent) of the total Equity in the SPV during a period of 3 (three) years following commercial operation date.

2.1.5 Technical Eligibility Criteria (Any member of consortium should satisfy)

- i. Must be a NSDC approved Training Partner / affiliated with the relevant Sector Skill Council(s) for the sector(s) in which project is sought and should possess QP-NOS compliance certificate for the courses to be offered. In case a Bidder does not have the affiliation at the time of submission of bid, the same can be obtained and submitted at the time of Technical Presentation, failing which, the Bidder shall not be qualified for the project and its bid shall be rejected.
- ii. Must not have been blacklisted by any State Government/ Central Government / Donor Agency.
- iii. Should have experience in skill training in NSQF compliant courses continuously for at least the last three years preceding the date of submission of the proposal.

2.1.6 Financial Eligibility Criteria (All members of consortium together can satisfy)

Bidders would be classified into Type 1 & Type 2. Eligibility criteria is been defined as follows for both types of bidders:

- i. Type 1 Bidder –
 - Average annual turnover of at least Rs 100 Cr in the last 3 years
 - Net worth of at least Rs 50 Cr as on last year.
- ii. Type 2 Bidder –
 - Average annual turnover of at least Rs 10 Cr in the last 3 years
 - Net worth of at least Rs 1 Cr as on last year
 - An agreement with a reputed corporate for opening of centres, providing technical supervision and placement of candidates for this project. In such case JSDMS reserves the right to review and acknowledge the submitted agreement.

2.2 General Terms of Proposal Submission

- 2.2.1 Each Bidder must submit single proposals online for all sectors specified under clause 1.4.6, in which the Bidder wishes to submit the proposals.
- 2.2.2 Bidders are required to provide preference of 5 districts, for each sector, in which they would like to set up the Mega Skill Training Centre. In case award of work, JSDMS shall arrange and provide the right to use the building in the preferred districts as per availability, to the private partner for equipping, operation & maintenance of Mega Skill Training Centre as per the terms of the agreement to be signed with the Preferred Bidder. The districts to be allotted to the private partner for setting up of Mega Skill Training Centres, will be at the discretion of JSDMS. For the avoidance of doubt, it is clarified, that by providing preference of 5 districts does not mean that the private partner will be provided building and allowed to set up Mega Skill Training Centre in all preferred 5 districts. Authority has the discretion to select the districts out of the preferred districts for setting up of Mega Skill Training Centre, which will be decided during negotiation prior to signing of Concession Agreement.
- 2.2.3 JSDMS shall receive the proposal in accordance with the terms set forth in this RFP and other documents that may be provided by JSDMS pursuant to this RFP as amended/clarified from time to time by JSDMS.
- 2.2.4 Along with the Bid, the Bidder is required to deposit a non-refundable Processing Fee of INR 5,000/- (Rupees Five Thousand only) in line with details provided in Clause 1.5.2 and bid security of INR 2,00,000.00 in line with the details provided in Clause 1.5.3 as per the schedule given in Clause 1.5.4. Else, the bid shall be summarily rejected.
- 2.2.5 Bidders shall not have a conflict of interest ("**Conflict of Interest**") that affects the sanction of work that may follow. Any Bidder found to have a Conflict of Interest is liable to be disqualified.
- 2.2.6 Any misrepresentation shall lead to disqualification of the Bidder.
- 2.2.7 JSDMS will not return any proposal or any information provided along

therewith.

- 2.2.8 In case it is found at any time during the Project period or anytime during the period of subsistence thereof, that one or more of the eligibility criteria have not been met by the Bidder or that the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith and any Agreement / Contract, if signed, shall be liable to be terminated by a communication in writing by JSDMS to the Bidder, without JSDMS being liable in any manner whatsoever to the Bidder.
- 2.2.9 JSDMS reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP. Failure of JSDMS to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of JSDMS thereunder.
- 2.2.10 The Bidders shall be responsible for all the costs associated with the preparation of their proposal and their participation in the bidding process. JSDMS will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the bidding process.
- 2.2.11 In case of Consortium, Bidders shall submit the Power of Attorney for Lead-member of the Consortium and Consortium Bidding Agreement and as per the formats attached under Appendix - IX and Appendix – X respectively.

2.3 Due Diligence, site visit and verification of information

- 2.3.1 It shall be deemed that by submitting a Bid, the Bidder has:
 - (a) made a complete and careful examination of the RFP;
 - (b) received all relevant information requested from JSDMS;
 - (c) satisfied itself about all matters, things and information necessary for submitting an informed Proposal and for execution of work in accordance with the RFP and for performance of all of its obligations there under.

2.4 Right to accept and to reject any or all Proposals

- 2.4.1 Notwithstanding anything contained in this RFP, JSDMS reserves the right to accept or reject any proposal and to annul the Bidding Process and reject all Proposals at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof.
- 2.4.2 Such misrepresentation/improper response as described herein shall lead to the disqualification of the Bidder.
- 2.4.3 In case it is found during the evaluation of proposals or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the Eligibility Criteria have not been met by the Bidder or that the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified

forthwith and the Agreement, if signed, shall be liable to be terminated by a communication in writing by JSDMS to the Bidder, without JSDMS being liable in any manner whatsoever to the Bidder.

B. DOCUMENTS

2.5 Contents of the RFP

2.5.1 The following are the Schedule attached as part of this RFP

- A. Information on permitted costs as per Common Norms
- B. Trade-wise Categorisation of Base Cost of Training

2.5.2 The following are the appendices attached as a part of this RFP:

- I. Format for Covering Letter for the Proposal
- II. Format for Affidavit on not being blacklisted
- III. Format for Bidder Details
- IV. Format for Technical Capability Statement
- V. Format for Financial Capability Statement
- VI. Format for Additional Information
- VII. Format for Power of Attorney in favour of Authorized Signatory
- VIII. Format for Bank Guarantee for Bid Security
- IX. Power of Attorney for Lead Member of Consortium
- X. Format for Consortium Bidding Agreement
- XI. Draft Concession Agreement

2.6 Clarifications

2.6.1 Bidders requiring any clarification on the RFP may notify JSDMS in writing or by letter and/or e-mail. Queries should be sent in before the last date for submission of Pre-Bid Queries, as specified in Clause 1.5.4. JSDMS shall post queries and responses thereto on its website without identifying the source of queries. All queries and clarifications are to be raised in the format as given in Appendix–XII.

2.6.2 JSDMS shall endeavour to respond to the queries within the period specified therein. However, JSDMS reserves the right not to respond to any question(s) or provide any clarification(s), at its sole discretion, and nothing in these Clauses shall be taken or read as compelling or requiring JSDMS to respond to any question or to provide any clarification.

2.6.3 JSDMS may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by JSDMS shall be deemed to be part of the RFP. Verbal clarifications and information given by JSDMS or its employees or representatives shall not in any way or manner be binding on JSDMS.

2.7 Amendment of RFP

- 2.7.1 At any time prior to the deadline for submission of Proposals, JSDMS may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.
- 2.7.2 Any addenda issued subsequent to this RFP, but before the Proposal Due Date, will be deemed to form part of this RFP.
- 2.7.3 Any addendum thus issued will be uploaded on the JSDMS website (www.skilljharkhand.org). JSDMS will post the addendum/replies to the queries on the JSDMS website without identifying the source of queries.
- 2.7.4 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, JSDMS may, at its own discretion, extend the timelines mentioned in Clause 1.5.4, having due regard for the time required by the Bidders to address such amendment.
- 2.7.5 Any modification and amendment in the RFP or the timelines as stated in Clause 1.5.4 shall be uploaded on the JSDMS website. Prospective Bidders are requested to remain updated with regard to any addendum/ notices/ amendments/ clarifications etc. on the JSDMS website at www.skilljharkhand.org. JSDMS may not provide separate notifications for such addendum/ notices/ amendments / clarifications, etc. in the print media (press) or individually.

C. PREPARATION AND SUBMISSION OF PROPOSALS

2.8 Format of Proposal Submission

- 2.8.1 The Bidder shall provide all information sought under this RFP. JSDMS will evaluate only those proposals that are received in the required formats and complete in all respects.
- 2.8.2 The proposal should be neatly typed in indelible ink and signed by the authorised signatory of the Bidder. All pages should be numbered. All alterations, omissions, additions or any other amendments made to the Proposal must be initialled by the person(s) signing the proposal.

2.9 Submission of Proposals

- 2.9.1 The Bidder shall submit the proposal online <https://jharkhandtenders.gov.in/> with a valid Digital Signature of any Authorized Bidder of the Firm in the formats specified in the Appendices with the Cover Page clearly mentioning “Proposal for Selection of private partner for establish, operate and maintain the Mega Skill Training Centre in Jharkhand on PPP mode”, the name of the sector applied for and name & address of the Bidder.
- 2.9.2 The documents in the Proposal shall be numbered serially and placed in the order mentioned below, along with this checklist:

S. No.	Description	Reference
1	Cover Letter with the Bid	Appendix–I
2	Affidavit on not being blacklisted	Appendix–II
3	Bidder Details	Appendix–III
4	Technical Capability Statement	Appendix–IV
5	Financial Capability Statement	Appendix–V
8	Additional Information	Appendix–VI
10	Power of Attorney in favour of Authorized Signatory	Appendix–VII
11	Bank Guarantee format for Bid Security	Appendix–VIII
12	Power of Attorney for Lead Member of Consortium	Appendix - IX
13	Consortium Bidding Agreement	Appendix - X
14	Draft Concession Agreement	Appendix - XI
15	Pre Bid Query	Appendix - XII

2.9.3 Address and Contact Number for all communication:

Mission Director,
Jharkhand Skill Development Mission Society
Shram Bhawan, Doranda, Ranchi – 834 002
Website: www.skilljharkhand.org Email: skilljharkhand@gmail.com
Contact Number: 0651-2481644

2.9.4 Place of Submission of Processing Fee, Refundable Bid Security & Opening of Bids

Jharkhand Skill Development Mission Society
Shram Bhawan, Doranda, Ranchi – 834 002
Jharkhand

2.9.5 Proposals should be submitted online.

2.9.6 Proposals submitted by hard copy, fax, telex, telegram or e-mail shall not be entertained.

2.10 Proposal Due Date

2.10.1 Proposals should be submitted by **3:00 PM** IST on the Proposal Due Date as per Clause 1.5.4 online in the manner and form as detailed in this RFP. JSDMS may, at its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.7 uniformly for all Bidders.

2.11 Modifications/ Substitution/ Withdrawal of Proposals

- 2.11.1 Bidders may not modify, substitute or withdraw their Proposals after submission. Information supplied subsequent to the Proposal Due Date, unless the same has been expressly sought for by JSDMS, shall be disregarded.

2.12 Rejection of Proposals

- 2.12.1 JSDMS reserves the right to accept or reject all or any of the Proposals without assigning any reason whatsoever. It is not obligatory for JSDMS to accept any Proposal or to give any reasons for their decision.
- 2.12.2 JSDMS reserves the right not to proceed with the bidding process at any time, without notice or liability, and to reject any Proposal without assigning any reason(s).

2.13 Validity of Proposals

- 2.13.1 The Proposals shall be valid for a period of not less than 120 (one hundred and twenty) days from the Proposal Due Date. The validity of Proposals may be extended by mutual consent of JSDMS and the Bidders.

2.14 Confidentiality

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

2.15 Correspondence with the Bidder

- 2.15.1 JSDMS reserves the right to not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.



3 EVALUATION OF BIDS

3.1 Opening and Evaluation of Proposals

- 3.1.1 JSDMS shall open the Proposals on the day as per clause 1.5.4 at the address specified in Clause 2.9.3 and in the presence of the Bidders who choose to attend.
- 3.1.2 JSDMS will subsequently examine and evaluate the Proposals in accordance with the provisions set out in Clause 3.2 and Clause 3.3 below.
- 3.1.3 If at any time during the evaluation process JSDMS requires any clarification, it reserves the right to seek such information from any or all of the Bidders and the Bidders will be obliged to provide the same with supporting documents in the specified time frame.

3.2 Tests of responsiveness

- 3.2.1 Prior to evaluation of Proposals, JSDMS shall determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
 - (a) it is received as per Clause 2.8 and Clause 2.9;
 - (b) it is received by the Proposal Due Date including any extension thereof;
 - (c) it is accompanied by the Processing Fee;
 - (d) it does not contain any condition or qualification; and
 - (e) it is not non-responsive in terms hereof.
- 3.2.2 JSDMS reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by JSDMS in respect of such Bid.

3.3 Evaluation of bids

- 3.3.1 The Bidder has to be adjudged as responsive in terms of Clause 3.2.1 for participating in the Proposal process.
- 3.3.2 Bidders deemed eligible as per Clause 2.1 and responsive as per Clause 3.2.1 will be further evaluated on the basis of their technical, financial and additional capabilities and awarded score as per the criteria mentioned under following clauses. The selection process would involve an evaluation of the Technical Proposal (“Part A”) and Technical Presentation (“Part B”).
- 3.3.3 Bidders who score at least **50 out of 70** marks in Part A (referred to as “**Shortlisted Bidders**”) shall qualify for making a Technical Presentation before the Selection Committee.
- 3.3.4 The selection process shall be based on the evaluation criteria provided in the table below:

Evaluation Criteria for Bidder (Maximum of 100 Marks)		
S. No.	Parameters	Max. Marks
Part A: Technical Proposal submitted to JSDMS		
A.1	Technical Qualifications (Max. Marks: 20)	
a)	Skill Development Training in the past 3 financial years in the sector in which proposal is submitted <ul style="list-style-type: none"> Completion of skill training for average annual number trainees of more than 1500 trainees and less than 2500 trainees in last 3 years: 10 marks Completion of skill training for average annual number trainees of more than 2500 trainees in last 3 years: 15 marks 	15
b)	Having ISO 9001 quality certification	5
A.2	Financial Qualifications (Max. Marks: 50)	
a)	Average annual turnover over past 3 years (Type 1) <ul style="list-style-type: none"> Less than Rs 100 Crore: 0 mark Rs 100 Crore to 200 Crore: 15 marks Rs 200 Crore to 300 Crore: 20 marks Above Rs 300 Crore: 25 marks Average annual turnover over past 3 years (Type 2) <ul style="list-style-type: none"> Less than Rs 10 Crore: 0 mark Rs 10 Crore to 20 Crore: 15 marks Rs 20 Crore to 30 Crore: 20 marks Above Rs 30 Crore: 25 marks 	25
b)	Net worth in the last year (Type 1) <ul style="list-style-type: none"> Less than Rs 50 Crore: 0 mark Rs 50 Crore to 75 Crore: 15 marks Rs 75 Crore to 100 Crore: 20 marks Above Rs 100 Crore: 25 marks Net worth in the last year (Type 2) <ul style="list-style-type: none"> Less than Rs 01 Crore: 0 mark Rs 01 Crore to 03 Crore: 15 marks Rs 03 Crore to 05 Crore: 20 marks Above Rs 05 Crore: 25 marks 	25
Part B: Technical Presentation before the Selection Committee		
B.1	Technical Presentation (Maximum Marks: 30)	
a)	Indicative details to be presented:	30

Evaluation Criteria for Bidder (Maximum of 100 Marks)		
S. No.	Parameters	Max. Marks
	<ul style="list-style-type: none"> • Bidder's understanding of skill development • Bidder's understanding of Jharkhand and suitability for the state • Bidder's approach & methodology for skilling through Mega Skill Training Centre in Jharkhand • Bidder's experience in skill training 	

** Note: For the purpose of this RFP, Bidders are required to submit information and supporting documents on only such trainings which qualify as per the guidelines mentioned below:*

- i. *NSQF compliant Skill development training implies at least 200 hours of domain-specific skill training.*
- ii. *Only completed skill development trainings (i.e. training followed by assessment/certification) shall be considered for evaluation under this RFP;*
- iii. *For number of candidates trained/placed, "past three financial years" implies the financial years 2014-15, 2015-16, 2016-17.*

3.3.5 After the evaluation of Proposals under Part A, JSDMS would announce a list of Shortlisted Bidders, in line with Clause 3.3.3, who will be invited to make a Technical Presentation before the Selection Committee constituted for selecting Bidders for selection as private partner. JSDMS will not entertain any query or clarification from Bidders who fail to qualify for the Technical Presentation.

3.3.6 Bidders shall be selected on the basis of obtained scores after aggregating the scores awarded on the basis of Technical Proposal evaluation and Technical Presentations ("**Overall Score**").

3.3.7 On the basis of Overall Score, **the Bidders securing 70 marks or more** shall be qualified for the award of the work. Based on the overall budget and targets and infrastructure availability, JSDMS shall invite select Bidders for negotiation and finalisation of districts and the contract.

3.3.8 While evaluation and awarding work, preference shall be given to (a) Bidder as a single entity over Bidder as a group of entities and (b) Type 1 Bidder over Type 2 Bidder.

3.4 Contacts during Proposal Evaluation

3.4.1 Proposals shall be deemed to be under consideration immediately after they are opened and until such time JSDMS makes official intimation of award/rejection

to the Bidders. While the Proposals are under consideration, Bidders and/or their representatives or other interested parties are advised to refrain from contacting, by any means, JSDMS and/or their employees/representatives on matters related to the Proposals under consideration.

4 FRAUD AND CORRUPT PRACTICES

- 4.1.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during and subsequent to the bidding process and during the subsistence of the agreement to be signed with private partner.
- 4.1.2 Notwithstanding anything to the contrary contained herein, or in the Agreement, JSDMS shall reject a Bid, withdraw any award of work, or terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the bidding process.
- 4.1.3 In such an event, JSDMS shall appropriate the Performance Security Deposit, as the case may be, without prejudice to any other right or remedy that may be available to JSDMS hereunder or otherwise.
- 4.1.4 For the purposes of Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
 - a) **"corrupt practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the bidding process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of JSDMS who is or has been associated in any manner, directly or indirectly with the bidding process or award of work or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of JSDMS, shall be deemed to constitute influencing the actions of a person connected with the bidding process); or (ii) engaging in any manner whatsoever, whether during or after the bidding process or after the execution of the agreement, as the case may be, any person in respect of any matter relating to the Project or the Agreement, who at any time has been or is a legal, financial or technical adviser of JSDMS in relation to any matter concerning the project;
 - b) **"fraudulent practice"** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the bidding process;
 - c) **"coercive practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the bidding process;
 - d) **"undesirable practice"** means (i) establishing contact with any person

connected with or employed or engaged by JSDMS with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the bidding process; or (ii) having a Conflict of Interest; and

- e) **"Restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the bidding process.

5 *PRE-BID MEETING*

- 5.1.1 Pre-Bid Meeting of the Bidders shall be held at the JSDMS office in Ranchi at 4:00 PM IST on the date as mentioned in the Clause 1.5.4. A maximum of two representatives of each Bidder shall be allowed to participate on production of Authority letter from the Bidder.
- 5.1.2 During the course of Pre-Bid Meeting, the Bidders will be free to seek clarifications and make suggestions for consideration of JSDMS. JSDMS shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive bidding process.

6 MISCELLANEOUS

- 6.1.1 The bidding process shall be governed by, and construed in accordance with, the laws of India and the Courts at Ranchi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the bidding process.
- 6.1.2 JSDMS, at its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- a) suspend and/or cancel the bidding process and/or amend and/or supplement the bidding process or modify the dates or other terms and conditions relating thereto;
 - b) consult with any Bidder in order to receive clarification or further information;
 - c) retain any information and/or evidence submitted to JSDMS by, on behalf of, and/or in relation to any Bidder; and/or
 - d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 6.1.3 It shall be deemed that by submitting the Proposal, the Bidder agrees and releases JSDMS, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

7 SCHEDULES

Schedule–A

- 7.1.1 In case of sanction of work post-selection, payment to private partner shall be guided by the costs approved at the national level by the Common Norms notified on 15th July 2015 by the Ministry of Skill Development and Entrepreneurship, and as amended from time to time, which are as under:

Component as per MSDE Common Norms	Cost permissible to training provider
A. Base Cost	
For trades/sectors listed in Category I of Schedule-B	Rs. 38.50 per hour per trainee
For trades/sectors listed in Category II of Schedule-B	Rs. 33.00 per hour per trainee
For trades/sectors listed in Category III of Schedule-B	Rs. 27.50 per hour per trainee
Note: <ol style="list-style-type: none"> The hourly rates are inclusive of all costs to be incurred by training providers including Mobilization of candidates, Curriculum, Placement expenses, Trainers' training, Equipment, Amortization of Infrastructure costs or Utilities, Teaching Aid, Raw material, Salary of trainers, Post-placement tracking/monitoring, etc. This Base Cost shall be applicable for each trainee <u>successfully certified</u> at the end of the training, including re-assessment(s). Payment shall be guided by the costs approved at the national level by the Common Norms notified by the Ministry of Skill Development and Entrepreneurship, as notified from time to time. 	
B. Boarding & Lodging Costs for Residential Trainings	
Jamshedpur, Dhanbad and Ranchi (Urban Area)	Rs. 250 per day per trainee
All Urban Areas with the exception of above	Rs. 200 per day per trainee
All Rural Areas and any Area not notified as a municipal or town area	Rs. 175 per day per trainee
Note: <ol style="list-style-type: none"> The above categorisation of areas shall be as per prevailing Common Norms. Apart from Residential trainings, suitable allowance may be provided for meals/refreshment of trainees under Non-Residential training. 	
C. Additional Cost for Training in Special Areas	

Component as per MSDE Common Norms	Cost permissible to training provider
Skill training in districts affected by Left Wing Extremism as identified by NITI Aayog, Govt. of India for Additional Central Assistance for LWE affected Districts.	Additional amount equal to 10% of the Base Cost over and above the Base Cost
D. Additional Cost for Training Persons with Disability	
Skill training for Persons with Disability	Additional amount equal to 10% of the Base Cost over and above the Base Cost
E. Assessment Cost	
Cost for third-party Assessment of trainee charged by Sector Skill Council	Reimbursement of one-time assessment cost, based on actual.

7.1.2 In accordance with the prevailing Common Norms, funds shall be released to private partner as per the following schedule:

Instalment	Percentage of Total Cost	Output Parameter
First	30%	On commencement of Training Batch
Second	50%	On successful certification of the trainees
Third	20%	Outcomes based on placements as under

7.1.3 Guided by the Common Norms, the outcomes expected from skill training under any programme of JSDMS are as given below:

- a) Employment (both wage and self) on an annual basis of at least 70% of certified trainees within three months of completion of training, with at least 50% of the trainees passing out being placed in wage employment;
Provided that JDSMS may alter the percentage target of wage and self-employment within a batch based on specifics of the trade;
- b) In case of wage employment, candidates shall be placed in jobs that provide wages at least equal to minimum wages prescribed in the state of Jharkhand (currently ~Rs 9000 per month for contractual skilled labour) and such candidates should continue to be in jobs for a minimum period of three months from the date of placement in the same or a higher level with the same or any other employer.
- c) In case of self-employment, candidates should have been employed gainfully in livelihood enhancement occupations, which are evidenced in

terms of newly acquired trade license, or setting up of an enterprise or becoming a member of a producer group, or proof of additional earnings (bank statement) or any other suitable and verifiable document.

7.1.4 The outcome-linked fourth instalment as given in Clause 7.1.2 would be released to the Preferred Bidder subject to the following:

- a) Preferred Bidder shall be eligible for 100% payment on for outcome achievement as specified in Clause 7.1.3.
- b) Preferred Bidder will be paid on pro-rata basis on outcome achievement in terms of wage/self-employment being facilitated for 50-69% of those who have been certified, in keeping with Clauses above.

Schedule–B

7.1.5 List of trades as per the cost category prescribed in the Common Norms notified by the Ministry of Skill Development and Entrepreneurship on 15th July, 2015:

S. No.	Industry / Sectors	Sub-Sector/Trades		
		Category-I	Category-II	Category-III
1.	Agriculture	Farm Machinery, Animal Husbandry, Farm Mechanisation, Precision farming, Fisheries and allied Sector	Agriculture, Plantation, Horticulture Floriculture, Poultry	Apiculture, Home Décor Art - Bonsai, Flower, water fall; Minor Forest Product processing and value addition, Natural Fibre product processing and value addition (Sericulture, Jute, cotton, hemp and diversified Products)
2.	Apparel	Garment Manufacturing, Fashion Design	Garment making	
3.	Automotive	Manufacturing, Automotive repair	Automotive Sales	
4.	Beauty & Wellness		Spa and Wellness, Beauty Culture & Hair Dressing, Naturopathy	Home Décor Art Mehendi
5.	BFSI			Banking, Accounting, Insurance
6.	Capital Goods	Fabrication, Electro- Mechanical		
7.	Chemicals	Manufacture of Chemicals and Bio-Chemicals, Plastics, Processing	Fragrance Flavour & Perfume	
8.	Construction	Construction Equipment, Fabrication	Paint, Wood Works, Bamboo Fabrication, Carpentry	
9.	Education & Skill Development		Education, Skill Development	Counselling Skills
10.	Electronics	Electronics System Design, Manufacture Refrigeration and Air Conditioning	Consumer Electronics - Sales & Service	
11.	Fast Moving Consumer Goods			Fast Moving Consumer Goods
12.	Food Processing Industries	Food Processing Sectors		Food Processing sectors such as: Dairy Products, Fruit & Vegetable Products, Cereals & Cereal Products, Food Grain, Edible Oil & Fats, Meat & Meat Products, Fish & Fish Products, Sweets & Confectionery, Bread & Bakery, Spices & Condiments, Beverage, Aerated Water & Soft Drinks, Packaging of food products

S. No.	Industry / Sectors	Sub-Sector/Trades		
		Category-I	Category-II	Category-III
13.	Furniture & Furnishing		Furniture Making	
14.	Gems & Jewellery	Gems & Jewellery Manufacturing		Home Décor Art Jewellery
15.	Green Skills	Renewable energy		Rain Water Harvesting, Green retail, Allied green skills
16.	Handloom & Handicrafts	Handlooms	Brassware, Khadi, Carpet, Handicrafts	Handmade Paper and Paper Products, Home décor art, Ceramic Painting, Home Décor, Art Wood
17.	Healthcare	Medical and Nursing Healthcare – Machine Technician	Community Healthcare, Healthcare – Assistants, Preventive Healthcare (including Nutrition & Health Education and Health Counselling)	Allied Healthcare
18.	Instrumentation	Process, Instrumentation		
19.	Iron & Steel	Foundry (including Sponge Iron)		
20.	IT-ITES		Information and Communication Technology	
21.	Leather	Leather Footwear & Leather Sports Goods Manufacture		
22.	Life Science	Manufacturing of Pharmaceuticals	Pharmaceutical Sales	
23.	Logistics			Courier & Logistics
24.	Management			Material Management, Business and Commerce
25.	Manufacturing	Production & Manufacturing		
26.	Marine Engineering	Marine Engineering, Ship Construction		
27.	Media & Entertainment	Animation	Production Support, Media, Printing	Film Production
28.	Mining	Mining		
29.	Music	Musical instrument Manufacture	Instrumental Music service	
30.	Plumbing	Plumbing		
31.	Power & Energy	Electrical Industrial Electrician	Domestic Electrician	
32.	Retail		Store Operation, FMCG	Retail
33.	Rubber	Manufacturing	Rubber, Nursery/ Plantation	
34.	Security		Security, Fire & Safety Engineering	
35.	Sports	Sports Goods Manufacture	Sports service	

S. No.	Industry / Sectors	Sub-Sector/Trades		
		Category-I	Category-II	Category-III
36.	Telecom	Network & Infrastructure Management	Telecom Service Provider, Handset Sales & Service	
37.	Textiles	Spinning, Weaving, Textiles, Knitting, & Processing for Cotton, Other Manmade & Synthetic Fibres		
38.	Tourism & Hospitality	Food Production, Cooking	Hospitality, F&B Service and Housekeeping	Travel & Tourism
39.	Traditional / conventional sectors	Glassware	Painting Toy Making	Clock and watch repair
40.	Other Sectors	Any trade not covered in any of the categories above	Any trade not covered in any of the categories above	Any trade not covered in any of the categories above

8 APPENDICES

APPENDIX – I Format – Covering Letter

To,
Mission Director
Jharkhand Skill Development Mission Society
Shram Bhawan, Doranda, Ranchi

Dear Sir,

Subject: Selection of private partner for establish, operate and maintain the Mega Skill Training Centre in Jharkhand on PPP mode

This is in response to the RFP issued by the Jharkhand Skill Development Mission Society (Ref No.) dated

We (*Name of the Bidder*) are keen to get selected for the project and hereby express our interest in being considered for the same under Type 1 / Type 2 (*Choose one*)

Please find enclosed one Original and one True Copy of our Proposal. We have also attached the requisite Processing Fee of Rs. 5,000/- in the form of Demand Draft No. dated drawn on

We hereby confirm that:

1. The RFP is being submitted by which is the “Bidder” for the **Sector** in accordance with the conditions stipulated in the RFP. Our preference of districts for establishment of Mega Skill Training Centre are as below:
 - i. District 1: _____
 - ii. District 2: _____
 - iii. District 3: _____
 - iv. District 4: _____
 - v. District 5: _____
2. We have examined in detail and have understood the terms and conditions stipulated in the RFP issued by JSDMS and in any subsequent communication sent by JSDMS. We agree and undertake to abide by all these terms and conditions. Our proposal is consistent with all the requirements of submission as stated in the RFP or in any of the subsequent communications from JSDMS.
3. The information submitted in our RFP is complete and correct to the best of our knowledge and understanding. We would be solely responsible for any errors or omissions in our RFP. We acknowledge that JSDMS will be relying on the information

provided in the RFP and the documents accompanying such RFP for Selection of private partner for establish, operate and maintain the Mega Skill Training Centre in Jharkhand on PPP mode and we certify that all information provided in the application is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such RFP are true copies of their respective originals.

4. We acknowledge the right of JSDMS to reject our RFP without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
5. We declare that we satisfy all legal requirements and meet all the eligibility criteria laid down in the RFP.
6. This RFP is unconditional and we hereby undertake to abide by the terms and conditions of the RFP.
7. We understand that any work sanctioned in pursuance to the bidding process detailed in this RFP shall be on the terms and conditions specified in the Letter of Award / Work Order / Agreement pertaining to such work, which shall be thoroughly reviewed and accepted by us before undertaking such work.
8. We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

For and on behalf of:

Signature:

Name:

Designation:

(Company Seal)

(Authorized Representative and Signatory)

Note:

The Covering Letter is to be submitted by Authorized Signatory on the organisation's letterhead with his/her signature and seal.

APPENDIX – II
Affidavit for not being blacklisted

(Affidavit on non-judicial stamp paper by Authorized Signatory of the Bidder with his/her signature and company seal)

AFFIDAVIT

I/We, on behalf of (*Name of Bidder*), with its registered office at do hereby declare that the above-mentioned Bidder has not been blacklisted/ debarred by any State/Central Government authority / Donor Agency.

For and on behalf of:

Signature:

Name:

Designation:

Date:

(Company Seal)

(Authorized Signatory)

APPENDIX – III
Format – Bidder's Details

*(To be provided by Authorized Signatory on Letterhead
with his/her signature and company seal)*

S. No.	Description	Details	Document at Page No.
1.	Name of Legal Entity		
2.	Status / Constitution of the Bidder		
3.	Name of Registering Authority		
4.	Registration Number		
5.	Date of Registration		
6.	Place of Registration		
7.	PAN Card Number		
9.	Valid affiliation with Sector Skill Council (Yes/No)	Give details & documentary proof of valid SSC affiliations for each sector under which Bidder seeks to get selected	

For and on behalf of:

Signature:

Name:

Designation:

Date:

(Company Seal)

(Authorized Signatory)

Note: Copy of appropriate registration / incorporation certificate along with a copy of PAN card should be appended as a part of this form. Copies of all documents should be appended in the same order as mentioned in the table.

APPENDIX – IV
Format – Technical Capability Statement

(To be certified by a Chartered Accountant)

Skill Development Training in past 3 financial years in the sector for which this proposal is submitted:

Sector applied for: _____

S. No.	Financial Year	Number of Trainees for whom skill training has been completed
1.	2014-15	
2.	2015-16	
3.	2016-17	
Average		

Signature and Seal of Chartered Accountant

Note:

The onus of providing adequate and verifiable supporting evidence (of numbers of trainees trained and placed) lies upon the Bidder. Detailed candidate-wise data may be provided on CD, if required. Supporting evidence must be provided as below

1. Original Certificate by a Chartered Accountant stating the number of trainees for whom skill training has been completed by the Bidder as per the conditions stated in the note under Clause 3.3.4.

And

2. Self-attested copies of any of the following: Work Order for each programme accompanied by Certificate of Completion / Proof of Final Payment from Government bodies indicating the number of candidates trained in the sector; Printouts of verifiable information from Government MIS systems showing number of candidates trained

APPENDIX – V
Format – Financial Capability Statement

(To be certified by a Chartered Accountant)

On the basis of audited financial statements, I/We hereby submit that
(Name of Bidder), having registered office at, has
annual turnover and net worth in past three consecutive financial years (2014-15, 2015-16
and 2016-17), as follows:

S. No.	Financial Year	Annual Turnover (Rs. Lakhs)	Net worth (Rs. Lakhs)
1.	2014-15		
2.	2015-16		
3.	2016-17		
TOTAL			
AVERAGE			

Signature and Seal of Chartered Accountant

Note:

1. Bidder is required to submit the audited financial statements for the past three years (2014-15, 2015-16 and 2016-17).
2. All supporting documents should be duly certified by a Chartered Accountant
3. Supporting definitions:
 - Turnover: Revenue net of any taxes and duties payable.
 - Net worth = Paid Up Equity share capital (excluding share capital allotted for consideration other than cash) + Free Reserves and Surplus (excluding revaluation reserves) – Deferred Revenue Expenditure/ Miscellaneous Expenditure not written off – Debit Balance in Profit and Loss Account – Cross holding of investments amongst consortium members in case of a consortium.

APPENDIX – VI
Format – Additional Information

(i) Bidder's understanding of Skill Development and Skill Training

.....

.....

.....

.....

(ii) Bidder's approach & methodology for Skill Training & Delivery (including Mobilization, Training Delivery, Quality Assurance)

.....

.....

.....

.....

(iii) Bidder's experience and strength in securing placement for trainees

.....

.....

.....

.....

(iv) Available Trainer details (all-India)

S.N.	Description	Details
1.	No. of permanent trainers, along with their sector(s) of expertise	
2.	No. of contractual trainers, along with their sector(s) of expertise	
3.	No. of trainers trained and certified by any Sector Skill Council, along with their sector(s) of expertise	
4.	Qualifications of Permanent Faculty	

(v) Additional details

(Bidder may use this space to highlight experience of working with various beneficiary groups)

Experience in training candidates belonging to Scheduled Castes and Scheduled Tribes, if any	
Experience in training candidates belonging to Primitive Tribes, if any	
Experience in training women candidates	
Experience in training illiterate candidates, if any	
Experience in training Persons with Disabilities, if any	

For and on behalf of:

Signature:

Name:

Designation:

Date:

(Company Seal)

(Authorized Signatory)

APPENDIX – VII

Format – Power of Attorney in favour of Authorized Signatory

(On Non-Judicial Stamp Paper of appropriate value and duly notarized)

This is to authorise Mr./Ms. _____
son/daughter/wife of _____ and presently residing at _____,
who is presently employed with us and/or holding the position of _____,
for doing in our name and signing on our behalf all such acts, deeds and things as are
required in connection with submission of our bid for “Selection of private partner for
establish, operate and maintain the Mega Skill Training Centre in Jharkhand on PPP mode”
including but not limited to signing and submission of all applications, bids and other
documents, participating in Bidders' conferences and providing information / responses to
Jharkhand Skill Development Mission Society (JSDMS), representing us in all matters
before JSDMS or concerned Authority, signing and execution of all contracts including the
Agreement and undertakings consequent to acceptance of our bid, and generally dealing with
the Authority in all matters in connection with or relating to or arising out of our bid for the
said Project and/or upon award thereof to us and/or till the entering into of the Agreement
with JSDMS.

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

Signed on behalf of _____

(Signature)
(Name, Title and Address)

Accepted

(Signature)
(Name, Title and Address)

Notes:

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

APPENDIX - VIII:

Bank Guarantee format for Bid Security

(To be executed on Stamp paper of appropriate value)

B.G. No.

Dated:

1. In consideration of you, Jharkhand Skill Development Mission Society, having its office at _____, (herein after referred as “JSDMS”), which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of having its registered office at (hereinafter referred to as the “Bidder”) which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns, for the “Establishment, operation and maintenance of the Mega Skill Training Centre in Jharkhand on PPP mode” (hereinafter referred to as “the Project”) pursuant to the RFP Document dated issued in respect of the Project (hereinafter referred to as “Bidding Document”), we (Name of the Bank) having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 1.5.3 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. 2,00,000 (Rupees Two Lakhs only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Document.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Document shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Document including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Document for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. 2,00,000 (Rupees Two Lakhs only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 270 (two hundred and seventy) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Document including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Document, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Document or to extend time for submission of the Bid or the Bid validity period or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Document, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to name of Bank along with branch address and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. 2,00,000 (Rupees Two Lakhs only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before _____ (indicate date falling 270 days after the Bid Due Date).

Signed and Delivered by Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX – IX

Power of Attorney for Lead Member of Consortium

(On Non-Judicial Stamp Paper of appropriate value and duly notarized)

This power of attorney is made on this the [PLEASE INSERT DATE] day of [PLEASE INSERT MONTH], [PLEASE INSERT YEAR].

We, [PLEASE INSERT NAME OF THE NON-LEAD MEMBER] of [PLEASE INSERT ADDRESS OF THE NON-LEAD MEMBER] do hereby appoint and authorize [PLEASE INSERT NAME OF THE LEAD MEMBER] of [PLEASE INSERT ADDRESS OF THE LEAD MEMBER] to represent the Consortium in all matters in relation to provide information and respond to inquiries etc. as may be required by the Authority, the Jharkhand Skill Development Mission Society in connection with the Establish, Operate & Maintain Mega Skill Training Centres in Jharkhand on PPP Mode in line with the terms and conditions as provided in the Concession Agreement (hereinafter referred to as the “**Project**”). The Lead Member is further authorized to conduct all business in relation to the bidding process for and on behalf of the Non-Lead Member, during the Bidding Process and in the event that the Consortium is awarded the Project, during the finalization of the Concession Agreement. Furthermore, the Lead Member is hereby authorized to sign and file relevant documents in connection with any and all matters related to the preparation and submission of the Proposal in response to the RFP and do all or any of such acts, deeds or things as are necessary or required or incidental to the preparation and submission of the Proposal for the Project. The Lead Member is further authorized to sign and execute any contracts and undertakings consequent to acceptance of our Proposal, and generally to deal with the Authority, for and on behalf of the Consortium, in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof.

AND

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

IN WITNESS WHEREOF WE DO HEREBY PUT OUR SIGNATURE ON THE DAY, MONTH AND YEAR MENTIONED HEREIN ABOVE.

(Non-Lead Member signature)

Name:

Accepted

(Signature of Lead Member)
(Name, Title and Address)

Witness: 1. _____ 2. _____

Name:

Name:

Address:

Address:

(Please fill in name and address of the witness)

(Please fill in name and address of the witness)

Notes:

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

APPENDIX – X
Consortium Bidding Agreement

(On Non-Judicial Stamp Paper of appropriate value and duly notarized)

This Consortium Bidding Agreement (hereinafter referred to as the “Agreement”) is entered into on this the [PLEASE INSERT DAY] day of [PLEASE INSERT MONTH], [PLEASE INSERT YEAR].

BETWEEN

1. [NAME OF ENTITY], a Proprietorship Firm / Partnership Firm / Private Limited Company / Public Limited Company / Society / Trust incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESS OF COMPANY] (hereinafter referred to as the “**First Party**” and/or the “**Lead Member**”, as used interchangeably, which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives)¹.

AND

2. [NAME OF ENTITY], Proprietorship Firm / Partnership Firm / Private Limited Company / Public Limited Company / Society / Trust incorporated under the [PLEASE INSERT THE RELEVANT LAW/REGULATION OF INCORPORATION AND COUNTRY OF INCORPORATION], and having its registered office at [ADDRESS OF COMPANY] (hereinafter referred to as the “**Second Party**” which expression shall, unless repugnant to the context include its successors, permitted assigns and legal representatives).

Each of the First Party and Second Party, are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”.

WHEREAS,

- (A) The Jharkhand Skill Development Mission Society (An autonomous body under Department of Higher, Technical Education and Skill Development), under the Government of Jharkhand, having its office at Shram Bhawan, Doranda, Ranchi- 834 002, Jharkhand (hereinafter referred to as the “**Authority**”) has invited bids (hereinafter referred to as the “**Proposal**”) in response to its Request for Proposal No. [] dated [] (hereinafter referred to as the “**RFP**”) for

selection of the Private Partner to Establish, Operate, & Maintain Mega Skill Training Centres in Jharkhand on PPP mode (hereinafter referred to as the “**Project**”).

- (B) The Parties are interested in jointly bidding for the Project as Consortium Members and in accordance with the terms and conditions of the RFP document and other bid documents issued by the Authority in respect of the Project, and
- (C) It is a necessary condition under the RFP document for the Consortium Members to enter into this Agreement and furnish a copy thereof with the Proposal.

NOW IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATIONS

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. RELATIONSHIP OF THE PARTIES

- 2.1. The purpose of this Agreement is to establish and record terms to govern the relationships of the Parties with each other. The Parties do hereby irrevocably constitute a Consortium for the purposes of jointly participating in the bidding process for the Project.
- 2.2. The Parties agree to cooperate with each other in the negotiation, preparation and submission of the Proposal and in the event that they are awarded the Project, in the preparation, finalization and execution of the Concession Agreement on the terms set out in this Agreement.
- 2.3. Nothing contained in this Agreement is intended to create a partnership or any other separate legal or corporate entity.
- 2.4. The Parties hereby undertake that in the event the Consortium is declared as the Preferred Bidder and awarded the Project, it shall incorporate the SPV under the Companies Act 2013 of Government of India for the delivery of the Project in accordance with the terms and conditions of the Concession Agreement.

3. TERM OF THIS AGREEMENT

This Agreement will commence from the date of execution and shall be valid until the formation of SPV. However, in the event that the Consortium is not selected as the Preferred Bidder for the Project, this Agreement will stand terminated in accordance with Clause 9 of this Agreement.

4. EXCLUSIVITY

For a particular Sector, no Party shall directly or indirectly, except as part of the Consortium, alone or with any third party prepare or submit, or participate in the preparation or submission of, any other Proposal in response to the RFP (as applicable).

5. ROLES AND RESPONSIBILITIES OF THE PARTIES

- 5.1. The Parties hereby undertake to perform the roles and responsibilities as described herein below:

- (a) The Parties hereby acknowledge that the First Party shall be the Lead Member of the Consortium and shall have the authority to conduct all business in relation to the bidding process for and on behalf of any and all the Consortium Members during the bidding process and in the event that the Consortium is awarded the Project, during the preparation, finalization and execution of the Consortium. The Lead Member shall be authorized pursuant to a Power of Attorney provided by all other Parties (i.e. the Non-Lead Members) to conduct all business and to sign and file relevant documents in connection to the bidding process for and on behalf of the Consortium and represent and irrevocably bind all other Consortium Members in all matters connected to the bidding process. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the First Party/Lead Member are:

- 1.
- 2.
- 3.

- (b) The Second Party shall be the <technical/financial/operation and maintenance/ any other> [please mention] member of the Consortium. [PLEASE INSERT DETAILS OF THE ROLES AND RESPONSIBILITIES].

The roles and responsibilities of the Second Party are:

- 1.
- 2.
- 3.

6. JOINT AND SEVERAL LIABILITY

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, until such time that the Agreement is terminated pursuant to Clause 9.

7. SHAREHOLDING IN THE SPV

- 7.1. The Parties agree that in the event that the Consortium is awarded the Project, the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party: [PLEASE INSERT SHAREHOLDING OF LEAD MEMBER] (minimum 26% of the total Equity in the SPV)

Second Party: [PLEASE INSERT SHAREHOLDING OF SECOND PARTY] (minimum 26% of the total Equity in the SPV)

- 7.2. The lead member shall hold, directly or indirectly, at least 26% (twenty six percent) of the total Equity in the SPV throughout the Concession Period. Other member of the Consortium shall hold, directly or indirectly, at least 26% (twenty six percent) of the total Equity in the SPV during a period of 3 (three) years following commercial operation date.

8. REPRESENTATION AND WARRANTIES

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

- a) It is duly organized, validly existing and in good standing under the laws of the country of its incorporation/formation and has the requisite powers and authority to enter into this Agreement.
- b) The execution, delivery and performance by such Party of this Agreement has been authorized by all necessary and appropriate corporate or governmental action and a copy of the extract of the memorandum and articles of association and/or board resolution/ power of attorney authorizing the legal representatives of the Party to execute this Agreement on behalf of the Party is annexed to this Agreement.
- c) The execution, delivery and performance by such Party of this Agreement will not, to the best of its knowledge:
 - (i) require any consent or approval not already obtained;
 - (ii) violate any applicable law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which it is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement.
- d) There is no litigation pending or, to the best of such Party's knowledge, threatened against it to which it or any of its Associates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.
- e) Each Party warrants that it has the necessary resources, licenses and permits for the information contained in the Proposal and the delivery of services and deliverables contemplated or that will be contemplated in the Concession Agreement.

9. TERMINATION

- 9.1. In the event that the Consortium is not awarded the Project or in case of cancellation of the bidding process by the Authority, this Agreement shall automatically come to

an end and the Consortium shall consequently be dissolved, subject to each Party duly completing or performing its pending obligations, if any.

9.2. In the event that the Consortium is awarded the Project, this Agreement shall terminate upon formation of the SPV.

9.3. Except as provided in Clause 9.1 and 9.2 above, the Parties shall not terminate this Agreement without the prior written approval of the Authority.

10. VALID AND BINDING OBLIGATION

10.1. Each of the Parties agree that this Agreement constitutes a valid and binding obligation upon the Parties concerned and is enforceable against each of them in accordance with the terms and conditions herein contained.

10.2. Unless otherwise agreed, each of the Parties agree that in case of a successful bid, all Parties shall be jointly and severally liable for the execution of the Concession Agreement with the Authority, in accordance with the terms and conditions contained therein.

11. COSTS

11.1. The Parties agree that each Party will bear its own costs arising out of this Agreement, except as maybe agreed otherwise in writing.

12. CONFIDENTIALITY AND NON-DISCLOSURE

12.1. The Parties agree that they will keep confidential and will not disclose to any third parties, firms, corporations or others, this Agreement, or any of the terms of this Agreement, provided that either Party may disclose the information pursuant to the process or otherwise required by other applicable laws including any directions from government agencies, central bank etc., in which case the Party that has been requested to provide the information shall notify the other Parties of such request, so that the other Parties may object to such production, or take any other action they deem necessary and appropriate.

13. NOTICE

13.1. All notices or processes among the Consortium Members, relating to this Agreement, shall be valid and effective if sent by [PLEASE INSERT THE MODE OF COMMUNICATION (E.G. LETTER/E-MAIL)] to the respective addresses as provided herein below.

For the First Party/ Lead Member: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE FIRST PARTY]

For the Second Party: [PLEASE INSERT ADDRESS AND CONTACT DETAILS OF THE SECOND PARTY]

14. MISCELLANEOUS

14.1. This Agreement shall be governed by laws of India.

14.2. The Parties acknowledge and accept that this Agreement shall not be amended or modified by the Parties without the prior written approval of the Authority.

- 14.3. The Parties acknowledge and accept that no change in the composition of the Consortium shall be permitted after the Proposal Due Date up to the issuance of the LoA.
- 14.4. The Parties further acknowledge and accept that no change in the composition of the Consortium shall be permitted from the time of issue of the LoA up to the signing of the Concession Agreement without the prior written approval of the Authority which will be in its absolute discretion.
- 14.5. Moreover, the Parties acknowledge that approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.
- 14.6. The Parties further acknowledge and accept that any change in the composition of the Consortium other than as set out above, shall lead to the rejection of their Proposal.
- 14.7. No failure or delay on the part of any Party to this Agreement to exercise any right or remedy under this Agreement and/or no indulgence granted by any one Party to the other will operate as a waiver thereof, nor will any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy.
- 14.8. Each Party agrees to execute, do and procure all other persons, if any, to execute and do all such further deeds, assurances, acts and things as may reasonably be necessary so that full effect may be given to the terms and conditions of this Agreement.
- 14.9. If a provision of this Agreement is found to be illegal, invalid or unenforceable:
- (a) it is to be read down or severed to the extent of the illegality, invalidity or unenforceability;
 - (b) the Parties shall negotiate in good faith amendments to this Agreement to include, to the extent possible, legal, valid and enforceable provisions to give effect to the intent of the Parties under the illegal, invalid or unenforceable provision.
- 14.10. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

FIRST PARTY (LEAD MEMBER)

(Signature)

(Name)

SIGNED, SEALED AND DELIVERED

For and on behalf of

SECOND PARTY

(Signature)

(Name)

(Designation)

(Address)

(Please fill in the details of the Lead Member)
Second Party)

(Designation)

(Address)

(Please fill in the details of the

SIGNED, SEALED AND DELIVERED

For and on behalf of

SIGNED, SEALED AND DELIVERED

For and on behalf of

In the presence of:

1. _____

2. _____

(Please insert names of the witness)

(Signature of the witness)

Note:

- *This Agreement to be executed on non-judicial stamp paper appropriate value or any other legally equivalent document as permissible under the laws of the respective country where any one Consortium Member is domiciled.*
- *It is to be noted that a Consortium cannot have more than 2 (two) Consortium Members (including the Lead Member).*

APPENDIX – XI

DRAFT CONCESSION AGREEMENT

Between

Government of Jharkhand

(Jharkhand Skill Development Mission Society)

And

.....

(Name of the Concessionaire)

**To Establish, Operate and Maintain Mega Skill Training
Centre on PPP mode**

Draft Concession Agreement

THIS AGREEMENT is entered into on this the [insert date] day of [insert month], 2016

BETWEEN

- I. The Government of Jharkhand represented by Jharkhand Skill Development Mission Society (State/ DHS/ Municipal Corporation) and having its principal office at _____ (hereinafter referred to as the “**Authority**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assignees) of the **FISRT PART**;

AND

- II. {_____, a company incorporated under the Companies Act 1956/Companies Act 2013, having its Registered office at [_____] (hereinafter referred to as the “**Concessionaire**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its affiliates, successors, permitted assignees and substitutes) of the **SECOND PART**.}

AND

- III. {_____, a company/society/charitable trust incorporated under the Companies Act 1956/Companies Act 2013/Societies Registration Act 1860/Public Trust Act duly registered with the Registrar of Companies/Registrar of Societies, having its Registered office at [_____] (hereinafter referred to as the “**Preferred Bidder**”) which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its affiliates, successors, permitted assignees and substitutes) of the **THIRD PART**.}

OR

{A consortium comprised of (a)_____, a company/society/charitable trust incorporated under the Companies Act 1956/Companies Act 2013/Societies Registration Act 1860/Public Trust Act, having its Registered office at [_____] (include its affiliates, successors, permitted assignees and substitutes); (b)_____, a company/society/charitable trust incorporated under the Companies Act 1956/Companies Act 2013/Societies Registration Act 1860/Public Trust Act, having its Registered office at [_____] (hereinafter referred to as the “**Preferred Bidder**” which expression shall, unless repugnant to the context or meaning thereof, be deemed to include its affiliates, successors, permitted assignees and substitutes) of the **THIRD PART**.}

Each party individually shall be termed as “**Party**” and in combination shall be termed as “**Parties**”.

WHEREAS:

1. DEFINITIONS

“**Affected Party**” shall have the meaning set forth under Clause 20.1 of Agreement;

“**Agreement**” shall have the meaning set forth under Clause 2.3 of Agreement;

“**Annual Plan**” Shall have the meaning set forth under Clause **Error! Reference source not found.** of this Agreement;

“**Applicable Laws**” means any one or more of the following:

- (b) Any applicable statute, proclamation or order, or any delegated or subordinate legislation, regulation, rule, notice, treaty, directive, judgement or order having force of law in India, and any interpretation of any of them by any court or government agency; and
- (c) any applicable guidance, direction or determination with which the Authority and/or the Concessionaire is bound to comply, to the extent that it is published and publicly available or the existence or contents of them have been notified to the Concessionaire by the Authority, in each case in force in India and this definition shall apply to existing and future laws;

“**Associate**” shall have the meaning in relation to the Bidder/ Preferred Bidder/

Concessionaire, a person who controls, is controlled by or is under the common control with such Bidder/ Preferred Bidder/Concessionaire. As used in this definition, the expression “control means, with respect to a person which is a company or corporation, the ownership directly or indirectly, of more than 50 percent of the voting shares of such person and with respect to a person which is not a company or corporation the power to direct the management and policy of such person by operation of law”

“**Authority**” shall have the meaning set forth under recital I above;

“**Authority’s Default**” shall have the meaning set forth under Clause 25.2.10 of Agreement;

“Book Value”² means the aggregate written down value as on the date of issue of the Termination Notice in the books of the Concessionaire of the Project Assets, which in the reasonable judgement of an Expert are capable of being put to use/utilized by the Authority, in accordance with Indian Accounting Standards and is estimated in accordance with the guideline attached under Schedule VII of the Agreement;

“Commercial Operation Date (COD)”³ shall have the meaning set forth under Clause **Error! Reference source not found.** of Agreement;

“Concession” shall have the meaning set forth under Clause 4.1 of Agreement;

“Concessionaire” shall have the meaning set forth under recital II above;

“Concessionaire’s Assets” shall have the meaning set forth under clause 22.1 of Agreement;

“Concessionaire’s Default” shall have the meaning set forth under Clause 26.2 of Agreement;

“Concession Period” shall have the meaning set forth under Clause 2.3 of Agreement;

“Conditions Precedent” shall have the meaning set forth under Clause 5 of Agreement;

“Construction Period”⁴ shall have the meaning set forth under Clause **Error! eference source not found.** of Agreement;

“Cure Period” shall have the meaning set forth under Clause 26.1 of Agreement

“Effective Date” shall have the meaning set forth under Clause 5.3 of Agreement;

²Applicable in case land or building is provided

³Applicable in case land or building is provided

⁴Applicable in case land is provided. In case building is provided, “Construction” shall be replaced with “Refurbishment”

“Encumbrances” means, in relation to the Mega Skill Training Centre and Facilities, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Mega Skill Training Centre, where applicable herein;

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

“Facilities” shall have the meaning set forth under Clause 2.3 of Agreement;

“Focus Sectors” shall have the meaning set forth under Clause 3.1.4 of Agreement;

“Force Majeure” shall have the meaning set forth under Clause 20.1 of Agreement;

“Force Majeure Cost” shall have the meaning set forth under Clause 20.8 of Agreement;

“Force Majeure Event” shall have the meaning set forth under Clause 20.1 of Agreement;

“Functions” shall have the meaning set forth under Clause 2.6 of Agreement;

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

“Governing Committee” shall have the meaning set forth under Clause 9.1 of this Agreement;

“Independent Panel” shall have the meaning set forth under Clause18.1 of Agreement;

“Inspection Report”⁵shall have the meaning set forth under Clause17.1.2 of Agreement;

“Insurance Cover” shall have the meaning set forth under clause 22.1 of Agreement;

“Key Performance Indicators” shall have the meaning set forth under Clause16.12.6 of Agreement;

“List of Inventories”⁶shall have the meaning set forth under Clause5.1 (ii) of Agreement;

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

Mega Skill Training Centre” shall have the meaning set forth under Clause2.1 of Agreement;

“O&M Inspection Report” shall have the meaning set forth under Clause17.2.5 of Agreement;

“Operation Period” means period starting from Commercial Operation Date till expiry of Concession Period or Termination as the case may be;

“Operation & Maintenance Manual” shall have the meaning set forth under Clause13.1 of Agreement;

⁵Applicable in case land or building is provided

⁶Applicable in case building is provided

“Performance Guarantee”⁷ shall have the meaning set forth under Clause 10.1 of Agreement;

“Performance Security” shall have the meaning set forth under Clause 11.1 of Agreement;

“Preferred Bidder” shall have the meaning set forth under the recital II of this Agreement;

“Process Manual” means the manual containing the operational guidelines for the Mega Skill Training Centre issued by Authority and attached under Schedule VI of this Agreement and shall also include any amendment to this as and when issued;

“Project” shall have the meaning set forth under Clause 2.1 of Agreement;

“Project Assets” means all physical and other assets (movable and immovable) relating to and forming part of the Mega Skill Training Centre.

“RFP” shall mean Request for Proposal as set forth under Clause 2.2 of this Agreement;

“Scheduled Completion Date”⁸ shall have the meaning set forth under Clause **Error! Reference source not found.** of Agreement;

“Scope of Project” shall have the meaning set forth under Clause 3.1 of Agreement;

“Termination Notice” shall have the meaning set forth under Clause 26.1 of Agreement;

“Total Project Cost”⁹ means the project cost of the Mega Skill Training Centre, as set forth in the approved DPR;

“Termination” shall have the meaning set forth under Clause 26.2 of Agreement;

“Training Fee” shall have the meaning set forth under Clause 14.1 of Agreement;

2. BACKGROUND

2.1 The Authority, with a view to foster skilling initiatives in the State, intends to establish mega skill training centre at the location specified under Clause 3.1.4 of this

⁷Applicable in case land or building is provided

⁸Applicable in case land or building is provided

⁹Applicable in case land or building is provided

Agreement(the “**Mega Skill Training Centre**”) and consider it desirable to hand over the functions and responsibilities of establishing¹⁰ and operating the Mega Skill Training Centre to the Concessionaire who would be allowed to construct¹¹, operate, maintain the Mega Skill Training Centre in accordance with the terms and conditions laid down in this Agreement (the “**Project**”).

- 2.2** The Authority had for this purpose invited bids from eligible bidders vide Request for Proposal no. _____ dated _____ (the “**RFP**”).The Preferred Bidder having submitted its bid dated _____in response to the tender enquiry and having been found technically qualified as per the conditions in the bid documents, has been awarded the concession by the Authority in respect of Mega Skill Training Centre. A Letter of Award (LOA) was issued by the Authority to the Preferred Bidder vide letter no. _____ dated _____.The Preferred Bidder has submitted an acknowledgement to the LOA issued providing their consent to enter into an agreement.
- 2.3** The Preferred Bidder has since promoted and incorporated the Concessionaire as a company under the Companies Act 2013 which shall undertake and perform the obligations under this Agreement and exercise the rights of the Preferred Bidder under LOA including the obligations to enter into this Agreement pursuant to the LOA for implementing the Project.
- 2.4** The Authority has accordingly agreed to enter into this concession agreement (the “**Agreement/Concession Agreement**”) with the Concessionaire to hand over the right to use of _____ (land/building infrastructure)¹²owned by the Authority at _____¹³(the “**Facilities**”)to establish¹⁴, equip, operate and maintain Mega Skill Training Centre for a period of five years from the Effective Date (the “**Concession Period**”).The Concession Period shall be renewed for an additional period of five (5) years at the discretion of Authority subject to:
- iii. the Concessionaire continuing to meet the eligibility and qualifications criteria as per the RFP; and
 - iv. the satisfactory performance of the Concessionaire as per the terms of this Agreement;
- 2.5** Both the Authority and the Concessionaire hereby willingly enter into this agreement and agree to abide by all obligations enjoined on them by this Agreement.

¹⁰In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building is not provided by Authority, additional term “procuring required land” to be added before “establishing”.

¹¹In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building is not provided by Authority, additional term “procuring required land” to be added before “establishing”.

¹² To be added as the case may be. In case land, area of the land to be added. In case building, built up area need to be mentioned. In case land and building is not provided, this shall be deleted

¹³Location of land/building to be mentioned. In case land and building is not provided, this shall be deleted

¹⁴In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building is not provided by Authority, additional term “procuring required land” to be added before “establishing”.

- 2.6** The term “**Functions**” would mean construction¹⁵, operation & maintenance of Mega Skill Training Centre and undertake all required activities for training service delivery including but not limited to mobilisation, batch management, training delivery, assessment and certification, placement, post placement support & track etc. as detailed under Schedule I.
- 2.7** This Concession Agreement would in its scope and meaning would also be treated as a concession contract. A concession contract is a contract between the Authority and the Concessionaire that sets forth the terms and conditions for performing the Functions.

3. SCOPE OF PROJECT

- 3.1** The “**Scope of Project**” shall mean as detailed under Schedule I and include, during the Concession period:

- 3.1.1** The Concessionaire shall construct¹⁶ all necessary infrastructure for the Mega Skill Training Centre with capacity to train and certify a minimum of _____¹⁷ trainees in a year. The minimum facilities that are required to be constructed shall include classrooms, workshops, hostel facilities, library, computer lab and toilets. The minimum build up area of the Mega Skill Centre shall be _____¹⁸
- 3.1.2** The Concessionaire shall achieve the Key Performance Indicators as specified under Clause 16 of the Agreement. Operate, manage & maintain the Mega Skill Training Centre for providing training in accordance with the provision of this Agreement, the Process Manual and Operation & Maintenance Manual.
- 3.1.3** Carry out all required activities for training service delivery including but not limited to mobilisation, batch management, training delivery, assessment and certification, placement etc.
- 3.1.4** The location and sectors in which the courses to be delivered (the “**Focus Sectors**”) for the Mega Skill Training Centre is as below:

Name of the District	Location within the District	Focus Sector(s)

¹⁵In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building is not provided by Authority, additional term “procuring required land” to be added before “construction”.

¹⁶Applicable in case land is provided. In case building is provided, the term “construct” will be replaced with “refurbish and provide”

¹⁷Need to be agreed and incorporated prior to execution of the Agreement. Number of trainees has to be equal or greater than 3000 trainees

¹⁸Need to be agreed and incorporated prior to execution of the Agreement. The minimum built up area has to be equal or greater than 15000 square feet.

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3.2 Authority shall handover the right to use the Facilities to the Concessionaire for performing the Functions as per the provisions of this Agreement¹⁹.

3.3 The Concessionaire will have right to use the Facilities and operate, maintain and ensure that the Mega Skill Training Centre is/are run in accordance with the provisions of this Agreement and good industry practices.²⁰

Both Parties agree that no money would be collected from the trainees for any training service provided in the Mega Skill Training Centre. Authority shall provide the Training Fee²¹ to the Concessionaire as per the Common Norms notified on 15th July 2015 by the Ministry of Skill Development and Entrepreneurship, as amended from time to time. The relevant extracts of Common Norms notified on 15th July 2015 is provided under Schedule II.

Authority shall pay a mobilization payment of 10% of the total Training Fee payable over the Concession Period estimated based on the minimum total number of trainees to be certified over the Concession Period (the “**Mobilization Advance**”) within 180 days of signing of Concession Agreement upon submission of a bank guarantee of equivalent amount by the Concessionaire. For those Selected Bidders which are registered under Section 25 of The Companies Act, 1956 or Section 8 under the Companies Act, 2013 as Not for Profit Company, Promoter guarantee can be provided instead of the Bank Guarantee. Further the equipment and machineries purchased by the aforesaid company will be hypothecated in favour of JSDMS till the mobilization advance is adjusted against the payment made. This will be adjusted with the Training Fee payable to the Concessionaire over the Concession Period @ 2% of Training Fee each year till expiry of 5th year of Concession Period. This adjustment will be done with the 1st instalment of Training Fee every year. The bank guarantee submitted by the Concessionaire shall be returned after adjustment of Mobilization Advance.

The submission of bank guarantee of equivalent amount of Mobilization Advance will not be required in case the Concessionaire/Preferred Bidder or its Associate is setting up or operating an industrial unit in the state of Jharkhand with an investment of INR 500 Cr or more. In such case following documents will be required to be submitted by the Concessionaire as a precondition for payment of Mobilization Advance by the Authority:

- Copy of MOU / Agreement with Department / Agency of Government of Jharkhand for setting up the industrial unit in the state of Jharkhand.

¹⁹In case land and building is not provided, this sentence need to be changed appropriately

²⁰In case land and building is not provided, this sentence need to be changed appropriately

²¹In case building infrastructure is offered by the Authority, Training Fee payable to the Concessionaire shall be reduced by 15% and 10% for urban and rural areas respectively.

- Letter of assurance from the Bank towards the repayment of the mobilization advance in duly manner and as per the terms and conditions stated in the Agreement.

3.4 Based on the modifications on the national guidelines and state priorities, Authority shall have the right to modify the Scope of Project in accordance to the same.

4. GRANT OF CONCESSION

4.1 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the Applicable Permits, the Authority hereby grants to the Concessionaire the concession set forth herein including the right to use the Facilities²² to perform Functions specified under Clause 2.6 during the Concession Period subject to and in accordance with the provisions of this Agreement (the “**Concession**”) Provided that in the event the Concessionaire shall have discharged its obligations without any material breach thereof during the Concession Period, it may by notice to be given no later than the expiry of Concession Period, seek extension of the Concession Period, and in such an event, it shall be entitled to an additional Concession Period of 5 (five) years subject to satisfaction of conditions mentioned under Clause 2.3 (iii) and (iv) of this Agreement.

4.2 Subject to and in accordance with the provisions of this Agreement, the Concession hereby granted shall oblige or entitle (as the case maybe) the Concessionaire:

4.2.1 The right to use the Facilities owned by Authority for the purpose of and to the extent conferred by the provisions of this Agreement;²³

4.2.2 Carry out all Functions as specified under Clause 2.6 of this Agreement;

4.2.3 Perform and fulfil all of the Concessionaire’s obligations under and in accordance with this Agreement;

4.2.4 Bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement;

4.2.5 Neither assign, transfer or sublet or create any lien or Encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Facilities nor transfer, lease or part possession thereof²⁴, save and except as expressly permitted by this Agreement;

²²In case land and building is not provided “right to use Facilities” will be deleted

²³In case land and building is not provided, this sentence will be deleted

²⁴In case land and building is not provided, “on the whole or any part of the Facilities nor transfer, lease or part possession thereof” will be deleted

4.2.6 Commit that the Facilities provided shall be used only for the purpose under this Agreement²⁵

5. CONDITIONS PRECEDENT

The respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4 (the “**Conditions Precedent**”).

5.1 The Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when the Authority shall have:

- i. Handed over the right to use the Facilities for performing Functions and obligations as per provisions of this Agreement free from encumbrances.²⁶
- ii. Undertaken joint inspection with the Concessionaire within 15 calendar days from the date of signing of the Agreement and prepare a list of inventories for handing over which will include buildings, and any other movable and immovable assets (the “**List of Inventories**”)²⁷.
- iii. Signed the List of Inventories (through its authorised representative/ Nodal Officer)²⁸.
- iv. Constituted the Independent Panel as per the method attached under Schedule V of this Agreement, for monitoring during construction²⁹ and operation period of Mega Skill Training Centre.
- v. Constituted the Governing Committee as per the provisions under Clause 9 of this Agreement.
- vi. Paid the Mobilization Advance to the Concessionaire.

5.2 The Conditions Precedent required to be satisfied by the Concessionaire shall be deemed to have been fulfilled when the Concessionaire shall have:

- i. Undertaken joint inspection with Authority within 15 calendar days from the date of signing of the Agreement for finalizing the List of Inventories. The authorized representative of Concessionaire shall sign the List of Inventories.³⁰
- ii. Communicated the details and contact number, email of authorized representatives who will be the point of contact for the Authority.

²⁵In case land and building is not provided, this sentence will be deleted

²⁶In case land and building is not provided, this sentence will be deleted

²⁷Applicable only in case building is provided. In case land and building is not provided, this sentence will be deleted

²⁸Applicable only in case building is provided

²⁹In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building is not provided by Authority, this term will be deleted

³⁰Applicable only in case building is provided. In case land and building is not provided, this sentence will be deleted

- iii. Provided the details of bank account for payment of Training Fee as per the terms of Clause 14 of the Agreement.
- iv. Provided Detailed Project Report (DPR) with detailed designs and project cost to be submitted within 60 days of signing of Agreement³¹
- vii. Procured all necessary approvals/permits required for performing Functions as per the provision of this Agreement.
- v. Executed financing agreements (if any) required for construction and equipping the Mega Skill Training Centre under this Agreement³²
- vi. Submitted the bank guarantee equivalent to the amount of Mobilization Advance.

5.3 The Authority and the Concessionaire shall have to satisfy their respective Conditions Precedent within 180 (one hundred and eighty) days from the date of signing of Agreement (the “**Effective Date**”).

In the event that (i) the Authority does not procure fulfilment of any or all of the Conditions Precedent set forth in clause 5.1 within a period of 180 (one hundred and eighty) days from the date of this Agreement, and (ii) the delay has not occurred as a result of breach of this Agreement by the Concessionaire or due to Force Majeure, the Authority, unless an extension of period for fulfilment of Condition Precedent is not mutually agreed among the Parties, the Concessionaire shall have the right to Terminate the Agreement as per the provisions under Clause 26 of the Concession

In the event that (i) the Concessionaire does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within period of 180 (one hundred and eighty) days from the date of this Agreement, and (ii) the delay has not occurred as a result of breach of this Agreement by the Concessionaire or due to Force Majeure, the Concessionaire, unless an extension of period for fulfilment of Condition Precedent is not mutually agreed among the Parties, the Authority shall have the right to Terminate the Agreement as per the provisions under Clause 26 of the Concession

6. OBLIGATIONS OF THE CONCESIONNAIRE

6.1 The services to be provided by the Concessionaire are broadly categorised as below:

- (i) The Concessionaire shall perform the Scope of Project mentioned under Clause 3 of this Agreement in accordance with the provisions of this Agreement.

³¹Applicable in case land is provided. In case land and building is not provided, this sentence will be deleted

³²Applicable in case land is provided. In case land and building is not provided, this sentence will be deleted

- (ii) For the Renovation/ Construction³³ of the facility/ies, The Concessionaire shall construct all necessary infrastructure³⁴ for the Mega Skill Training Centre with capacity to train and certify a minimum of _____³⁵ trainees in a year in the _____ sector. The minimum facilities that are required to be constructed shall include classrooms, workshops, hostel facilities, library and toilets. The size of the facilities shall be adequate to cater to an annual capacity to train and certify a minimum of _____³⁶ trainees.
- (iii) No Franchisee arrangements for training or sub-letting of facility/ies to any agency/individual is allowed in any form
- (iv) Trainee mobilisation shall be undertaken at Concessionaire's own cost and subsequently, linkage of registration of trainees to their Aadhaar identity, which the Concessionaire is expected to facilitate before trainee registration
- (v) Mobilisation should be accompanied by counselling wherein the Concessionaire is expected to provide candidates all possible information on the nature of work in the sector/trade, availability of jobs, potential pay and entitlements, growth prospects and risks involved, with the aim of helping candidates and their families make informed choices
- (vi) Each batch shall comprise of a minimum of 20 students and a maximum of 30 students. During the course if the number of trainees remains below 20 for six consecutive days, the batch will be considered terminated and the Concessionaire shall not be eligible for payment for that batch unless approved by the Authority. The concessionaire shall capture batch attendance for trainees using biometric tools.
- (vii) Delivery of training courses including curriculum development based on the National Occupational Standards (NOS) and Qualification Packs (QPs) developed by Sector Skill Councils established under the National Skill Development Corporation (NSDC). The training curriculum must include mandatory modules on soft skills, computer literacy, financial literacy and entrepreneurship. Adequate practical and on the job training/internship must be incorporated into the training module where necessary.
- (viii) The Concessionaire shall primarily run training programs being funded by the Authority only. In order to run any other Government Programmes/ CSR funded training programs/ fee based courses for a particular period the Concessionaire need to take prior written approval from Authority

³³In the case that land is provided instead of building

³⁴Applicable in case land is provided. In case building is provided,

³⁵Need to be agreed and incorporated prior to execution of the Agreement. Number of trainees has to be equal or greater than 3000 trainees

³⁶Need to be agreed and incorporated prior to execution of the Agreement

- (ix) Trainers appointed for delivery of the training must be competent instructors in possession of requisite knowledge, skills and experience in their domain and should be duly certified by Sector Skill Council (SSC) or as mandated by the Authority
- (x) Assessment & certification of all the trainees shall be undertaken as per SSC guidelines or as mandated by the Authority. Additionally the Concessionaire shall undertake continuous internal assessment in the form of quizzes, assignments and tests that should be a part of the course curriculum
- (xi) Placement of the trainees in jobs that provide wages at least equal to minimum wages prescribed in the state of Jharkhand) in accordance with the provisions of Clause 16 of this Agreement.
- (xii) Track and report successfully placed candidates for a period of 12 months
- (xiii) Maintain all records including but not limited to those pertaining to attendance, class progress, assessment, certification, and training outcome both manually (hard copies submitted to the Authority) as well as uploaded on HUNAR or any other MIS system as mandated.

6.2 Change in Ownership

- (i) The Concessionaire shall not undertake or permitted to undertake any Change in Ownership, or any person owning, directly or indirectly, beneficially or otherwise, any of the shares or units or any other ownership interest in the Concessionaire or any such person, except with the prior written approval of the Authority, which shall not be unreasonably withheld or delayed.
- (ii) No Change in Ownership of the Concessionaire, or any person owning, directly or indirectly, beneficially or otherwise, any of the shares or units of or any other ownership interest in the Concessionaire or any such person, shall be permitted:
 - (a) where the person acquiring the ownership interest is a person whose standing or activities are inconsistent with the Authority's role as a skill training provider, or may compromise the Authority's reputation or integrity so as to affect public confidence in that system; or
 - (b) if such Change in Ownership would have a material adverse effect on the performance of the Project.

- (iii) For the purposes of this Clause, a Change in Ownership of the Concessionaire is deemed not to have occurred upon a transfer of any ownership interest in the Concessionaire by the Initial Shareholders, provided that:
 - (d) The lead member shall hold, directly or indirectly, at least 26% (twenty six percent) of the total equity throughout the Concession Period;
 - (e) {Insert name of the other member of the Consortium} shall hold, directly or indirectly, at least 26% (twenty six percent) of the total equity during a period of 3 (three) years following COD and at least 10% (ten percent) of the total Equity thereafter for the remaining Concession Period.}; OR
 - (f) {Insert name of the Preferred Bidder} shall hold, directly or indirectly, at least 51% (fifty one per cent) of the total Equity during a period of 3 (three) years following COD and at least 26% (twenty six percent) of the total Equity thereafter for the remaining Concession Period.}
- 6.3** The Concessionaire shall comply with the Key Performance Indicators in accordance with the provisions under Clause 16 of this Agreement.
- 6.4** The Concessionaire shall prepare and submit the Annual Plan to the Authority and Governing Committee in accordance with the provisions under Clause 8 of this Agreement.

7. OBLIGATIONS OF THE AUTHORITY

In addition to and not in derogation or substitution of any of the obligations, undertakings, terms and conditions set out elsewhere in this Concession Agreement, the Authority shall, without qualification, at its own cost and expense observe, undertake, perform and comply during the Concession Period with the following obligations:

- 7.1** Identify and provide the right to use of Facility/ies owned by Authority to the Concessionaire³⁷
 - 7.2** Make timely payment of the Training Fee to the Concessionaire.
 - 7.3** Provide timely approval to the Concessionaire for batch commencement
 - 7.4** The Authority shall monitor the performance of the Concessionaire as per the provisions of the Concession Agreement.
- 8. ANNUAL PLAN**
- 8.1** The Concessionaire shall be required to prepare an annual plan including the strategy and activities to be performed in order to achieve the Key Performance Indicators under this Agreement (the “**Annual Plan**”). The Annual Plan for the 1st year of Operation Period shall be submitted within 15 days from the Commercial Operation

³⁷In case land and building is not provided, this sentence need to be changed appropriately

Date. From 2nd year of Operation Period onwards, the Annual Plan shall be submitted every year to the Governing Committee on or before 15th April of every year during the Concession Period.

- 8.2** Upon submission of the Annual Plan, the Governing Committee shall review the Annual Plan and provide its comments/observations if any or accord approval to the Annual Plan as the case may be within 7 days from the date of submission of the Annual Plan by the Concessionaire. After receiving the comments/observations if any from the Governing Body, the Concessionaire shall need to submit the revised Annual Plan to the Governing Committee within 7 days from date of receipt of communication from the Governing Committee. In case no communication received from the Governing Committee within 7 days from the date of submission of the Annual Plan by the Concessionaire, the Annual Plan is deemed to be approved.
- 8.3** The Governing Committee shall be required to approve the revised Annual Plan within 7 days from the date of submission of the revised Annual Plan by the Concessionaire. In case no communication received from the Governing Committee within 7 days from the date of submission of the revised Annual Plan by the Concessionaire, the Annual Plan is deemed to be approved. In case Authority has any comments/observations on the revised Annual Plan submitted by the Concessionaire, the process specified under clause 8.2 and 8.3 shall be repeated.
- 8.4** Approval of Annual Plan shall be a pre-condition for commencement of batch.

9. FORMATION OF GOVERNING COMMITTEE

- 9.1** Authority shall no later than Effective Date, form a governing committee comprising of representative of the Authority, representative of SSC, representative of ministry, industry experts for the Mega Skill Training Centre (the “**Governing Committee**”).
- 9.2** The Governing Committee shall be responsible to review the Annual Plan submitted by the Concessionaire in accordance with the provisions under clause 8, monitor achievement of KPIs, review the monthly, quarterly and annual reports of Concessionaire, reports of Independent Panel and discuss & resolve any issues related to the Mega Skill Training Centre as and when arise. The Governing Committee shall also take decision on actions to be taken for non-compliance of obligations including non-achievement of KPIs under this Agreement by the Concessionaire.
- 9.3** The Governing Committee shall meet quarterly once during the Concession Period.
- 9.4** The remuneration, cost and expenses of the Governing Committee shall be borne by the Authority.

10. PERFORMANCE GUARANTEE³⁸

³⁸This will be applicable in case land and building is provided

- 10.1** The Concessionaire shall, for the performance of its obligations hereunder during the Construction Period, provide to the Authority no later than Effective Date provide, an irrevocable and unconditional guarantee in the form set forth in Schedule-III from a scheduled/nationalized bank for a sum equivalent to 5% (five percentage) of the Total Project Cost (the “**Performance Guarantee**”). Until such time the Performance Guarantee is provided by the Concessionaire pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Guarantee pursuant hereto, the Authority shall release the Bid Security to the Concessionaire.
- 10.2** Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Guarantee is not provided by the Concessionaire within a period of 180 (one hundred and eighty) days from the date of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 10.3** Upon occurrence of a Concessionaire Default or failure to meet any Condition Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Guarantee as Damages for such Concessionaire Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Guarantee, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Performance Guarantee, and in case of appropriation of the entire Performance Guarantee provide a fresh Performance Guarantee, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Performance Guarantee as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Clause 26 of this Agreement. Upon replenishment or furnishing of a fresh Performance Guarantee, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Concessionaire Default or to meet any Condition Precedent, and in the event of the Concessionaire not curing its default or meeting such Condition Precedent within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Guarantee as Damages, and to terminate this Agreement in accordance with Clause 26 of this Agreement.
- 11. PERFORMANCE SECURITY**
- 11.1** The Concessionaire shall, for the performance of its obligations hereunder during the Operation Period, provide to the Authority no later than commencement of commercial operation of Mega Skill Training Centre, an irrevocable and unconditional guarantee from a scheduled /nationalized bank for a sum of _____³⁹ in the form set forth in Schedule-IV (the “**Performance Security**”).

³⁹Equivalent to 5% of 1st year Training Fee

- 11.2** Performance Security shall be a rolled over bank guarantee with additional amount to make it equivalent to 5% of the Training Fee of respective year during the Concession Period.
- 11.3** Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Securities not provided by the Concessionaire within the stipulated period, the Authority may encash the Bid Security as the case may be and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.
- 11.4** Upon occurrence of a Concessionaire Default, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Concessionaire Default. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Clause 26 of this Agreement. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Concessionaire Default, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Clause 26 of this Agreement.
- 11.5** The Performance Security shall remain in force and effect for the entire period of the Concession period and shall be released within 30 (thirty) days of expiry of the Concession Period or Termination, whichever is earlier, in accordance with this Agreement.

12. IMPLEMENTATION

12.1 Detailed Project Report (DPR)⁴⁰

- 12.1.1** The Concessionaire will submit to the Independent Panel a Detailed Project Report (DPR) with detailed designs and project cost within 90 days of signing of the Agreement. This shall include detailed construction design, construction methodology⁴¹, quality assurance procedures, construction time schedule and total project cost for completion of the Project in accordance with the Project Completion Schedule.

⁴⁰Applicable in case land is provided

⁴¹In case land is being provided by the concessionaire

- 12.1.2 By submitting the DPR for review to the Independent Panel, the Concessionaire shall be deemed to have represented that it has determined and verified that the details in the DPR are in accordance with this Agreement;
- 12.1.3 Within 30 (thirty) days of the receipt of the DPR, the Independent Panel shall review the same and convey its observations to the Concessionaire with particular reference to their conformity or otherwise with the applicable provisions of this Agreement. The Concessionaire shall not be obliged to await the observations of the Independent Panel on the DPR submitted pursuant hereto beyond the said 30 (thirty) days period and may begin or continue Construction Works at its own discretion and risk;
- 12.1.4 If the aforesaid observations of the Independent Panel indicate that the DPR are not in conformity with the applicable provisions of this Agreement, such DPR shall be revised by the Concessionaire and resubmitted to the Independent Panel for review. The Independent Panel shall give its observations, if any, within 15 (fifteen) days of receipt of the revised DPR;
- 12.1.5 No review and/or observation of the Independent Panel and/or its failure to review and/or convey its observations on any DPR shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Independent Panel or the Authority be liable for the same in any manner;
- 12.1.6 Without prejudice to the foregoing provisions of this Clause 12.1.6, the Concessionaire shall no later than the Effective Date submit to the Authority for review and comments, its DPR, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, within 30 (thirty) days of the receipt of such DPR.
- 12.1.7 The Concessionaire shall not be entitled to any extension of time for developing the Project or any other relief on account of delay caused due to providing any clarification or in resubmitting the revised master plan.
- 12.1.8 The Concessionaire shall in no way represent to any person that, as a result of any review by the Authority and/or the Independent Panel, the Authority have accepted responsibility for the technical or soundness of any work relating to the Project or part thereof carried out by the Concessionaire and the Concessionaire shall, in accordance with the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project or any part thereof.

12.2 Project Implementation⁴²

⁴²Applicable in case land is provided. In case building is provided, then this Clause shall suitably be modified with respect to refurbishment.

- 12.2.1 On or after the Effective Date, the Concessionaire shall undertake construction⁴³ and development of the Project in accordance with the provisions of this Agreement.
- 12.2.2 The Concessionaire shall construct the Project and shall commence the commercial operation (the “**Commercial Operation Date (COD)**”) on or before 18 months⁴⁴ from the Effective Date (the “**Construction Period/Scheduled Completion Date**”) In the event that the Concessionaire fails to achieve COD within a period of 90 (ninety) days from the date set forth for the Scheduled Completion Date, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority and unless an extension of period for completion of Project has not been agreed among the Parties, the Authority shall have the right to Terminate the Agreement on account of Concessionaire Default as per the provisions under Clause 26 of the Concession Agreement.
- 12.2.3 In the event that the Project is not completed within 180 (one hundred and eighty) days from the Scheduled Completion Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure and unless an extension of period for completion of Project has not been agreed among the Parties, the Authority shall be entitled to terminate this Agreement.
- 12.2.4 The Project shall be considered to be complete and ready for commencement of commercial operation upon receipt of completion certificate from Independent Panel. The Concessionaire shall at least 30 (thirty) days prior to likely completion of construction of Project, intimate the Independent Panel about the likely date of completion. Within 15 days of receipt of intimation from the Concessionaire, the Independent Panel shall inspect the Project and verify the conformity in accordance with the provisions of this Agreement. Upon completion of construction works and Independent Panel determining the conformity with provisions of this Agreement, the Independent Panel shall issue the completion certificate for the Project to the Concessionaire. The commercial operation of the Project shall only be commenced upon issue of completion certificate by the Independent Panel.

13. OPERATIONS & MAINTAINENCE

- 13.1** No later than 60 (sixty) days prior to the COD of the Mega Skill Training Centre, as the case may be, the Concessionaire shall, in consultation with the Independent Panel, evolve an operation and maintenance manual (the “**Operation & Maintenance Manual**”) for the Mega Skill Training Centre and shall provide 5 (five) copies thereof to the Authority and 2 (two) copies each to the Independent Panel. The Maintenance Manual shall be revised and updated every year.
- 13.2** The Operation & Maintenance Manual shall, in particular, include provisions for maintenance of Mega Skill Training Centre and shall provide for life cycle

⁴³In case land is allotted. If building is allotted, then this will be replaced with “refurbish”. If land and building are not provided by Authority, additional term “procuring required land” to be added before “establishing”.

⁴⁴In case land is provided. In case building is provided, the period shall be changed to 9 months.

maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that its overall condition conforms to Good Industry Practice.

- 13.3** The Concessionaire shall ensure safe conditions for the trainees and staff in accordance with the provisions of this Agreement, Applicable Laws. In the event of unsafe conditions, structural damages, equipment breakdowns and accidents, it shall follow the relevant operating procedures and undertake safe removal of obstruction, debris and dangerous spills and leakages without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws and Applicable Permits.
- 13.4** The Concessionaire's responsibility for rescue operations shall include safe evacuation of all trainees and staff from the affected area as an initial response to any particular incident requiring evacuation and shall also include prompt and safe removal of dangerous spills, leakages, debris or any other obstruction, which may endanger or interrupt the Services.
- 13.5** If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and, in particular, the Operation & Maintenance Manual, and such breach is causing or likely to cause material hardship or danger to the trainees, visitors and staff, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be
- 13.6** The Concessionaire shall not be considered in breach of its obligations under this Agreement, on account of any of the following for the duration thereof:
- (a) an event of Force Majeure;
 - (b) measures taken to ensure the safe use of the Mega Skill Training Centre except when unsafe conditions occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or
 - (c) Compliance with a request from the Authority or the directions of any Government Instrumentality, the effect of which is to close all or any part of the Mega Skill Training Centre.

14. PAYMENT MECHANISM

- 14.1** Authority shall during the Concession period, provide the annual training cost (the **"Training Fee"**⁴⁵) to the Concessionaire based on the number of trainees successfully assessed and certified per year in accordance with the Common Norms notified on 15th July 2015 by the Ministry of Skill Development and Entrepreneurship

⁴⁵In case building infrastructure is offered by the Authority, Training Fee payable to the Concessionaire shall be reduced by 15% and 10% for urban and rural areas respectively.

as amended from time to time. The relevant extracts of Common Norms notified on 15th July 2015 and amended as on 20th May 2016 is enclosed under Schedule II.

- 14.2** Authority shall pay a mobilization payment of 10% of Training Fee (the “**Mobilization Advance**”) within 180 days of signing of Concession Agreement upon submission of a bank guarantee of equivalent amount by the Concessionaire. For those Selected Bidders which are registered under Section 25 of The Companies Act, 1956 or Section 8 under the Companies Act, 2013 as Not for Profit Company, Promoter guarantee can be provided instead of the Bank Guarantee. Further the equipment and machineries purchased by the aforesaid company will be hypothecated in favour of JSDMS till the mobilization advance is adjusted against the payment made. This will be adjusted with the Training Fee payable to the Concessionaire over the Concession Period @ 2% of Training Fee each year till expiry of 5th year of Concession Period. This adjustment will be done with the 1st instalment of Training Fee, as mentioned under Schedule II, every year. The bank guarantee submitted by the Concessionaire shall be returned after adjustment of Mobilization Advance.

The submission of bank guarantee of equivalent amount of Mobilization Advance will not be required in case the Concessionaire/Preferred Bidder or its Associate is setting up or operating an industrial unit in the state of Jharkhand with an investment of INR 500 Cr or more. In such case following documents will be required to be submitted by the

Concessionaire as a precondition for payment of Mobilization Advance by the Authority:

- Copy of MOU / Agreement with Department / Agency of Government of Jharkhand for setting up the industrial unit in the state of Jharkhand.
- Letter of assurance from the Bank towards the repayment of the mobilization advance in duly manner and as per the terms and conditions stated in the Agreement.

- 14.3** There will be adjusted payments for the trainees who drop out post disbursement of the first instalment. The amount disbursed to the Concessionaire against a dropped or failed trainees in the first instalment shall be adjusted in the subsequent instalments. Trainees may enrol second time in the same or different course, but the pay-out for such trainees shall only be given for a maximum of two courses provided there is a six-month gap between the certification date of the first course and batch start date of the subsequent course. Annual reconciliation of pay-outs disbursed against each trainee certified and placed by the Concessionaire shall be undertaken before disbursement of the final instalment. Any excessive payment shall be adjusted and released or recovered from the Concessionaire.

- 14.4** In the event that the Training Fee provided as per the Common Cost Norms is insufficient to meet training costs as incurred by the Concessionaire, the

Concessionaire shall bear the difference in costs incurred. No training fee will be charged to the trainees.

- 14.5** The Authority shall make the payment to the Concessionaire within 60 days from reporting by Concessionaire of achievement of the output parameter as mentioned under Clause 1.2 of Schedule II. Failure to make the payment within the specified period, unless such failure is not due to any objection or supplementary information requested by Authority, Concessionaire's Default or Force Majeure, shall attract interest payment @ 1% per month on the outstanding amount payable by the Authority.

15. INFORMATION AND REPORTING REQUIREMENTS

- 15.1** The Concessionaire hereby agrees to ensure that information, records and documentation necessary to monitor the agreement are maintained and are available at all times to the Authority or its authorised representative and Independent Panel for inspection during the concession period. The Concessionaire hereby agrees that it and all its staff shall at all times co-operate with the reasonable processes of the Authority for monitoring, evaluation and carrying out quality audit and financial audit by any third party as authorised by the Authority.
- 15.2** The Concessionaire agrees to maintain all relevant data and records including but not limited to those pertaining to attendance, class progress, assessment, certification, and training outcomes. The Concessionaire agrees to maintain records both manually (hard copies submitted to the Authority as per terms of Agreement) as well as uploaded on HUNAR, the state's ~~Skill Management~~ **Labor Market** Information System.
- 15.3** The Concessionaire further agrees to maintain confidentiality of these data and records and commits that such data and records will not be shared with any third party for any purpose.
- 15.4** The Concessionaire agrees to ensure timely and mandatory reporting into the online MIS –HUNAR.
- 15.5** The Concessionaire shall submit monthly reports, quarterly reports and annual reports to Authority and Governing Committee containing details including but not limited to number of trainees enrolled, number of ongoing batches, number of trainees under training as on date, number of trainees assessed & certified, number of trainees places. The reporting formats may be finalized by the Governing Committee within 1 month of Commercial Operation Date.

16. KEY PERFORMANCE INDICATORS

- 16.1** Without prejudice to the obligations specified in this Agreement, the Concessionaire shall operate the Mega Skill Training Centre such that it achieves or exceeds the performance indicators specified in Clause 16.2 and 16.3 below (the "**Key Performance Indicators**").

- 16.2** The Concessionaire shall ensure that, at all times from 3rd year of Operation Period onwards till the expiry of Concession Period _____⁴⁶(*number of trainees*) trainees are assessed and certified annually. In 1st year of Operation Period, _____⁴⁷(*number of trainees*) should be assessed and certified. In 2nd year of Operation Period, _____⁴⁸(*number of trainees*) should be assessed and certified.
- 16.3** The Concessionaire shall at all times ensure successful employment (both wage and self) on an annual basis of at least 70% of certified trainees within three months of completion of training, with at least 50% of the trainees passing out being placed in wage employment or as notified in the Common Cost Norms
- (a) In case of wage employment, trainees should be placed in jobs that provide wages at least equal to minimum wages prescribed in the state of Jharkhand (currently ~Rs 9000 per month for contractual skilled labour) and such trainees should continue to be in jobs for a minimum period of three months from the date of placement in the same or a higher level with the same or any other employer.
- (b) In case of self-employment, trainees should have been employed gainfully in livelihood enhancement occupations which are evidenced in terms of newly acquired trade license, or setting up of an enterprise or becoming a member of a producer group, or proof of additional earnings (bank statement) or any other suitable and verifiable document.
- 16.4** In case, the Concessionaire meets over 70% of each of the annual targets specified under Clause 16.2 and 16.3, then the remaining target shall be carried forward to the next year except in the case of last year of Concession Period. In case annual achievement is below 70% of annual target and over 50% of the annual target, there will be penalty of 2.5 % of Performance Security payable by the Concessionaire to the Authority. In case annual achievement is below 50% of the annual target, penalty would be 5% of Performance Security. In case annual achievement is below 50% for a continuous period of 3 years, it will trigger termination on account of concessionaire default in accordance with the provisions of Clause 25 of this Agreement. In case of last year of Concession Period, the Concessionaire need to achieve 100% of the annual target, failing which there will be no payment with respect to the corresponding milestone.
- 16.5** The penalty if any payable as per the provisions of Clause 25 shall be paid by the Concessionaire within 30 days of claim by the Authority, failing which Authority can appropriate the amount from the Performance Security and in such case the Concessionaire shall be required to relinquish the Performance Security amount as per the provisions of Clause 11.4 of this Agreement.

⁴⁶100% of the annual capacity to assess and certify

⁴⁷60% of the annual capacity to assess and certify

⁴⁸80% of the annual capacity to assess and certify

17. PERFORMANCE MONITORING

17.1 Performance Monitoring during the construction period⁴⁹

- 17.1.1 During the Construction Period, the Concessionaire shall, no later than 7 (seven) days after the close of each quarter, furnish to the Authority and the Independent Panel a quarterly report on progress of the construction works and shall promptly give such other relevant information as may be required by the Authority or the Independent Panel.
- 17.1.2 During the Construction Period, the Independent Panel shall inspect the Facility/ies at least once a quarter and make a report of such inspection (the “**Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Scope of the Project. It shall send a copy of the Inspection Report to the Authority and the Concessionaire within 7 (seven) days of such inspection and upon receipt thereof, the Concessionaire shall rectify and remedy the defects or deficiencies, if any, stated in the Inspection Report. Such inspection or submission of Inspection Report by the Independent Panel shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever
- 17.1.3 If the Independent Panel shall have reasonably determined that the rate of progress of construction works is such that the Mega Skill Training Centre is not likely to be completed by the Scheduled Completion Date, it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Independent Panel in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the completion.

17.2 Performance Monitoring during operations & maintenance

- 17.2.1 During Operation Period, the Concessionaire shall, no later than 7 (seven) days after the close of each quarter, furnish to the Authority and the Independent Panel a quarterly report in a form acceptable to the Authority, stating in reasonable detail the condition of the Mega Skill Training Centre including its compliance or otherwise with the Operation & Maintenance Manual and shall promptly give such other relevant information as may be required by the Independent Panel. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.
- 17.2.2 Further meetings may be arranged at any time to discuss and review for consideration of any significant variation in the terms or conduct of the Agreement as required by either Party. These meetings will be held in the presence of authorized representatives of Authority and the Concessionaire.
- 17.2.3 The Authority has the right to conduct inspection any time as required and the Concessionaire agrees to fully co-operate with the authorized representatives of

⁴⁹Only incase land has been provided and Concessionaire has to undertake construction

the Authority including Independent Panel and make all records available for review during such inspection.

17.2.4 The Authority may choose to get independent verification of performance through a third party. The Concessionaire will agree to fully cooperate with such process and make all records available for evaluation by the third party.

17.2.5 The Independent Panel shall inspect the Mega Skill Training Centre at least once a year. It shall make a report of such inspection (the “**O&M Inspection Report**”) stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Operation & Maintenance Manual, and send a copy thereof to the Authority and the Concessionaire within 7 (seven) days of such inspection.

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

18. INDEPENDENT PANEL

18.1 The Authority shall constitute an independent panel consisting of following experts (the “**Independent Panel**”). The appointment shall be made no later than Effective Date.

- a) a training expert who has at least 15 years of experience in delivering skill training in the Focus Sectors
- b) a civil engineer, who has the experience of being involved in the structural design, cost estimation and construction of buildings
- c) a sector expert having experience in designing courses/curriculum in the Focus Sectors
- d) any other experts as required

18.2 The Independent Panel shall discharge its duties and functions substantially in accordance with the terms of reference set forth under Schedule -V of this Agreement.

18.3 The Independent Panel shall submit regular periodic reports (at least once every quarterly) to the Authority in respect of its duties and functions set forth under Schedule V of this Agreement.

18.4 The remuneration, cost and expenses to be paid to Independent Panel shall be shared in equal proportion by the Concessionaire and Authority. The remuneration, cost and expenses of the Independent Panel shall be paid by the Parties within 15 (fifteen) days of receiving an invoice from the Independent Panel.

- 18.5** The Authority may, in its discretion, terminate the appointment of the Independent Panel or any of its member(s) at any time, but only after appointment of another Independent Panel or any of its member(s).
- 18.6** If the Concessionaire has reason to believe that the Independent Panel or any of its member(s) are not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the Authority and seek termination of the appointment of the Independent Panel or any of its member(s). Upon receipt of such representation, the Authority shall hold a tripartite meeting with the Concessionaire and Independent Panel for an amicable resolution of the Dispute, and if any difference or disagreement between the Panel and the Concessionaire remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Independent Panel or any of its member(s) is terminated hereunder, the Authority shall appoint forthwith another Independent Panel or any of its member(s).
- 18.7** The Authority shall require the Independent Panel to designate and notify to the Authority and the Concessionaire up to 2 (two) persons on the Panel to sign for and on behalf of the Independent Panel, and any communication or document required to be signed by the Independent Panel shall be valid and effective only if signed by any of the designated persons; provided that the Independent Panel may, by notice in writing, change any of the designated persons.
- 18.8** If either Party disputes any advice, instruction, decision, direction or award of the Independent Panel, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure

19. DATA PROTECTION, CONFIDENTIALITY AND RECORD KEEPING

- 19.1** All information and knowledge relating to trainees and staffs and their circumstances must be treated as confidential. The Concessionaire must advise all staff on the importance of maintaining confidentiality and implement procedures, which ensure that these are only discussed with relevant people and agencies as specified by the Authority.
- 19.2** The Concessionaire shall time to time comply with all legislations, which otherwise would have been applicable had the Mega Skill Training Centre been run directly by the Government agencies.

20. FORCE MAJEURE

- 20.1** As used in this Agreement, the expression “**Force Majeure**” or “**Force Majeure Event**” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 20.2, 20.3 and 20.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the “**Affected Party**”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii)

the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party

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

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Mega Skill Training Centre for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 15 (fifteen) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 20.3;
- (c) any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- (d) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (e) any event or circumstances of a nature analogous to any of the foregoing

20.3 An Indirect political event shall mean one or more of the following acts or events

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 15 (fifteen) days in an Accounting Year;
- (c) Any civil commotion, boycott or political agitation which prevents rendering of service for an aggregate period exceeding 7 (seven) days in an Accounting Year;

(d) Any Indirect Political Event that causes a Non-Political Event; or

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

20.4 Political event shall mean one or more of the following acts or events by or on account of any Government Instrumentality

(a) Change in Law, that has Material Adverse Effect on the Concessionaire's rights and obligations under this Agreement;

(b) compulsory acquisition in national interest or expropriation of any assets of Mega Skill Training Centre or rights of the Concessionaire;

(c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire to perform their respective obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

(d) any event or circumstance of a nature analogous to any of the foregoing

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

(a) the nature and extent of each Force Majeure Event with evidence in support thereof;

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

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

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

20.6 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of

its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement

- 20.7** For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 20.5, and such other information as the other Party may reasonably request the Affected Party to provide.
- 20.8** Upon occurrence of any Force Majeure Event prior to the Effective Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof. Upon occurrence of a Force Majeure Event after the Effective Date, the costs incurred and attributable to such event and directly relating to the Project (the “**Force Majeure Costs**”) shall be allocated and paid as follows:
- (a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;
 - (b) Upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and
 - (c) Upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Authority to the Concessionaire.
- 20.9** For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of construction works⁵⁰ on account of inflation and all other costs directly attributable to the Force Majeure Event, but shall not include debt repayment obligations.
- 20.10** If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Clause 25, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days’ time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

⁵⁰In case land is provided. In case building is provided, the term “construction works” shall be replaced with “refurbishment works”. In case no land or building is provided, this term will be deleted.

21. REPRESENTATIONS & WARRENTIES

21.1 The Concessionaire represents and warrants to the Authority that:

- (a) it is duly organised and validly existing under the laws of India, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- (b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;
- (c) it along with its Associates has the financial standing and capacity to undertake the obligations in accordance with the terms of this Agreement;
- (d) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;
- (e) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;
- (f) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;
- (g) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;
- (h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;
- (i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any government agency which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

- (j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;
- (k) the Selected Bidder is duly organised and validly existing under the laws of the jurisdiction of its incorporation and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (l) all its rights and interests with respect to the Mega Skill Training Centre shall pass to and vest in the Authority upon expiry of Concession Period or Termination as the case may be, free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, provided the Concessionaire shall take back the movable assets brought by it for operation & maintenance of the Mega Skill Training Centre upon expiry of the Concession Period or Termination as the case may be and that none of the assets of Mega Skill Training Centre shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement⁵¹;
- (m) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;
- (n) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and
- (o) all information provided by the Selected Bidder in response to the Request for Proposal or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

21.2 Representations and warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;

⁵¹Applicable only in case land and building is provided.

- (c) it has the financial standing and capacity to perform its obligations under this Agreement;
 - (d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
 - (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on the Authority's ability to perform its obligations under this Agreement;
 - (f) it has complied with Applicable Laws in all material respects; and
 - (g) it has good and valid right to the Facilities⁵² and has power and authority to grant concession in respect thereto to the Concessionaire.
- 21.3** In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.
- 22. INSURANCE**
- 22.1** The Concessionaire shall effect and maintain at its own cost, during the Construction Period⁵³ and the Operation Period, such insurances for such maximum sums (the **"Insurance Cover"**) as may be required under the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Concessionaire shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period⁵⁴.
- 22.2** The Concessionaire shall at its own cost procure and maintain insurance during the Concession Period separately for Facilities⁵⁵, for which right to use has been handed over to the Concessionaire by Authority and for the assets created/brought in by Concessionaire for Mega Skill Training Centre (the **"Concessionaire's Assets"**).
- 22.3** Authority shall be the beneficiary for the Insurance Cover with respect to the Facilities, for which right to use has been handed over to the Concessionaire by Authority. Concessionaire shall ensure that necessary provisions in this regard shall be included in the insurance policy terms for such Facilities.⁵⁶
- 22.4** Without prejudice to the provisions under clause 22.1, prior to taking the insurance for Facilities, for which right to use has been handed over to the Concessionaire by

⁵²Applicable in case land or building is provided

⁵³Applicable in case land or building is provided

⁵⁴Applicable in case land or building is provided

⁵⁵Applicable in land or building is provided

⁵⁶Applicable in case land or building is provided

Authority, the Concessionaire shall take approval of Governing Committee on the Insurance Cover for the Facilities⁵⁷

- 22.5** The premium for both the insurance shall be paid by the Concessionaire.
- 22.6** Without prejudice to the provisions contained in Clause 22.1, the Concessionaire shall, during the Operation Period, procure and maintain Insurance Cover including but not limited to the following:
- (a) Loss, damage or destruction of the Mega Skill Training Centre, including Facilities⁵⁸ for which right to use has been handed over by the Authority to the Concessionaire, at replacement value;
 - (b) Comprehensive third party liability insurance including injury to or death of personnel of the Authority or others who may enter the Mega Skill Training Centre;
 - (c) the Concessionaire's general liability arising out of the Concession;
 - (d) workmen's compensation insurance; and
 - (e) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (d) above.
- 22.7** All insurances obtained by the Concessionaire in accordance with this Clause 22 shall be maintained with the insurance company on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Authority
- 22.8** If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premium and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

⁵⁷Applicable in case land or building is provided

⁵⁸Applicable in case land or building is provided

- 22.9** All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Clause 22 shall include a waiver of any and all rights of subrogation or recovery of the insurance company thereunder against, *inter alia*, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurance companies and underwriters, and of any right of the insurance companies to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance
- 22.10** The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurance companies and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible Clauses in or inadequacy of limits of any such policies of insurance
- 22.11** The Authority shall be the beneficiary for all proceeds from the insurance claims, with respect to Facilities, for which right to use has been handed over to Concessionaire by Authority, except life and injury. The proceeds from the insurance claims (except life and injury), with respect to Concessionaire's Assets, shall be paid to the Concessionaire.
- 22.12** Authority and the Concessionaire shall apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement of Mega Skill Training Centre.

23. DISPUTES

- 23.1** The agreement shall be governed by and interpreted in accordance with the laws of India for the time being in force. The court located at _____ (the place of signing of agreement or as decided by the Authority) shall have jurisdiction to decide any dispute arising in respect of the Agreement.
- 23.2** Both Parties agree to make their best efforts to resolve any dispute between them by mutual consultation.

24. ARBITRATION

- 24.1** If the parties fail to resolve their dispute or difference by such mutual consultations within thirty days of commencement of consultations, then either the Authority or the Concessionaire may give notice to the other party of its intention to commence arbitration, as hereinafter provided. The applicable arbitration procedure will be as per the Arbitration and Conciliation Act 1996 of India and any subsequent enactments or modifications thereto and as amended from time to time. In that event, the arbitration shall be conducted by an arbitral tribunal consisting of three arbitrators, one each to be appointed by one 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, 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 its arbitrator shall take steps in accordance with Arbitration and Conciliation Act, 1996 and any subsequent enactments or modifications thereto and as amended from time to time.

24.2 Services under this Agreement shall, notwithstanding the existence of any such dispute or difference, continue during arbitration proceedings and no payment due or payable by the Authority shall be withheld on account of such proceedings unless such payments are the direct subject of the arbitration.

24.3 Reference to arbitration shall be a condition precedent to any other action at law.

24.4 Venue and language of the Arbitration: The venue of arbitration shall be _____ (the place from where the agreement is signed or as decided by the Authority), and the language shall be _____ (as decided by the Authority).

25. EVENT OF DEFAULT

25.1 Concessionaire Default

25.1.1 Save as otherwise provided in this Agreement, in the event that any of the following event or circumstances specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Concessionaire shall be deemed to be in default of this Agreement (the “**Concessionaire Default**”), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The Concessionaire Default shall include:

- (a) The Performance Security has been encashed and appropriated in accordance with Clause 10.3 and 11.4, and the Concessionaire fails to replenish or provide fresh Performance Security within period specified under Clause 10.3 and 11.4 ;
- (b) subsequent to the replenishment or furnishing of fresh Performance Securities the case may be in accordance with Clause 10.3 and 11.4, the Concessionaire fails to cure, within a Cure Period of 90 (ninety) days, the Concessionaire Default for which whole or part of the Performance Securities the case may be was appropriated;
- (c) the Concessionaire has failed to fulfil any obligation under this Agreement, for which failure Termination has been specified in this Agreement;
- (a) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;
- (b) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

- (c) a resolution for winding up of the Concessionaire is passed, or any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and provided that:
 - (i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement;
 - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and
- (d) any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof;
- (e) the Concessionaire submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;
- (f) the Concessionaire commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on the Authority; or
- (g) during an Accounting Year, if the sum of all the Damages accumulated in that Accounting Year is equal to or greater than 100% (one hundred per cent) of the Performance Securities the case may be;

25.2 Termination for Authority Default

25.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The Authority Default shall include:

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

26. TERMINATION

26.1 Either party may terminate this Agreement on account of Event of Default by giving not less than 3 months' (the "**Cure Period**") notice in writing to the other (the "**Termination Notice**"). The Termination Notice shall include reasons as to why the Agreement is proposed to be terminated.

26.2 In case within the Cure Period, the causes/reasons for which termination is proposed, are cured, then the Termination Notice stands withdrawn upon confirmation by the Party issued the Termination Notice. In case the causes/reasons of termination are not cured within the Cure Period, this Agreement stands terminated upon expiry of Cure Period ("**Termination**").

26.3 Termination Payment

26.3.1 Termination upon Authority Default: Upon termination of this Agreement pursuant to Authority Default, Authority shall return the Performance Security as the case may be to the Concessionaire. Also Authority shall make any payment due to the Concessionaire as on the date of termination.

In addition to this following additional termination payment⁵⁹ shall be payable by the Authority to the Concessionaire:

100% (one hundred percent) of the Book Value of the immovable Project Assets to be transferred to Authority.

26.3.2 Termination upon Concessionaire Default: Upon termination of this Agreement pursuant to Concessionaire Default, Authority shall forfeit the Performance Security as the case may be to the Concessionaire. Authority shall make any payment due to the Concessionaire with respect to the achieved output parameters as on the date of termination.

26.3.3 In addition to this following additional termination payment⁶⁰ shall be payable by the Authority to the Concessionaire:

80% (eighty percent) of the Book Value of the immovable Project Assets to be transferred to Authority.

26.3.4 Termination upon Force Majeure: Upon termination of this Agreement pursuant to Force Majeure, Authority shall return the Performance Securities as the case may be to the Concessionaire. Authority shall make any payment due to the Concessionaire with respect to the achieved output parameters as on the date of termination.

In addition to this following additional termination payment⁶¹ shall be payable by the Authority to the Concessionaire in case:

⁵⁹Applicable only in case land is provided.

⁶¹Applicable only in case land is provided.

100% (one hundred percent) of the Book Value of the immovable Project Assets to be transferred to Authority.

26.4 Upon termination of this Agreement, all rights of the Concessionaire under the Agreement stand extinguished effective from the date of termination of the Agreement.

26.5 Upon termination, the Concessionaire agrees to transfer all immoveable Project assets to the authorized representative of the Authority on a mutually agreed date on “as is where is” basis. The Concessionaire agrees that the date of handing over in terms of this Clause will not be more than 30 calendar days from the date of termination. The movable assets brought by the Concessionaire shall not be handed over to Authority and the Concessionaire shall take back the movable assets brought by it for the Project.⁶²

27. INDEMNITY

27.1 By this Agreement, the Concessionaire indemnifies the Authority against damages of any kind or for any mishap/injury/accident caused to any personnel/property in the Mega Skill Training Centre.

27.2 The Concessionaire agrees that all liabilities, legal or monetary, arising in any eventuality, shall be borne by the Concessionaire.

28. COMPLIANCE WITH EXISTING LAWS

28.1 The Concessionaire agrees to abide by all laws of the land as will be applicable for construction⁶³, operation and maintenance of the Mega Skill Training Centre under this Agreement.

Signed for and on behalf of the Authority

Signed:

Name:

Designation:

Date:

Signed for and on behalf of the Concessionaire:

⁶² Clause 26.5 will be applicable only in case land or building is provided

⁶³Applicable in case land is provided. In case building is provided, the term “construction” will be replaced with “refurbishment”

Signed:

Name:

Designation:

Date:

Witnesses:

1) _____

2) _____

3) _____

APPENDIX – XII
Format –Pre-Bid Queries

<p>Name of the Prospective Bidder / Agency:</p> <p>Contact Person:</p> <p>Designation:</p> <p>Address:</p> <p>Telephone No.:</p> <p>Email:</p>				
S. No	Reference Page No. in the RFP	Clause No.	Observation / Clarification sought	Suggestion by the Prospective Bidder / Agency
1				
2				
3				
4				
5				
6				
7				
8				
9				
<p>Note:</p> <p>Pre-Bid queries from Prospective Bidders will be accepted in this format only</p>				