REQUEST FOR PROPOSAL

Volume 1: Instructions to Bidders

International Competitive Bidding

Appointment of Strategic Partner (SP)

for

Detailed Design, Technical Inputs, Construction Supervision, and Operation of Nucleus Breeding Centre (NBC) for L. vannamei in India

(RGCA/5.5-10/PROJ/LV/2019)

Rajiv Gandhi Centre for Aquaculture, Marine Products Export Development Authority, Ministry of Commerce and Industry, Government of India

Address: 3/197, Poompuhar Road, Karaimedu Village, Sattanathapuram Post, Sirkali Taluk, Nagapattinam District, Tamil Nadu 609109

Date: March 6, 2019
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# GLOSSARY

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<tr>
<td>Applicable Laws</td>
<td>As defined in the Technical Services Agreement</td>
</tr>
<tr>
<td>Associate</td>
<td>As defined in Clause 2.1.14</td>
</tr>
<tr>
<td>Authority</td>
<td>As defined in Clause 1.1.3</td>
</tr>
<tr>
<td>Bank Guarantee</td>
<td>As defined in Clause 2.20.1</td>
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<tr>
<td>Bid(s)</td>
<td>The Technical Bid and Financial Bid together shall be referred to as the Bid(s).</td>
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<tr>
<td>Bidder(s)</td>
<td>Parties that submit their Bids for the Project in accordance with this RFP and shall include the Members of the Consortium.</td>
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<tr>
<td>Bidding Documents</td>
<td>As defined in Clause 1.1.8</td>
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<td>Bidding Process</td>
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<tr>
<td>BMC</td>
<td>As defined in Clause 1.1.3</td>
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<tr>
<td>Companies Act</td>
<td>Shall mean the Companies Act, 2013, and rules framed thereunder.</td>
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<tr>
<td>Concept Presentation</td>
<td>As defined in Clause 1.2.1</td>
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<tr>
<td>Conflict of Interest</td>
<td>As defined in Clause 2.1.14</td>
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<tr>
<td>Consortium</td>
<td>As defined in Clause 2.2.1 (a)</td>
</tr>
<tr>
<td>Contract Fee</td>
<td>As defined in the Technical Services Agreement</td>
</tr>
<tr>
<td>Crore</td>
<td>Ten million (10,000,000)</td>
</tr>
<tr>
<td>Damages</td>
<td>As defined in Clause 2.1.14</td>
</tr>
<tr>
<td>e-Procurement Portal</td>
<td>As defined in Clause 1.2.4</td>
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<tr>
<td>Financial Bid</td>
<td>As defined in Clause 1.2.1</td>
</tr>
<tr>
<td>Financial Capacity</td>
<td>As defined in Clause 2.2.2 (ii) (b)</td>
</tr>
<tr>
<td>Financial Year</td>
<td>1st April of any calendar year and ending on 31st March of the next calendar year; provided, however, that financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.</td>
</tr>
<tr>
<td>Joint Bidding Agreement</td>
<td>As defined in Clause 2.2.3 (g)</td>
</tr>
<tr>
<td>Lakh</td>
<td>Hundred thousand (100,000)</td>
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<tr>
<td>Lead Member</td>
<td>As defined in Clause 2.2.3 (c)</td>
</tr>
<tr>
<td>LOA</td>
<td>As defined in Clause 3.5.4</td>
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<tr>
<td>Member</td>
<td>Member of a Consortium</td>
</tr>
<tr>
<td>Minimum Eligibility Criteria</td>
<td>As defined in Clause 2.2.2 (ii)</td>
</tr>
<tr>
<td>MPEDA</td>
<td>As defined in Clause 1.1.1</td>
</tr>
<tr>
<td>NBC</td>
<td>As defined in Clause 1.1.3</td>
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<tr>
<td>Net Worth</td>
<td>As defined in Clause 2.2.2</td>
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<tr>
<td>Term</td>
<td>Definition</td>
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<td>-----------------------------</td>
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<tr>
<td>Project</td>
<td>As defined in Clause 1.1.4</td>
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<tr>
<td>QCBS</td>
<td>Means a method of selection which is quality cum cost based</td>
</tr>
<tr>
<td>Qualified Bidder(s)</td>
<td>As defined in Clause 1.2.1</td>
</tr>
<tr>
<td>Re. or Rs. or INR</td>
<td>Indian Rupee</td>
</tr>
<tr>
<td>RFP</td>
<td>Means the Request for Qualification cum Request for Proposal issued by the Authority for selecting the Selected Bidder for the Project</td>
</tr>
<tr>
<td>RGCA</td>
<td>As defined in Clause 1.1.3</td>
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<tr>
<td>Scheduled Bank</td>
<td>As defined in Clause 2.20.1</td>
</tr>
<tr>
<td>Second Ranked Bidder</td>
<td>As defined in Clause 3.5.2</td>
</tr>
<tr>
<td>Selected Bidder</td>
<td>As defined in Clause 3.5.1</td>
</tr>
<tr>
<td>Site</td>
<td>As defined in Clause 1.1.3</td>
</tr>
<tr>
<td>Strategic Partner</td>
<td>As defined in Clause 1.1.4</td>
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<tr>
<td>Subject Person</td>
<td>As defined in Clause 2.1.14 (aa)</td>
</tr>
<tr>
<td>Technical Bid</td>
<td>As defined in Clause 1.2.1</td>
</tr>
<tr>
<td>Technical Capacity</td>
<td>As defined in Clause 2.2.2 (ii) (a)</td>
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<tr>
<td>Technical Committee</td>
<td>As defined in Clause 1.2.1</td>
</tr>
<tr>
<td>Technical Services Agreement</td>
<td>As defined in Clause 1.1.6</td>
</tr>
<tr>
<td>Tie Bidder</td>
<td>As defined in Clause 3.5.3</td>
</tr>
<tr>
<td>Turnover</td>
<td>As defined in Clause 2.2.2</td>
</tr>
<tr>
<td>USD</td>
<td>United States Dollars</td>
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</table>

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.
DISCLAIMER

The information contained in this Request for Qualification cum Request for Proposal document ("RFP") or subsequently provided to Bidder(s), whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFP and such other terms and conditions subject to which such information is provided.

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidder(s) or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in submitting Bids pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in the Bidding Documents may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources.

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

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

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise, howsoever caused, arising from reliance of any Bidder upon the statements contained in this RFP.

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

The issue of this RFP does not imply that the Authority is bound to select a Bidder or to appoint the
Selected Bidder for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

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

The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of work and obligations of the Selected Bidder set forth in the Technical Services Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work of the Project, to be awarded pursuant to this RFP. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.
1. INTRODUCTION

1.1 Background

1.1.1 The Marine Products Export Development Authority (“MPEDA”) is a statutory body, formed through the enactment of the Marine Products Export Development Authority Act, 1972, functioning under the aegis of the Ministry of Commerce and Industry, Government of India. MPEDA is the nodal agency for the holistic development of seafood industry in India to realise its full export potential. Based on the recommendations of MPEDA, the Government of India notifies new standards for fishing vessels, storage premises, processing plants and conveyances. MPEDA’s focus is mainly on Market Promotion, Capture Fisheries, Culture Fisheries, Processing Infrastructure & Value Addition, Quality Control, Research and Development.

1.1.2 In brief, the functions of MPEDA include, *inter alia*:

- Registration of infrastructural facilities for seafood export trade.
- Collection and dissemination of trade information.
- Promotion of Indian marine products in overseas markets.
- Implementation of schemes vital to the industry by extending assistance for infrastructure development for better preservation and modernised processing following quality regime.
- Promotion of aquaculture for augmenting export production through hatchery development, new farm development, diversification of species and upgradation of technology.
- Promotion of deep-sea fishing projects through test fishing, joint ventures and up gradation & installation of equipment to increase the efficiency of fishing.
- Market promotional activities and publicity.
- To carry out inspection of marine products, its raw material, fixing standards and specifications, training, regulating as well as to take all necessary steps for maintaining the quality of seafood that are marketed overseas.
- Impart trainings to fishermen, fish processing workers, aquaculture farmers and other stakeholders in the respective fields related to fisheries.
- Conduct research and development for the aquaculture of aquatic species having export potential through Rajiv Gandhi Centre for Aquaculture.
- Conduct extension and awareness activities, trainings etc through Network for Fish Quality Management and Sustainable Fishing (NETFISH) & National Centre for Sustainable Aquaculture (NaCSA).
- To prescribe for itself any matters required for protecting and augmenting the seafood exports from the country in the future.

1.1.3 As mentioned above, MPEDA under its aegis operates the Rajiv Gandhi Centre for Aquaculture (“RGCA”), a society registered under the Tamil Nadu Societies Registration Act, 1975, which is considered the research and development wing of MPEDA. RGCA is involved in conducting research and development in aquaculture, with focus on aquatic species having export potential, including but not limited to shrimp species such as *L. vannamei* and *P. monodon*. For the purpose...
of this RFP, RGCA shall be referred to as the “Authority”.

The demand for *L. vannamei* broodstock from the commercial hatcheries in India is currently estimated to be 300,000 broodstock per annum. Currently, commercial hatcheries in India are importing the broodstock from two sources. For the first source, the Indian commercial hatcheries are importing broodstock from Broodstock Multiplication Centres which are located overseas. The broodstock that are imported in India are quarantined in the Aquatic Quarantine Facility (AQF) located in Chennai which in turn is being operated by the Authority. After the quarantine process, for the purpose of determining that the broodstock are free of diseases and pathogens, is completed the broodstock are released to the commercial hatcheries.

The second source of supply of broodstock to the commercial hatcheries, since 2012, is the Broodstock Multiplication Centre (“BMC”) established by the Authority and MPEDA in Vishakhapatnam for the purpose of supplying broodstock of *L. vannamei* shrimps to the commercial hatcheries operating in India.

As of date, India imports SPF post larvae *L. vannamei* shrimps, for the BMC in Vishakhapatnam, from the Nucleus Breeding Centre operated by a research institute situated in the United States of America. The Government of India now seeks to establish its own Nucleus Breeding Centre (“NBC”) and thereby kickstart its own Nucleus Breeding Programme for *L. vannamei* shrimps in Thekkurichi village, Rajakkamangalam, Kanyakumari district, Tamil Nadu on a land measuring approximately 35 acres (“Site”).

1.1.4 For the purpose of establishing the NBC, the Authority wishes to appoint a strategic partner (“Strategic Partner”) for the purpose of, inter alia, providing the conceptual plan and drawings, the detailed designs including preparation of master plan for the Site allocated for the NBC, detailed engineering including structural designs, Good For Construction Drawings, detailed specifications for all the components of the NBC, technical inputs as well as supervising and monitoring the construction of the NBC by the construction agency to be appointed by the Authority, import and supply of post larvae *L. vannamei* shrimp as required, and undertaking operation, maintenance and management thereof, undertaking and providing research and development services at the NBC (“Project”).

1.1.5 The detailed scope of services to be provided by the Strategic Partner has been laid down in Schedule A of the Technical Services Agreement, attached in Volume II.

1.1.6 The Strategic Partner shall be responsible for discharging its obligations in accordance with the proposed agreement to be signed between the Authority and the Strategic Partner (“Technical Services Agreement”) for a Term of nine (9) years with an option to extend the Term for another 10 (ten) years in accordance with the mechanism set out in the Technical Services Agreement. The draft Technical Services Agreement has been provided as Volume II of this RFP and the Scope of Services of the Strategic Partner is set out in Schedule A of the draft Technical Services Agreement.
1.1.7 The statements and explanations contained in this RFP are intended to provide a better understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of work and obligations of the Selected Bidder set out in detail in the Technical Services Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work or the Project, to be awarded pursuant to the Bidding Documents. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including between this RFP or the Technical Services Agreement are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority.

1.1.8 The Authority shall receive Bids pursuant to this RFP and other documents to be provided by the Authority, as modified, altered, amended and clarified from time to time by the Authority (collectively the “Bidding Documents”). All Bids shall be prepared and submitted in accordance with such terms on or before the time on the date specified in Clause 1.3 for submission of Bids (“Bid Due Date”).

1.2 Brief description of Bidding Process

1.2.1 The Authority has adopted an online single-stage e-procurement process (the “Bidding Process”) using the Quality cum Cost Based Selection (QCBS) method for identification of the Selected Bidder for undertaking the Project.

All the bidders (The “Bidder”, which expression shall, unless repugnant to the context, include the members of the Consortium), shall simultaneously submit their relevant qualification details for the purpose of meeting the Minimum Eligibility Criteria, the Technical Capacity and Financial Capacity as well as the Concept Presentation, as per terms herein (collectively the “Technical Bid”). The Bidders shall also be required to submit their financial bid with respect to the Contract Fee (“Financial Bid”) sought by the Bidder for undertaking the Project, as payable by Authority under terms hereof and more particularly the Technical Services Agreement.

In the first step, the Technical Bids of all Bidders shall be evaluated to determine as to whether they are responsive in terms of Clause 3.2 and whether they meet the Minimum Eligibility Criteria as set forth in Clause 2.2.2 of this RFP for undertaking the Project. Once it is determined that the Bidder fulfils the Minimum Eligibility Criteria and the Bid is responsive, the Technical Bid shall be allocated marks basis the scoring terms set out at Clause 2.2.2 of this RFP.

For the purpose of explanation, the Technical Bid of the Bidders shall be evaluated on a score of 100 with a weightage of 70%, and the Financial Bid shall be scored out of 100 with assigned weightage of 30%. The manner of calculation has been set out and explained in detail in Clause
3.5.

For the purposes of enabling completion of the marking process, the Bidders meeting the Minimum Eligibility Criteria as set forth in Clause 2.2.2 hereof, shall be called upon to make a presentation (“**Concept Presentation**”) setting out their conceptual designs for the NBC and the methods to deliver the Scope of Services under the Technical Services Agreement. For the Concept Presentation, the Bidders will be required to present the scheme of development covering the undermentioned aspects in approximately a sixty-minute presentation.

i. Brief background of the Bidder and the details of Nucleus Breeding Centres being operated by the Bidder, as well as experience, if any, of having provided services in any other project.

ii. Conceptual plans and preliminary architectural drawings of the Project (preliminary lay out and site plan, floor plans, elevations, sections with 3D perspectives wherever necessary);

iii. Indicative area allocation for the different zones of the NBC;

iv. Expected features and functionalities of the proposed NBC;

v. Feasible construction/implementation plan for the Project;

vi. Preliminary cost estimates for the development of Project;

vii. Proposed selective breeding strategy that the Strategic Partner seeks to implement (physical growth, SPF with disease tolerance characteristics, reproductive performance);

viii. Analysis of the historical outcomes of the research & development undertaken by the Bidder;

ix. Presentation of the SOP and manuals to be prepared for the Project by the Bidder and the procedure to be adopted for developing 30 distinct families of *L. vannamei* shrimps with least inbreeding at the end of the Term of the Technical Services Agreement;

x. Advantages of the technology and bio-security being provided by theBidder and the rationale and benefits of such an approach.

The Concept Presentation shall be evaluated by a technical committee (“**Technical Committee**”) set up by the Authority which shall, *inter alia*, consist of members and personnel of MPEDA and the Authority, as well as external experts in the field of aquaculture, appointed by the Authority and MPEDA.

As part of the Concept Presentation, along with the abovementioned information, the Bidder shall mandatorily provide the following details as provided below:

<table>
<thead>
<tr>
<th>Performance Parameter</th>
<th>Requirement</th>
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<tbody>
<tr>
<td>Number of SPF-SPT shrimp families required to be supplied as part of Evaluation Stream, on an annual basis</td>
<td>[***] no. of families</td>
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<tr>
<td></td>
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<tr>
<td>--------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Breeding Performance - the female of the family must produce [***] nauplii</td>
<td>A minimum of [***] % of the families in the Evaluation Stream shall adhere to this parameter</td>
</tr>
<tr>
<td>Disease Free (must be free of OIE listed diseases) and non-listed important diseases/pathogens as agreed upon mutually between the Strategic Partner and the Authority</td>
<td>100% of the families in the Evaluation Stream</td>
</tr>
<tr>
<td>Specific Pathogen Tolerant (SPT)</td>
<td>Any one or more OIE-listed disease/s or pathogen/s. Bidder to provide the list of such pathogens/diseases to which the shrimps are tolerant, below: [***] Bidder shall also state and provide the degree of tolerance, preferably in % terms, to the abovementioned diseases.</td>
</tr>
<tr>
<td>Families shall exhibit a survival rate of 70%</td>
<td>A minimum of [***] % of the families in the Evaluation Stream shall adhere to this parameter</td>
</tr>
<tr>
<td>Growth - exhibits growth of [***] in 4 months</td>
<td>A minimum of [***] % of the families in the Evaluation Stream shall adhere to this parameter</td>
</tr>
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</table>

For the avoidance of doubt, the Bidder shall fill in the blank spaces designated as [***] in the abovementioned table and present the completed table as part of the Concept Presentation and also specify the reasoning and justification for selecting such numbers. The Bidder shall necessarily present and submit documents and other credentials for the purpose of justifying the numbers and data which are submitted in the table.

Only those Bidders whose Technical Bids areresponsive, fulfills the Minimum Eligibility Criteria and have duly made the Concept Presentation before the Technical Committee ("Qualified Bidder(s)"), shall be entitled to opening of their Financial Bid subject to and in accordance with provisions set out under this RFP. The Financial Bid shall be allocated 100 marks and the Bidder quoting the lowest Contract Fee shall be assigned full marks, and other quotes shall be allocated
marks on inversely proportionate basis in the manner illustrated in Clause 3.5.1. Based on the respective assigned weightage of [70%: Technical Bid] and [30%: Financial Bid], respectively, and the QCBS computation of score to be made in relation to each Bidder, the Bidder scoring highest marks in accordance with terms hereof shall be the Selected Bidder for the award of the Project.

For the avoidance of doubt, it is hereby clarified that the consideration of the Financial Bids of the Qualified Bidders and subsequent award of the Project shall always be subject to the outcome of verification and consequent report prepared by the Technical Committee. post the physical verification of the projects and credentials relied upon by the Selected Bidder for the purpose of qualification under this RFP. The Technical Committee shall confirm, upon on-site inspection of the Nucleus Breeding Centre and allied facilities and credentials mentioned in the Bid of the Selected Bidder, the correctness of such credentials. The complete cost towards the physical verification and on-site visit by the Technical Committee shall be borne solely by the Authority and/or MPEDA and under no circumstance shall the Selected Bidder be obligated to bear any cost and expense in relation thereto. Provided however that the Selected Bidder shall procure and ensure the required access to their project facilities and connected information/records for enabling the verification of their credentials that were relied upon for the purpose of qualification under this RFP. The physical verification of the credentials and facilities of the Selected Bidder shall be conducted solely by the representatives of the Technical Committee and the physical verification shall be completed within a time period of a maximum of 15 days from the date of journey.

Upon completion of such physical verification by way of on-site inspection, the Technical Committee shall submit a written report to the Authority either confirming the correctness of the credentials submitted by the Bidder in the Technical Bid or rejecting the credentials, in whole or in part, of the Selected Bidder, as submitted in the Technical Bid due to non-corroboration of the credentials submitted in the Technical Bid and the credentials which were actually observed and verified during the course of physical verification of the facilities of the Selected Bidder. In case of rejection of credentials, either in whole or in part, the Authority may in its sole discretion decide to seek clarifications from the Selected Bidder, and for this purpose may provide the copy of the written report to the Selected Bidder, or a summary of the relevant excerpts demonstrating the adverse finding based on which the rejection is made.

The Authority shall at its sole discretion, determine whether to accept the explanation and clarification if provided by the Selected Bidder; or in cases otherwise go ahead with the existing findings and reject the Bid of the Selected Bidder and in which case, the Bid Security of the Selected Bidder shall be liable to be encashed and the Selected Bidder may also be liable to be barred henceforth from participation in any tender issued by the Authority.

As part of the Project, the output that has to be produced is the supply, development and production of at least 30 distinct least inbreeding shrimp families and the transfer of the Pedigree
Data *as defined in the Technical Services Agreement* for such 30 families.

The Bidder, who pursuant to the evaluation and scoring of Technical Bids and Financial Bids, on weighted average QCBS basis of 70% [Technical Bid (including the Concept Presentation)]: 30% [Financial Bid] scores the highest total marks will generally be the Selected Bidder, subject to physical verification and confirmation of the credentials submitted by the Bidder.

The Selected Bidder who is awarded the Project shall undertake the development, operation, maintenance and management of the Project subject to and in accordance with the Technical Services Agreement, to be executed with Authority, subject to and in accordance with terms hereof. The Selected Bidder will be required to perform the Services set out in the Scope of Services set forth in Schedule A of RFP Volume II (Technical Services Agreement). For the avoidance of doubt, it is clarified that the Selected Bidder shall ensure that the conceptual design of the NBC shall not change in any material/ substantial way from the Concept Presentation, except with the prior written approval of the Authority.

1.2.2 Any Addenda issued subsequent to this RFP, but on or before the Bid Due Date, will be deemed to form part of the Bidding Documents.

1.2.3 The Bid shall be valid for a period of not less than One Hundred and Twenty (120) days from the Bid Due Date. In terms of the RFP, a Bidder is required to deposit, along with its Bid, a bid security equivalent to an amount of INR 6,000,000 / USD 85,000 (Indian Rupees Six million/ United States Dollars Eighty-Five Thousand only) ("Bid Security"). The Bid Security will be refundable, no later than sixty (60) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Technical Services Agreement. The Bidders will have to provide Bid Security in the form of a Bank Guarantee in the format set out in Annexure E, encashable at Sirkazhi/Chennai acceptable to the Authority, and the validity period of the Bid Security shall not be less than One Hundred and Eighty (180) days from the Bid Due Date, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. For the avoidance of doubt, the original Bid Security shall be submitted along with the hard copy submission of the Technical Bid and a scanned copy of the Bid Security shall be uploaded as part of the online submission of the Bid on the e-Procurement Portal.

1.2.4 The Bidding Documents in its entirety will be available for download from the website https://www.eprocure.gov.in/eprocure/app ("e-Procurement Portal") from the date mentioned in Clause 1.3. To participate in the Bidding Process, the Bidder should complete download from the e-Procurement Portal and submit final Bid through the e-Procurement Portal. Bidders are required to familiarize themselves with the instructions available on the e-Procurement Portal in
relation to online submission of their Bids. Furthermore, the Bidders are to refer to Appendix III of this RFP where the guidelines for submission of bids on the e-Procurement Portal have been provided in detail. Bids which are submitted on the e-Procurement Portal alone will be accepted by the Authority. The Bidders are advised to download the Bidding Document at least one day prior to the Bid Due Date so as to safeguard their participation and avoid any delay. The Bidders are advised to upload the Bid sufficiently before the specified time on the Bid Due Date to avoid any technical issues or malfunction in the network caused by heavy internet traffic on the Bid Due Date. The Authority shall not be responsible for any failure, malfunction or breakdown of the e-Procurement Portal during the Bidding Process.

1.2.5 The Bidders are invited to examine the proposed Site for the NBC and to carry out, at their cost, such studies as may be required for submitting their respective Bids for the Project and for providing required Services and carrying out obligations, in accordance with the terms and conditions of the Technical Services Agreement.

1.2.6 Any queries or request for additional information concerning this RFP shall be submitted by email to the person and email address mentioned below:

The Project Director,
Rajiv Gandhi Centre for Aquaculture,
Email: rgcaho@gmail.com
Phone: 04364 265 200

1.2.7 The pre-bid queries should be submitted in the format specified below to be considered for response and they should be submitted in MS-Excel format. Pre-bid queries not submitted in the prescribed format may not be responded to.

<table>
<thead>
<tr>
<th>S. N.</th>
<th>Page No.</th>
<th>Part of RFP</th>
<th>Clause No.</th>
<th>Text provided in RFP</th>
<th>Clarification sought with justification, if any</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>[●]</td>
<td>[●]</td>
<td>[●]</td>
<td>[●]</td>
<td>[●]</td>
</tr>
<tr>
<td>2.</td>
<td>[●]</td>
<td>[●]</td>
<td>[●]</td>
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</tr>
<tr>
<td>……..</td>
<td>…….</td>
<td>…….</td>
<td>…….</td>
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<td>…….</td>
</tr>
</tbody>
</table>

It is preferred that the queries should be sent to the Authority at least two (2) business days before the scheduled pre-bid meeting. The email communication shall clearly mention in the subject head:

“Queries for Additional Information: RFP for Appointment of Strategic Partner for Nucleus Breeding Centre (NBC) for L. vannamei”

1.2.8 The Financial Bid Sought by the Bidder shall comprise the aggregate Contract Fee sought by the
Bidder for undertaking the Project in accordance with the terms hereof and particularly of the Technical Services Agreement.

1.3 **Schedule of Bidding Process**

1.3.1 The Authority shall receive Bids for selection of the Selected Bidder(s) pursuant to and in accordance with the terms set forth in the RFP and other documents to be provided by the Authority pursuant to this RFP, as modified, altered, amended and clarified from time to time by the Authority. Any Addenda issued subsequent to the issuance of this RFP, but before the Bid Due Date, will be deemed to form part of the Bidding Documents. All Bids shall be prepared and submitted in accordance with such terms on or before the time on the date specified in this RFP for submission of Bids by the Bid Due Date.

The Authority shall endeavour to adhere to the following schedule. However, the Authority may, at its own discretion, revise or extend any of the timelines set out in this schedule.

<table>
<thead>
<tr>
<th>Event Description</th>
<th>Date (dd/mm/yyyy)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue of Bidding Documents</td>
<td>06/03/2019</td>
</tr>
<tr>
<td>Last Date for receiving pre-bid queries for Pre-Bid meeting</td>
<td>08/04/2019</td>
</tr>
<tr>
<td>Pre-Bid meeting</td>
<td>10/04/2019 (at 1400 hours, as per Indian Standard Time, at Kochi, India)</td>
</tr>
<tr>
<td>Response to Pre-Bid meeting queries</td>
<td>17/04/2019</td>
</tr>
<tr>
<td>Bid Due Date</td>
<td>15/05/2019 (5:00 PM Indian Standard Time)</td>
</tr>
<tr>
<td>Opening of Technical Bid</td>
<td>16/05/2019 (11:00 AM Indian Standard Time)</td>
</tr>
<tr>
<td>Concept Presentation for Qualified Bidders</td>
<td>To be intimated to Bidders individually</td>
</tr>
<tr>
<td>Opening of Financial Bid</td>
<td>To be intimated to Bidders individually</td>
</tr>
<tr>
<td>Announcement of Selected Bidder</td>
<td>To be intimated to Bidders individually</td>
</tr>
<tr>
<td>Issue of Letter of Award (after physical verification of the credentials of Selected Bidder)</td>
<td>Within 15 days of completion of physical verification</td>
</tr>
<tr>
<td>Signing of the Technical Services Agreement</td>
<td>Within 15 days of issuance of Letter of Award</td>
</tr>
</tbody>
</table>
2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1 General terms of Bidding

2.1.1 No Bidder shall submit more than one (1) Bid for the Project. A Bidder bidding individually or as a Member of a Consortium shall not be entitled to submit another bid for the Project either individually or as a member of any other Consortium, as the case may be.

2.1.2 An international Bidder bidding individually or as a member of a Consortium shall ensure that Power of Attorney set out in Annexure C and/or Annexure D, as the case may be, is legalized/apostilled by the appropriate authority, and notarised in the jurisdiction where the Power of Attorney is being issued and requirements under the Indian Stamp Act, 1899 are duly fulfilled.

2.1.3 Unless the context otherwise requires, the terms not defined in this RFP, but defined in the Technical Services Agreement shall have the meaning assigned thereto in the Technical Services Agreement.

2.1.4 The Bidding Documents shall be available for download from the e-Procurement Portal. Any modifications / Addendum / responses to queries shall be updated on the e-Procurement Portal and the Bidders are requested to check the e-Procurement Portal regularly for updates. The Authority shall not undertake any responsibility if any Bidder fails to regularly check the e-Procurement Portal for Addenda.

It shall be mandatory for the Bidders to get themselves registered with the e-Procurement Portal to obtain user ID and password, so as to participate in this Bidding Process. Furthermore, for the purpose of submission of the Bid, the Bidder shall mandatorily procure Class III encryption type Digital Signature Certificate (DSC) and sign and encrypt the Bid using such digital signature certificate during time of submission of Bid. For the avoidance of doubt, it is clarified that the mandatory registration and procurement of digital signature certification should be in the name of the Lead Member, in case the Bidder is a Consortium. The detailed explanation of the procedure for submission of the Bid on the e-Procurement Portal has been provided in Appendix III of this RFP Volume I.

For the avoidance of doubt, it is clarified that the physical hard copy of only the Technical Bid shall be submitted on or before the Bid Due Date and time at the address specified in Clause 2.11.4 as per the details set out in Clause 2.11, and in no case shall the Financial Bid be submitted offline i.e. through hard copy submission. Failing this condition the Bid shall be liable to be rejected.
2.1.5 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Technical Services Agreement shall have an overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Technical Services Agreement.

2.1.6 The Technical Bid shall be furnished as per formats provided in Appendix-I of this RFP. The Technical Bid shall include the following:

ANNEXURE A : Letter Comprising the Bid
ANNEXURE B : General Information of Bidder & Statement of the Legal Capacity
ANNEXURE C : Power of Attorney for Signing of Bid in favor of Authorized Signatory (single entity/ Lead Member, in case of Consortium) with Board Resolution/relevant extract of Charter Document in favor of Executant.
ANNEXURE D : Power of Attorney for Lead Member of Consortium by other members of the Consortium (in case of Consortium) with Board Resolution/ relevant extract of Charter Document in favor of Executant.
ANNEXURE E : Bid Security (Bank Guarantee)
ANNEXURE F : Joint Bidding Agreement (in case of Consortium)
ANNEXURE G : Technical Capacity of Bidder with supporting documents
ANNEXURE H : Financial Capacity of Bidder with supporting documents
ANNEXURE I : Bid Checklist

2.1.7 The Financial Bid for the Project should be furnished online on the e-Procurement Portal in the format set for reference only at Appendix–II, clearly indicating the Contract Fee amount in both figures and words, in INR/USD and digitally signed by the Bidder’s authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account. The Financial Bid shall be submitted online only (not to be submitted in hardcopy) for the Project. The payment of the Contract Fee by the Authority to the Service Provider shall be as per the terms and conditions of the Technical Services Agreement (enclosed as Volume II).

2.1.8 As mentioned in Clause 1.2.3, the Bidder shall deposit a Bid Security in accordance with the provisions of this RFP. The Bidder shall provide the Bid Security in the form of a Bank Guarantee, acceptable to the Authority, as per format set forth in Annexure E of Appendix-I.

2.1.9 The validity period of the Bank Guarantee shall not be less than One Hundred and Eighty (180) days from the Bid Due Date, and may be extended as may be mutually agreed between the Authority and Bidder from time to time. The Bid shall be summarily rejected if it is not
accompanied by the Bid Security. The Bid Security shall be refundable not later than sixty (60) days from the Bid Due Date except in the case of the Selected Bidder(s), whose Bid Security shall be retained till it has provided a Performance Security under the Technical Services Agreement.

2.1.10 The Bidder shall submit a Power of Attorney as per the format set forth in Annexure C of Appendix-I, authorising the signatory of the Bid to commit the Bidder, accompanied by a board resolution or charter document in favour of the executant. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member as per the format set forth in Annexure D of Appendix-I, accompanied by a board resolution or charter document in favour of the executant.

2.1.11 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid. The Bidding Documents and RFP are not transferrable.

2.1.12 All communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.

2.1.13 The Bidding Documents including this RFP and all attached documents are and shall remain the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 2.1.13 shall also apply mutatis mutandis to Bids and all other documents submitted by the Bidders, and the Authority will not return any Bid or any information provided along therewith.

2.1.14 A Bidder shall not have a conflict of interest, as more specifically described below, (the “Conflict of Interest”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be. The Bidder acknowledges and agrees such forfeiture and appropriation of the Bid Security or Performance Security (as the case may be) is reasonable and represents the mutually agreed genuine pre-estimated loss and damages likely to be suffered and incurred by the Authority and not by way of penalty for, *inter alia*, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal (“Damages”). The Bidder acknowledges and agrees that such forfeiture and appropriation of the Bid Security or Performance Security (as the case may be) is without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

Without limiting the generality of the above, a Bidder shall be considered to have a Conflict of Interest that affects the Bidding Process, if:
a) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or Associate (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Bidder, Member or Associate, as the case may be) in the other Bidder, its Member or Associate is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2(72) of the Companies Act, 2013. For the purposes of this Clause 2.1.14, indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “Subject Person”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

b) a constituent of such Bidder is also a constituent of another Bidder; or

c) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or Associate; or

d) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or

e) such Bidder or any Associate thereof has a relationship with another Bidder or any Associate thereof, directly or through common third parties, that puts them in a position to have access to each other’s information about, or to influence the Bid of either or each of the other Bidder; or

f) such Bidder has participated as a consultant or sub-consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.

Explanation:
In case a Bidder is a Consortium, then the term Bidder as used in this Clause 2.1.14, shall include each Member of such Consortium.

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

2.1.15 Any award of the Project shall be subject to the terms of Bidding Documents.

2.1.16 A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Technical Services Agreement. In the event any such adviser is engaged by the Strategic Partner, after issue of the LOA or execution of the Technical Services Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Technical Services Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, the LOA or the Technical Services Agreement, as the case may be, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Strategic Partner for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated prior to the Bid Due Date. Nor will this disqualification apply where such adviser is engaged after a period of three (3) years from the date of completion of Project Term.

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

a) Bidders should submit and upload clearly marked and referenced continuation pages in the event that the space provided in the prescribed forms in the Appendices and Annexes thereto is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;

b) information supplied by a Bidder (or other constituent member if the Bidder is a Consortium) must apply to the Bidder, member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;

c) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with this RFP; and
d) in case the Bidder is a Consortium, each member should substantially satisfy the RFP requirements to the extent specified herein.

2.1.18 While eligibility to Bid is open to persons from any country, the following provisions shall apply:

a) where, on the date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its member (in case of a Consortium) is held by persons resident outside India or where a Bidder or its member is controlled by persons resident outside India; or

b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its member (in case of a Consortium);

then the eligibility of such Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

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

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

While evaluating the Bids, regard will be paid to national defence and security considerations.

Offer received from any Bidder may be summarily rejected on national security consideration without any intimation thereof to the Bidder.

The Bidders will be obliged to protect the national interests like national security whenever necessary and required, and also honour priority orders of the Government of India, in this regard. The Bidders will also abide by the various statutory requirements on the protection of the environment, anti-pollution measures, safety, conservancy etc. and also abide by the directives issued by the Government of India from time to time.
2.2  Eligibility of Bidders

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

(a) The Bidder may be a sole bidder or a group of entities (the “Consortium”), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be a member of another bidding Consortium. The term Bidder used herein would apply to both a single legal entity and a Consortium. The maximum number of Members in a Consortium will be limited to two (2).

(b) A Bidder may be a company registered in India under the Companies Act or incorporated outside India under the relevant laws of incorporation in the country of its origin, or any other entity/firm/body-corporate/proprietorship/not-for-profit organizations or institutions incorporated/registered under relevant statutes/laws either outside or within India, or any combination of the above (with a formal intent to form a Consortium, meeting the requirements set out in this RFP), provided however that natural persons are not eligible to submit their bids either individually or as member of a Consortium. The Bidder shall submit incorporation/charter documents in support along with the Technical Bid.

For the purpose of this RFP, regardless of anything to the contrary contained herein or in the relevant Technical Services Agreement, a Bidder bidding for the Project shall provide an undertaking that during the course of the Project and while providing the Services, it shall not procure and supply the PL of *L. vannamei* from a country from which import of shrimps has been banned by the Government of India vide notification/government order (Order No 35027G/2013 dated May 21, 2013 issued by the Ministry of Agriculture, Department of Animal Husbandry, Dairying and Fisheries), due to shrimps from such countries being affected by the Acute Hepatopancreatic Necrosis Syndrome (AHPNS) or commonly known as the Early Mortality Syndrome. Further, the Bidder, be it a single entity or a Consortium, shall also provide an undertaking that it shall not import and supply the PL of *L. vannamei*, for the purpose of this Project, from countries which are engaged in commercial production of shrimps. For the purpose of this RFP, countries engaged in commercial production of shrimps shall mean countries which are producing 50,000 tonnes or more of *L. vannamei* shrimps in the previous year, prior to the Bid Due Date.

2.2.2 Minimum Eligibility Criteria and Technical Bid Scoring

(i) The Bidder can, subject to Clause 2.2.1, be a single legal entity or a Consortium.
(ii) To be considered a Qualified Bidder and for the Financial Bid to be evaluated for further consideration in accordance with the terms herein, a Bidder, either a single legal entity or Consortium, shall be required to, *inter alia*, fulfill the following minimum eligibility criteria in terms of Technical Capacity and Financial Capacity (“Minimum Eligibility Criteria”):

(a) The Bidder shall demonstrate the following required technical capacity and experience of:

I. Having successfully designed and constructed a Nucleus Breeding Centre for *L. vannamei* which has a capacity to develop and maintain at least 50 families of *L. vannamei* shrimps in the last ten (10) years immediately preceding Bid Due Date;

II. Having successfully developed at least 50 families of *L. vannamei*, through its own research and development activities, in the last ten (10) years immediately preceding Bid Due Date

(Collectively the "Technical Capacity").

For the purposes of this RFP, the term “Infrastructure Projects” shall mean the projects as enumerated in the definition given to it by Reserve Bank of India for determination of eligibility for External Commercial Borrowings (ECB) purposes.

(b) Without prejudice to above requirement of demonstrating Technical Capacity, the Bidder shall be required to demonstrate that it has an average annual Turnover of INR 300,00,000/USD 4,00,000 (Indian Rupees Three Hundred Million/ United States Dollars Four Million) during the last three Financial Years immediately preceding the Bid Due Date, and shall also be required to have positive net worth in the Financial Year preceding the Bid Due Date (“Financial Capacity”). In case the Bidder is a Consortium, then each of the members must individually have a positive Net Worth.

(iii) The Bidder shall provide documentary evidence for the above as specified in this Clause 2.2.2. Such documentary evidence shall be duly signed by the authorized signatory of the sole entity Bidder or a Member of the Consortium (whose credentials were taken into consideration for the purposes of technical qualification under and in accordance with the RFP), as the case may be. The documentary evidence referred herein shall include:
(a) Client certificate/Project Completion Certificate or statutory auditor’s certificate, and agreement copy and/or Letter of Award, as the case may be for demonstrating and meeting the Technical Capacity. For the avoidance of doubt, the Bidder should mandatorily provide statutory auditor’s certificate or clients certificate, and agreement copy and/or Letter of Award to showcase the services/works undertaken.

(b) Statutory auditor’s/registered public accountant’s certificate, and audited annual report/financial statement for the relevant Financial Years for demonstrating the Financial Capacity.

For the purposes of this RFP, the capitalised term “Net Worth” means:

i. In case the Bidder is an Indian company: the aggregate value of the paid-up share capital and all free reserves created out of the profits and securities premium account, after deducting the aggregate value of the accumulated losses, deferred expenditure and miscellaneous expenditure not written off, as per the audited balance sheet, but does not include reserves created out of revaluation of assets, write – back of depreciation and amalgamation;

ii. In all other cases: Total of paid-up capital and free reserves, less intangible assets as per the latest Audited Balance Sheet or account statement certified by a registered Chartered accountant, public chartered accountant or any registered accounts practitioner by whatever name called.

For the purposes of this RFP, “Turnover” means:

The aggregate value of the realization of amount made by the sale, supply or distribution of goods and/or on account of services rendered by the company during a financial year. For the avoidance of doubt, it is clarified that it shall not include interest earned from financial instruments. //

In computing the Technical Capacity and Financial Capacity of the Bidder/ Consortium Members under this Clause 2.2.2, the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder. The definition of Associate has been provided herein in this RFP in the Explanation to Clause 2.1.14. It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder or the Consortium member shall be provided to demonstrate that a person is an Associate of the Bidder or the Consortium member, as the case may be.

(iv) Scoring of the Bids: The Bidders shall be scored and marked on the QCBS basis evaluation of their Technical Bid (which shall include the Concept Presentation), and basis their Financial Bid. The Technical Bid (including the Concept Presentation)
shall be marked on 100 in the manner specified below herein, and the Financial Bid shall also be marked out of 100. However, the weightage given to the score achieved in the Technical Bid and in the Financial Bid, respectively, shall be as follows:

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Weightage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Bid Score</td>
<td>70%</td>
</tr>
<tr>
<td>Financial Bid Score</td>
<td>30%</td>
</tr>
</tbody>
</table>

The manner of evaluating the Technical Bid and the Financial Bid for the purpose of determining the Selected Bidder has been further detailed and explained in Clause 3.5 of this RFP.

**Scoring for Technical Bid**

<table>
<thead>
<tr>
<th>Parameters</th>
<th>Max. marks</th>
<th>Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Industry Experience (in terms of number of years of shrimp breeding)</td>
<td>10</td>
<td>1. Incorporation certificate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2. Commissioning certificate of commercial production / self-declaration certified by MD / chairman / CEO of entity</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3. Project data sheet as provided in Annexure G</td>
</tr>
<tr>
<td></td>
<td></td>
<td>For the purpose of evaluation under this parameter, the industry experience shall be reckoned from the date of commissioning and not the date of incorporation.</td>
</tr>
<tr>
<td>2. Annual Production capacity* (no. of Brood Stock)</td>
<td>10</td>
<td>Self-declaration certified by authorized chartered accountant &amp; MD / chairman / CEO of entity</td>
</tr>
<tr>
<td>3. No. of engineering design – infrastructure projects completed in India (INR 1000 million/ USD 15 million or above)</td>
<td>10</td>
<td>Client Certificate of completion /Letter of award/Certificate from statutory auditors as well as filled up project data sheet as provided in Annexure G</td>
</tr>
</tbody>
</table>
**Appointment of Strategic Partner – Establishment of Nucleus Breeding Centre for *L. vannamei***

<table>
<thead>
<tr>
<th>No.</th>
<th>Requirement</th>
<th>Marks</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>Total years of experience of permanent technical employees in the shrimp breeding business / institution (no.)</td>
<td>10</td>
</tr>
</tbody>
</table>

Self-declaration certified by country’s chartered accountant & MD / chairman / CEO of entity.

For the purpose of evaluation under this parameter, only those permanent technical employees who have a bachelor’s degree (or above) in aquaculture related fields and who have a minimum of 3 (three) years’ experience in breeding of shrimps shall be accounted for.

Furthermore, the Bidder who can demonstrate the highest cumulative years of work experience, from all such permanent employees, shall be awarded the maximum marks under this parameter. For the purpose of illustration if a Bidder demonstrates that it has three employees having a bachelor’s degree in aquaculture with each such employee having 4 years’ experience then the cumulative experience for the purpose of evaluation of such Bidder shall be 12 years’ work experience. If this 12 years’ work experience is highest among all the Bidders, then such Bidder shall be awarded the maximum marks.

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<th>No.</th>
<th>Requirement</th>
<th>Marks</th>
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<tbody>
<tr>
<td>5.</td>
<td>No. of country where product is exported (no.) (product means brood stock pair)</td>
<td>5</td>
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1. Self-declaration certified by MD/chairman/CEO of entity

<table>
<thead>
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<th>No.</th>
<th>Requirement</th>
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<tr>
<td>6.</td>
<td>*Concept Presentation – Selective Breeding Strategy for India (growth, SPF with disease tolerance characteristics, breeding performance for developing at least 30 distinct least inbreeding families with the origin of these families preferably being from diverse geographical areas so as to exploit maximum genetic variation)</td>
<td>15</td>
</tr>
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</table>

1. Self-declaration certified by MD / chairman / CEO of entity
2. Evaluation by Technical Committee during Concept Presentation

<table>
<thead>
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<th>No.</th>
<th>Requirement</th>
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<tr>
<td>7.</td>
<td>*Concept Presentation – historical R&amp;D performance for own firm /</td>
<td>15</td>
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</table>

1. Self-declaration certified by MD/chairman/CEO of entity
8. *Concept Presentation – understanding of India specific regulations / requirements for the project* 15 Evaluation by Technical Committee during Concept Presentation

9. *Concept Presentation– Proposed design philosophy for the optimum utilisation of the site for the project* 5

10. Average Net Worth in (last 3 financial years preceding the Bid Due Date) 5 Audited balance sheet, annual report and profit and loss statement

**TOTAL** 100

*The Concept Presentation mentioned in points 6-9 shall be evaluated and marked by the Technical Committee constituted by the Authority and MPEDA.*

For points 1 to 5 and 10, the score will be calculated on a pro rata basis. E.g. For point no 1, the bidder with the highest number of years of experience will receive the maximum marks and the rest of the bidders will receive proportionate marks so if the highest experience is 25 years, the Bidder with 25 years will get 10 marks and Bidder with 19 years will get 7.6 and a Bidder with 10 years will get 4 marks for that component

For the purpose of this Clause 2.2.2, in case a foreign/overseas Bidder submits its Bid including the Technical Capacity and Financial Capacity in foreign currency, the figures shall be converted to Indian Rupees to facilitate evaluation of such Bids. For conversion of US Dollars to Indian Rupees, the rate of conversion shall be INR 70 to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as per the exchange rate prevailing as on the date sixty (60) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Indian Rupees at the aforesaid rate of USD 1= INR 70. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

2.2.3 In case the Bidder is a Consortium, it should comply with the following additional requirements:

(a) Bid should contain the information required for each Member of the Consortium, provided number of members of Consortium should not exceed two (2). None of the members in a Consortium should be under any sort of ineligibility under the Bidding Documents;
(b) The Bid should contain the information required for each member of the Consortium;

(c) Members of the Consortium shall nominate one (1) member as the lead member ("Lead Member");

(d) The nomination of the Lead Member shall be supported by a Power of Attorney, as per the format set forth in Annexure D of Appendix-I, signed by all the other members of the Consortium along with the charter document or board resolution in favour of the executant;

(e) The parties to a Consortium acting through and represented by Lead Member shall sign the Technical Services Agreement with the Authority, and the parties to a Consortium shall be jointly and severally liable if the Project is awarded to the Consortium;

(f) The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to design and construction supervision obligations; and

(g) Members of the Consortium shall enter into a binding Joint Bidding Agreement (the "Joint Bidding Agreement") for the purpose of submitting the Bid. The Joint Bidding Agreement shall, inter alia, convey the intent to enter into the Technical Services Agreement and subsequently carry out all the responsibilities as service provider in terms of the Technical Services Agreement, in case the Project is awarded to the Consortium;

(h) Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.

(Note: A copy of the Joint Bidding Agreement should be submitted along with the Bid. The Joint Bidding Agreement entered into between the Members of the Consortium should be specific to the Project and should fulfil the above requirements, failing which the Bid shall be considered non-responsive.)

2.2.4 Any entity which has been barred by the Central/ State Government, or any other government institution in India, for any reason, from participating in any project, and the bar subsists as on the Bid Due Date, would not be eligible to submit the Bid, either individually or as Member of a Consortium.

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

Provided, however, that where a Bidder claims that its disqualification arising on account of any cause or event specified in this Clause 2.2.4 is such that it does not reflect (a) any malfeasance...
on its part in relation to such cause or event; (b) any willful default or patent breach of the material terms of the relevant contract; (c) any fraud, deceit or misrepresentation in relation to such contract; or (d) any rescinding or abandoning of such contract, it may make a representation to this effect to the Authority for seeking a waiver from the disqualification hereunder and the Authority may, in its sole discretion and for reasons to be recorded in writing, grant such waiver if it is satisfied with the grounds of such representation and is further satisfied that such waiver is not in any manner likely to cause a material adverse impact on the Bidding Process or on the implementation of the Project.

2.2.5 The Bid must be accompanied by the audited annual reports, financial statement and balance sheet of the Bidder (or of each Member in case of a Consortium) for the last three (3) financial years preceding the Bid Due Date. The Bidder shall also enclose in its Bid, as per the format set forth in Annexure H of Appendix-I, complete with its Annexes, the certificate(s) from its statutory auditors specifying the Net Worth at the end of the last financial year and the annual Turnover of the Bidder at the close of each of the last three (3) financial years preceding the Bid Due Date as well as specifying that the methodology adopted for calculating such Net Worth and Turnover conforms to the provisions of Clause 2.2.2.

In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the audited financial statements for the financial year preceding the latest financial year for which the audited annual report is not being provided.

Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three (3) months of the closing of the latest financial year of the Bidder, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the year preceding its latest financial year.

For the avoidance of doubt, “financial year” shall, for the purposes of the Bid hereunder and for the purpose the Bidding Documents and this RFP, mean the accounting year followed by the Bidder in the course of its normal business.

2.2.6 No change in the composition of the Consortium is allowed subsequent to the submission of the Bid during the Bidding Process or in case of the Selected Bidder during the Term of the Project, otherwise the Bid shall be disqualified and Bid Security or Performance Security, as the case may be, shall be forfeited.

2.3 Intentionally left blank.

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

2.5 Sites visit and verification of information

2.5.1 Bidders are encouraged to submit their respective Bids after visiting the Site and ascertaining for themselves the conditions, location, surroundings, Applicable Laws, Applicable Permits and regulations, and any other matter considered relevant by them for submitting their Bids in response to the RFP.

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

a) made a complete and careful examination of the Bidding Documents;
b) received all relevant information requested from the Authority;
c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5.1 above;
d) satisfied itself about all matters, things and information including matters referred to in Clause 2.5.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all its obligations thereunder;
e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.5.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Technical Services Agreement; and
f) agreed to be bound by the undertakings provided by it under and in terms hereof.

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

2.6 Right to accept and to reject any or all Bids

2.6.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP or the Bidding Documents and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.
2.6.2 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and / or reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

2.6.3 The Authority reserves the right to reject any Bid and appropriate the Bid Security if, at any time, a material misrepresentation is made or uncovered or the Bidder does not provide, within the time specified by the Authority, supplemental information sought by the Authority for evaluation of the Bid. Such misrepresentation/ improper response shall lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium shall be disqualified / rejected. If such disqualification / rejection occurs after the Bids have been opened and the initial Selected Bidder gets disqualified / rejected, then the Authority reserves the right to:

(a) to choose the Selected Bidder in accordance with Clauses 3.3, 3.4 and 3.5; or
(b) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.6.4 In case it is found during the evaluation or at any time after selection of Qualified Bidders or Selected Bidders or before/after signing of the Technical Services Agreement or after its execution and during the period of subsistence thereof, one or more of the Minimum Eligibility Criteria have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith, notwithstanding anything to the contrary contained in this RFP or in the Bidding Documents and the Technical Services Agreement (if executed) shall be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be. In such an event, the Authority shall have a right to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as compensation and Damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

B. RFP DOCUMENTS

2.7.1 This RFP comprises the Disclaimer set forth hereinafore, the contents as listed below, and will additionally include any Addendum issued in accordance with Clause 2.9. The draft Technical Services Agreement set out in Volume II as part of the Bidding Documents shall be deemed to be part of this RFP.

Invitation for Bids

Section 1. Introduction
Section 2. Instructions to Bidders
Section 3. Evaluation of Bids
Section 4. Fraud and Corrupt Practices
Section 5. Pre-Bid Conference
Section 6. Miscellaneous

Appendices

APPENDIX I. Formats for Technical Bid
ANNEXURE A. Letter comprising the Bid
ANNEXURE B. General Information of Bidder & Statement of the Legal Capacity
ANNEXURE C. Power of Attorney for Signing of Bid
ANNEXURE D. Power of Attorney for Lead Member of Consortium
ANNEXURE E. Bid Security (Bank Guarantee)
ANNEXURE F. Joint Bidding Agreement
ANNEXURE G. Technical Capacity of Bidder
ANNEXURE H. Financial Capacity of Bidder
ANNEXURE I. Bid Checklist

APPENDIX II. Format for Financial Bid

APPENDIX III e-Procurement Guidelines

2.8 Clarifications

2.8.1 Bidders requiring any clarification on the Bidding Documents including the RFP may notify the Authority by e-mail in accordance with Clause 1.2.6. They should send in their queries before the Bid Due Date specified in Clause 1.3. The Authority shall endeavour to respond to the queries within the period specified therein, but no later than five (5) days prior to the Bid Due Date. The responses will be given on e-mail. The Authority may forward all the queries and its responses thereto, to all Bidders without identifying the source of queries and shall endeavor to also upload the responses on the e-Procurement Portal.

2.8.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause 2.8.2 shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

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

2.8.4 To facilitate evaluation of the Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) may without prejudice include clarifications with respect to minor deviations found in the Bid and shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.8.5 If a Bidder does not provide clarifications sought under Clause 2.8.4 above within the prescribed time, its Bid may be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing and interpreting the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

2.9 **Amendment of RFP**

2.9.1 At any time prior to the deadline for submission of Bids, the Authority 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 an addendum/amendment/corrigendum. (“Addendum”).

2.9.2 Any Addendum issued hereunder shall be uploaded on the e-Procurement Portal.

2.9.3 In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date.

2.9.4 The Bidders who have downloaded the Bidding Documents are advised to regularly check for amendments/corrigendum/clarifications, if any issued by the Authority and which shall form part and parcel of the Bidding Documents. Such amendments /corrigendum s will be posted on the e-Procurement Portal. Any ignorance on the part of the Bidder in not checking the e-Procurement Portal will not be an excuse and the Authority not be responsible if any Bidder omits to notice any amendments/corrigendum/ clarification.

C. **PREPARATION AND SUBMISSION OF BIDS**

2.10 **Format and Signing of Bid**

2.10.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those Bids that are received in the required formats and complete in all respects and which are submitted on the e-Procurement Portal on or prior to the Bid Due Date. Incomplete and /or conditional Bids or Bids not submitted online on e-Procurement Portal shall be rejected.

2.10.2 The Bidders shall submit both the Technical Bid as well as the Financial Bid, along with all the
annexures thereto, on the e-Procurement Portal. Each page of the Bid shall be signed digitally by the Bidder. The Bidders shall complete uploading their Bids by signing with Class III - Digital Signature Certificates, upon uploading the soft copy of the Technical Bid and the Financial Bid to the e-Procurement Portal. In case of the Bidder being a Consortium, the Lead Member shall digitally sign each page of the Bid and upon uploading the Bid on the e-Procurement Portal shall sign using Class III - Digital Signature Certificates. For the avoidance of doubt, the Bidders shall be required to acquire and procure a Class III Digital Signature Certificate for the purpose of submission of the Bid.

2.10.3 The Bidders shall also be required to submit a physical hard copy of only the Technical Bid specified in Clause 2.11.1(a) below in accordance with the terms specified in this RFP. The hard copy of the Technical Bid shall be typed and signed in indelible blue ink by the authorized signatory of the Bidder who shall also initial each page in indelible blue ink. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid. The Bid shall contain page numbers and shall be bound together in a manner that does not allow replacement of any page. For the avoidance of doubt, under no circumstance shall a hard copy of Financial Bid be submitted along with Technical Bid. Submission of a hard copy of the Financial Bid shall lead to the entire Bid being declared as non-responsive.

2.11 Submission of Bids

2.11.1 The Bidder shall submit the Technical Bid, both online as well as in physical hard copy. The Financial Bid shall be submitted online only on the e-Procurement Portal in the format provided on the e-Procurement Portal. The format provided in Appendix II is only indicative in nature. There shall be no physical hard copy submission of the Financial Bid under any circumstance.

The Technical Bid shall comprise of the following documents along with supporting documents as appropriate:

(a) **Technical Bid:**

a. Letter comprising the Bid (Appendix – I - ANNEXURE A);
b. General Information of Bidder and Statement of the Legal Capacity (Appendix – I - ANNEXURE B);
c. Power of Attorney for signing of Bid in the prescribed format (Appendix – I - ANNEXURE C);
d. If applicable, the Power of Attorney for Lead Member of Consortium (Appendix – I - ANNEXURE D);
e. Bank Guarantee for Bid Security (Appendix – I - ANNEXURE E);
f. Joint Bidding Agreement (in case of Consortium) (Appendix – I - ANNEXURE F);
g. Technical Capacity of the Bidder (Appendix – I - ANNEXURE G);
h. Financial Capacity of the Bidder (Appendix – I - ANNEXURE H);
i. Bid Checklist (Appendix – I - ANNEXURE I);  
j. A copy of the Technical Services Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinafore.  
k. All Addendum, Corrigendum and responses to Pre-Bid Queries published by the Authority with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinafore.  
l. Copies of the incorporation documents or charter documents.  
m. Audited annual report, balance sheet and financial statement for the last three (3) financial years preceding the Bid Due Date.  

(b) Financial Bid

The Financial Bid, which shall be uploaded online (no hard copy submission), shall only be submitted in the excel sheet format provided on the e-Procurement Portal. The format provided in Appendix II is indicative only and is for reference purposes.

2.11.2 The Technical Bid shall be submitted online and uploaded on the e-Procurement Portal. The Bidder shall also provide one physical hard copy of the Technical Bid specified in Clause 2.11.1 (a) in accordance with the terms provided in this RFP. For the online submission, each page of the Technical Bid, including the annexures thereto, shall be signed digitally by the authorized signatory of the Bidder. The Bidders are required to sign their Bids using Class III - Digital Certificates at the time of uploading the soft copy of the Technical Bid. In case of a Consortium, every page of the Technical Bid and all annexures thereof shall be signed digitally by the Lead Member.

2.11.3 The Financial Bid shall be submitted online on the e-Procurement Portal only in the excel sheet format provided on the e-Procurement Portal. Physical hard copy submission of the Financial Bid shall lead to the Bid being declared as non-responsive. Upon uploading the Financial Bid on the e-Procurement Portal, the Bidders shall be required to sign and encrypt using Class III-Digital Certificates.

2.11.4 The hard copy of the Technical Bid shall be placed in an envelope bearing the following:

"Technical Bid for Appointment of Strategic Partner for Detailed Design, Technical Inputs and Construction Supervision and Operation of Nucleus Breeding Centre for L. vannamei" and shall clearly indicate the name and address of the Bidder.

The aforementioned hard copy of the Technical Bid shall be submitted to the following address and shall be addressed to the following person:

The Project Director,
2.11.5 If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted.

2.11.6 In the event of any discrepancy between the soft copy of the Technical Bid uploaded to the e-Procurement Portal and the hard copy of the Technical Bid, the soft copy will prevail; provided, however, that regardless of anything to the contrary, in case of legal documents and financial instruments, the hard copy shall prevail over the soft copy.

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

2.12 Bid Due Date and Time

2.12.1 Both the Technical Bid and the Financial Bid should be submitted online on the e-Procurement Portal or before the time specified in Clause 1.3 on or before the Bid Due Date in the manner and form as detailed in this RFP. For the avoidance of doubt, the hard copy submission of the Technical Bid shall also be completed on or before the time specified in Clause 1.3 and on or before the Bid Due Date failing which the Bid shall be rejected as non-responsive and returned unopened.

2.12.2 The Authority may, in its sole discretion, extend the Bid Due Date and specified time by issuing an Addendum in accordance with Clause 2.9 uniformly for all Bidders.

2.13 Late Bids

Bids (both online submission on e-Procurement Portal and hard copy submission of Technical Bid) received by the Authority after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected and returned unopened.

2.14 Contents of the Bid

2.14.1 The Technical Bid for the Project shall be furnished in the formats provided under Appendix– I.

2.14.2 The Financial Bid shall be furnished in the excel sheet format provided on the e-Procurement Portal. The format provided in Appendix II is indicative in nature and is for the purpose of
providing reference to the Bidders. The Bidder shall specify the Contract Fee payable to the Bidder by the Authority in accordance with this RFP and the provisions of the Technical Services Agreement. The Contract Fee must be provided in the Financial Bid.

2.14.3 The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.

2.15 Modifications/ Substitution/ Withdrawal of Bids

2.15.1 The Bidder may substitute or modify or withdraw its Bid after submission at any time prior to the specified time on the Bid Due Date. No Bid will be substituted or withdrawn or modified by the Bidder on or after the specified time on the Bid Due Date.

2.15.2 The Bidder may substitute or modify or withdraw the Bid by uploading a scanned copy of a letter addressed to the person mentioned in Clause 2.11.4. The Bidder should also deliver the original substitution or withdrawal or modification letter/notice to the Authority to substitute or withdraw or modify the hard copy of the Technical Bid submitted to the Authority.

2.15.3 The hard copy of the modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clauses 2.11, with the envelopes being additionally marked “MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

2.15.4 If the Authority receives a substitution notice from a Bidder before the specified time on the Bid Due Date, then the Bidder will be allowed to substitute its original Bid, and the hard copy of the original Technical Bid will be returned unopened.

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

2.16 Rejection of Bids

2.16.1 If any Bid received by the Authority is found not signed and/or sealed and/or marked as stipulated in Clauses 2.10 and 2.11, and/or not accompanied by the Bid Security as specified in Clause 1.2.3, it may be summarily rejected.

2.16.2 Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid and to annul Bidding Process and to reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reason whatsoever. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite fresh Bids hereunder.

2.16.3 The Authority reserves the right not to proceed with the Bidding Process at any time, without
notice or liability, and to reject any Bid without assigning any reasons.

2.17 Validity of Bids

2.17.1 The Bids shall be valid for a period of not less than one hundred and twenty (120) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.18 Confidentiality

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 Bidding Process or is not a retained professional advisor advising the Authority in relation to, or regarding matters arising out of, or concerning the Bidding Process. The Authority 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. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or for the purpose of enforcing or for asserting any right or privilege of the statutory entity and/or the Authority, or as may be required by law or in connection with any legal process.

2.19 Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

D. BID SECURITY

2.20 Bid Security

2.20.1 The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 1.2.3 in the form of a bank guarantee issued by a Scheduled Bank in India, in favour of the Authority in the format set forth in Annexure E of Appendix –I (“Bank Guarantee”) and having a validity period of not less than one hundred and eighty (180) days from the Bid Due Date, as may be extended by the Bidder from time to time. In case the Bank Guarantee is issued by a foreign bank outside India, confirmation of the same by any nationalized bank in India is required. For the avoidance of doubt, “Scheduled Bank” shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934.

2.20.2 The Authority shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.

2.20.3 Save as provided in Clause 1.2.3, the Bid Security of unsuccessful Bidders will be returned by
the Authority, without any interest, as promptly as possible on selection of the Selected Bidder(s) or when the Bidding process is cancelled by the Authority.

2.20.4 The Selected Bidder(s)’ Bid Security will be returned, without any interest, upon the Bidder signing the Technical Services Agreement and furnishing the Performance Security in accordance with the provisions thereof. The Authority may, at the Selected Bidder(s)’ option, adjust the amount of Bid Security in the amount of Performance Security to be provided by him in accordance with the provisions of the Technical Services Agreement.

2.20.5 The Authority shall be entitled to forfeit and appropriate the Bid Security as Damages *inter alia* in any of the events specified in Clause 2.20.6 hereinbelow. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the Bid validity period. No relaxation of any kind on Bid Security shall be given to any Bidder.

2.20.6 The Bid Security shall be forfeited and appropriated by the Authority as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/or the Technical Services Agreement, or otherwise, under the following conditions:

- (a) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Section 4 of this RFP;

- (b) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by the Bidder from time to time;

- (c) In the case of Selected Bidder(s), if it fails within the specified time limit -
  - (i) To sign the Letter of Award;
  - (ii) Sign the Technical Services Agreement; or
  - (iii) To furnish the Performance Security within the period prescribed thereof in the Technical Services Agreement;

  i. In case the Selected Bidder(s), having signed the Technical Services Agreement, commits any breach thereof prior to furnishing the Performance Security; or

  ii. In case the credentials of the Selected Bidder, as submitted in its Bid, are not corroborated, upon physical verification of the facilities of the Selected Bidder by the Technical Committee, and the Authority chooses to reject the Bid on grounds of such non-corroboration, subject to clarification, if any, as per Clause 1.2.1.

2.20.7 The Bid Security of Bidders whose Bid is rejected on account of not meeting the Minimum
Eligibility Criteria will be returned to such unsuccessful Bidder, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder post physical verification or when the Bidding Process is cancelled by the Authority and in any case within a period of sixty (60) days from the Bid Due Date.
3. **EVALUATION OF BIDS**

3.1 **Opening and Evaluation of Bids**

3.1.1 The Authority shall open the soft copy of the Technical Bid on the e-Procurement Portal at the prescribed time in Clause 1.3 and the place specified in Clause 2.11.4 in the presence of the Bidders and their authorized representatives who choose to attend.

3.1.2 The Authority will subsequently examine and evaluate the Bids in accordance with the provisions set out in this Section 3.

3.1.3 To facilitate evaluation of Technical Bid, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Technical Bid.

3.2 **Tests of responsiveness**

3.2.1 As part of the evaluation of Technical Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:

(a) it is received as per the format at Appendix – I;

(b) it is received by the Authority on or before the specified time on the Bid Due Date including any extension thereof pursuant to Clause 2.12.2;

(c) the soft copy of the Technical Bid and the annexures thereof are digitally signed and submitted as stipulated in Clauses 2.10 and 2.11;

(d) it is accompanied by the Bid Security as specified in Clause 1.2.3;

(e) it is accompanied by the Power(s) of Attorney as specified in Clause 2.1.10 and in the case of a Consortium, the Power of Attorney as specified in Clause 2.2.3 (d), as the case may be;

(f) it does not contain any condition or qualification;

(g) it is accompanied by the Joint Bidding Agreement (for Consortium), specific to the Project, as stipulated in this RFP;

(h) it is not non-responsive in terms hereof; and

(i) the hard copy of the Technical Bid is bound, sealed and signed and marked as stipulated in accordance with Clauses 2.10 and 2.11.
For the avoidance of doubt, the Technical Bid shall only be considered responsive if the Bidder has submitted and uploaded the soft copy of the Technical Bid on the e-Procurement Portal, including a scanned copy of the power of attorney mentioned in Annexures C and D of Appendix I as well as the scanned copy of the Bid Security in the format mentioned in Annexure E of Appendix I. The Bidder shall also mandatorily submit the hard copy of the Technical Bid on or prior to the Bid Due Date.

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

3.3 Evaluation of Technical Bid

3.3.1 The Bidders considered as responsive in terms of Clause 3.2.1 and fulfilling the Minimum Eligibility Criteria as set forth in Clause 2.2.2 shall be further evaluated based on the evaluation criteria set forth in the RFP in Clause 2.2.2.

3.3.2 Financial Bids of only Qualified Bidders shall be considered for evaluation and Qualified bidders shall then be invited for the opening of Financial Bids.

3.4 Opening and Evaluation of Financial Bid

The Financial Bids shall be opened online on the e-Procurement Portal. The Authority shall open the Financial Bids on date and time mentioned in Clause 1.3 in the presence of the authorized representatives of the Bidders who may choose to attend. The Authority shall publicly announce the Financial Bid for each of the Qualified Bidders.

3.5 Selection of Bidder

3.5.1 The Authority shall select the Bidder through a QCBS process. Technical Bids and Financial Bids shall be evaluated based on parameters specified in this RFP document. Based on the Technical Bid, which shall include the evaluation of the Concept Presentation as well, and the Financial Bid, the technical and financial scores respectively shall be given to each Bidder. The technical score will be awarded as per the criteria given in Clause 2.2.2. Financial Bid will include the total Contract Fee for the Services, and the Bidder quoting the lowest Contract Fee will get the maximum financial score of 100. The Bidder should quote a fixed price for the performance of the Services and it should not be as a percentage of the overall Project cost. Financial scores of other Bidders shall be given in proportionately. 70% weightage shall be assigned to technical score and 30% weightage shall be assigned to the financial score. Total score shall be calculated as:
Total Score = (70% x Technical Score) + (30% x Financial Score)
Wherein Financial Score = 100 x (Lowest Financial Bid / Financial Bid)

The Bidder with highest total score shall, subject always to the proviso below, be considered to be declared as the selected bidder (“Selected Bidder”).

Provided however, that the award of the Project to the Selected Bidder, shall be subject to the outcome of the physical verification and on-site inspection and the consequent report prepared by the Technical Committee post such physical verification and inspection of the projects and credentials relied upon by the Selected Bidder for the purpose of qualification under this RFP. The Technical Committee shall confirm, upon on-site inspection of Nucleus Breeding Centre and allied facilities and credentials mentioned in the Bid of the Selected Bidder, the correctness of such credentials.

Upon completion of such physical verification and on-site inspection, the Technical Committee shall submit a written report to the Authority either confirming the correctness of the credentials submitted by the Bidder in the Technical Bid or rejecting the credentials, either in whole or in part, of the Selected Bidder, as submitted in the Technical Bid due to non-corroboration of the credentials submitted in the Technical Bid and the credentials which were actually observed and verified during physical verification of the facilities of the Selected Bidder. In case of rejection of credentials, either in whole or in part, the Authority may in its sole discretion decide to seek clarifications from the Selected Bidder, and for this purpose provide the copy of the written report to the Selected Bidder, or a summary of the relevant excerpts demonstrating the adverse finding based on which the rejection is made.

The Authority shall at its sole discretion, determine whether to accept the explanation and clarification if provided by the Selected Bidder or in cases otherwise go ahead with the existing findings and reject the Bid of the Selected Bidder and thereafter the consequences set out in Clause 1.2.1 shall follow.

In case of acceptance and confirmation of the correctness of credentials the LOA shall be issued to the Selected Bidder in accordance with Clause 3.5.4.

3.5.2 The remaining Qualified Bidders shall be kept in reserve and the second ranked Bidder i.e. the Qualified Bidder scoring second highest Total Score ("Second Ranked Bidder") may be declared as the Selected Bidder, in case the Selected Bidder withdraws or is not awarded the Project due to non-corroboration of the credentials upon physical verification or for any other reasons as set out in the RFP. In the event that such Second Ranked Bidder withdraws or is not selected for any reason, the Authority may invite fresh Bids from all Qualified Bidders or annul the Bidding Process.

3.5.3 In the event that two (2) or more Qualified Bidders have the same overall Total Score (the “Tie
Bidders” for the Project, the Qualified Bidder shall be identified as the bidder which has the higher technical score among the bids in the tie.

3.5.4 After the credentials of the Selected Bidder, as submitted in its Bid, are successfully verified and corroborated by the Technical Committee during the physical on-site visit, a Letter of Award (the “LOA”) shall be issued, in duplicate within the timeline stipulated in Clause 1.3, by the Authority to the Selected Bidder and the Selected Bidder shall, within fourteen (14) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder(s) is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as Damages on account of failure of the Selected Bidder(s) to acknowledge the LOA, and the next eligible Bidder may be considered.

3.5.5 After acknowledgement of the LOA as aforesaid by the Selected Bidder(s), it shall execute the Technical Services Agreement within the period prescribed in Clause 1.3. The Selected Bidder(s) shall not be entitled to seek any deviations in the Technical Services Agreement.

3.6 Contacts during Bid Evaluation

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

3.7 Correspondence with Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

3.8 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if the Project is subsequently awarded to it on the basis of such information.

3.9 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Bid(s) without assigning any reasons.
4. FRAUD AND CORRUPT PRACTICES

4.1 The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Technical Services Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Technical Services Agreement, the Authority shall reject a Bid, withdraw the LOA, or terminate the Technical Services Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Selected Bidder, as the case may be, if it determines that the Bidder or Selected Bidder, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.

4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Technical Services Agreement, if a Bidder or Strategic Partner, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Technical Services Agreement, such Bidder or Strategic Partner shall not be eligible to participate in any tender or RFP issued by the Authority during a period of two (2) years from the date such Bidder or service provider, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3 For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:

a) "corrupt practice" means 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 the avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the Technical Services Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one (1) year from the date such official resignation or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process);

b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of
facts or disclosure of incomplete facts, in order to influence the Bidding Process;

c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement amongst Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.
5. **PRE-BID MEETING**

5.1 Pre-bid meeting of the Bidders shall be convened at the designated date and time provided in Clause 1.3 of the RFP. A maximum of three (3) representatives of each Bidder shall be allowed to participate on production of authorization letter from the Bidder. The place of the Pre-bid meeting shall be intimated to the Bidders by the Authority.

5.2 During the course of pre-bid meeting, the Bidders shall be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, at its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

5.3 The Authority may also organize additional pre-bid meeting and site visits and the details regarding the same will be made available on the website of the Authority and the e-Procurement Portal.

5.4 Bidders are encouraged to attend the Pre-Bid meetings in person. Provided however if the Bidder intimates the Authority seven (7) days prior to the date of pre-bid meeting, its inability to attend the pre-bid meeting in person, then the Authority and MPEDA may consider allowing such Bidder to attend the pre-bid meeting through video conferencing.
6 MISCELLANEOUS

6.1 The Bidding Process shall be governed by, and construed in accordance with the laws of India and the courts at Chennai shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Process.

6.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

   a) suspend and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

   b) consult with any Bidder in order to receive clarification or further information;

   c) retain any information and/or evidence submitted to the Authority by, on behalf of, and/or in relation to any Bidder; or

   d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.

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

ANNEXURE A
LETTER COMPRISING THE BID

Dated:

To
The Project Director,
Rajiv Gandhi Centre for Aquaculture,
3/197, Poompuhar Road, Karaimedu Village,
Sattanathapuram Post, Sirkali Taluk,
Nagapattinam District, Tamil Nadu 609109
Email: rgcaho@gmail.com
Tel: 04364 265 200

Sub:  Bid for Appointment of Strategic Partner for Detailed Design, Technical Inputs and Construction Supervision and Operation of Nucleus Breeding Centre for L. vannamei at Kanyakumari

Dear Sir,

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

2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying such Bid for selection of Strategic Partner for the aforesaid Project, and we certify that all information provided in the Bid and in Appendix I and Appendix II is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Bid are true copies of their respective originals.

3. This statement is made for the express purpose of our selection as a Strategic Partner for undertaking the aforesaid Project.

4. I/ We shall make available to the Authority any additional information it may find necessary or required to supplement or authenticate the Bid.

5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by Applicable Law, our right to
challenge the same on any account whatsoever.

6. We certify that in the last three (3) years, we/ any of the Consortium Members or our/their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract, nor have had any contract terminated for breach on our part.

7. I/ We declare that:
   
a) I/ We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority;
   
b) I/ We do not have any Conflict of Interest in accordance with Clause 2.1.14 of the RFP;
   
c) I/We have not directly or indirectly or through an agent engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice, as defined in Clause 4.3 of the RFP, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any authority, Central or State; and
   
d) I/ We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf has engaged or will engage in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice.

8. I/ We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with the provisions of this RFP.

9. I/ We believe that we/ our Consortium/ proposed Consortium satisfy(ies) the Net Worth and Turnover criteria and meet(s) all the requirements as specified in this RFP.

10. I/ We declare that we/ any Member of the Consortium are/ is not a Member of a/ any other Consortium submitting a Bid for the Project.

11. I/ We certify that in regard to matters other than security and integrity of the country, I/ we/any Member of the Consortium of any of our/their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/We further certify that in regard to matters relating to security and integrity of the country, I/we any Member of the Consortium or any of our/their Associates have not been charge-sheeted by any agency of the government/Authority or convicted by a Court of Law for any offence committed by us or by any of our Associates.

13. I/We further certify that no investigation by a regulatory authority is pending either against us/any Member of Consortium or against our/their Associates or against our/ their CEO or any of our Directors.

14. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of provisions of this RFP, we shall intimate the Authority of the same immediately.

15. I/We undertake that the Statement of Legal Capacity as per format provided at Annexure – B of the RFP document, and duly signed, is enclosed. The Power of Attorney for Signing of Bid and the Power of Attorney for Lead Member of Consortium, as per formats provided at Annexure C and D respectively of the RFP, are also enclosed.

16. [We acknowledge that our Consortium/ proposed Consortium is qualified on the basis of Technical Capacity and Financial Capacity of its Members. We further agree and acknowledge that the Consortium Members shall be jointly and severally responsible for the obligations contained in the Bidding Documents.]¹

17. I/We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of selection of the Strategic Partner under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Technical Services Agreement, it would, notwithstanding anything to the contrary contained in the Technical Services Agreement, be deemed a breach thereof, and the Strategic Partner shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

18. I/We understand that the Selected Bidder shall be an existing {Company/proprietorship firm/insert nature of entity} incorporated under relevant laws of or from outside India under equivalent law.

19. I/We hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the Project and the terms and implementation thereof.

¹ To be retained only in case of a Consortium.
20. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Technical Services Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

21. I/We have studied all the Bidding Documents carefully and also surveyed the Site. I/ We understand that except to the extent as expressly set forth in the Technical Services Agreement, I/ we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of it.

22. The Contract Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, Technical Services Agreement, our own estimates of costs and after a careful assessment of the Site and all the conditions that may affect the Contract Fee and implementation of the Project.

23. The Bid Security in accordance with this RFP and in the form of a Bank Guarantee is attached.

24. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / service is not awarded to me/us or our Bid is not opened.

25. I/We agree and undertake to abide by all the terms and conditions of the RFP.

26. [We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Service Provider under the Technical Services Agreement.]²

27. [I/we agree and hereby undertake that during the course and purpose of this Project we shall not import and supply the L. vannamei shrimps from a country which is engaged in commercial production and farming of L. vannamei shrimps.]

28. I/we agree and hereby undertake that during the course and purpose of this Project I/we shall not import and supply PL of L. vannamei shrimps from a country where import of shrimps has been banned by the Government of India vide notification/government order (Order No 35027G/2013 dated May 21, 2013 issued by the Ministry of Agriculture, Department of Animal Husbandry, Dairying and Fisheries), due to shrimps from such countries being affected by the Acute Hepatopancreatic Necrosis Syndrome (AHPNS), commonly known as the Early Mortality Syndrome.

29. I/we agree and hereby undertake that during the course and for the purpose of this Project I/we

² To be retained only in case the Bidder is a Consortium.
shall not import and supply the PL of *L. vannamei* shrimps from countries which are engaged in commercial production of shrimps i.e. countries which are producing 50,000 tonnes or more of *L. vannamei* shrimps in the previous year, prior to the Bid Due Date.

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

Yours faithfully,

Date: 
Place: 

(Signature of the Authorised signatory)

(Name and designation of the Authorised signatory)

Name and seal of Bidder/Lead Member
ANNEXURE B
GENERAL INFORMATION OF BIDDER

1. a) Name:
   b) Country of incorporation:
   c) Address of the {corporate headquarters and its branch office(s)/ registered office}, if any, in India:
   d) Date of incorporation and/ or commencement of business:

2. Brief description of the {Company/any other entity} including details of its main lines of business and proposed role and responsibilities in the Project:

3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
   (a) Name:
   (b) Designation:
   (c) Company:
   (d) Address:
   (e) Telephone Number:
   (f) E-Mail Address:
   (g) Fax Number:

4. Particulars of the Authorized Signatory of the Bidder:
   (a) Name:
   (b) Designation:
   (c) Address:
   (d) Phone Number:
   (e) Fax Number:

5. In case of a Consortium:
   (a) The information above (1-4) should be provided for all the Members of the Consortium.
   (b) A copy of the Joint Bidding Agreement, as envisaged in Clause 2.2.3(g) should be attached to the Bid.

---

3 Relevant documents/ chartered documents/ constitutional documents related to incorporation/ partnership/ proprietorship nature of the company must be attached along with this Annexure as mentioned in Clause 2.2.1 (b)
(c) Information regarding the role of each Member should be provided as per table below:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of Member</th>
<th>Role*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The role of each Member, as may be determined by the Bidder, should be indicated.

(d) The following information shall also be provided for each Member of the Consortium and/or Associate:\(^\text{§}\):

**Name of Bidder/ Member of Consortium:**

<table>
<thead>
<tr>
<th>No.</th>
<th>Criteria</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Has the Bidder/constituent of the Consortium/its Associate been barred by the {Central/State} authority, or any other government institution in India, from participating in any project.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>If the answer to 1 is yes, does the bar subsist as on the date of Bid?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Has the Bidder/constituent of the Consortium/its Associate paid liquidated damages of more than 5% (five percent) of the contract value in a contract due to delay or has been penalized due to any other reason in relation to execution of a contract, in the last three (3) years?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

\(^\text{§}\) Provide details of only those Associates whose Technical Capacity and Net Worth are to be evaluated
7. **Statement of Legal Capacity**

(To be forwarded on the letterhead of the Bidder/Lead Member of Consortium)

Ref. Date:

To,

***********

***********

**Dear Sir,**

We hereby confirm that we/our members in the Consortium (constitution of which has been described in the application) satisfy the terms and conditions laid out in the Bid document.

[We have agreed that …………………… (insert member’s name) will act as the Lead Member of our Consortium.]**

We have agreed that …………………….. (insert individual’s name) will act as our representative/will act as the representative of the Consortium on its behalf* and has been duly authorized to submit the Bid. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

**Yours faithfully,**

(Signature, name and designation of the authorised signatory)

For and on behalf of……………………………..

*Please strike out whichever is not applicable.

**To be retained only in case of a Consortium
ANNEXURE C
POWER OF ATTORNEY FOR SIGNING OF BID
(Refer Clause 2.1.10)

Know all men by these presents, We, _______________________(name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr. ____________/ Ms ______________(Name), son/daughter/wife of _________________ and presently residing at ______________, who is {presently employed with us/the Lead Member of our Consortium and holding the position of ________________},} as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for Appointment of Strategic Partner for Detailed Design, Technical Inputs and Construction Supervision and Operation of the Nucleus Breeding Centre for L. vannamei shrimp (“Project”) proposed or being developed by the Rajiv Gandhi Centre for Aquaculture (the “Authority”) including but not limited to signing and submission of all applications, bids and other documents and writings, participation in bidders’ meetings and other conferences and providing information /responses to the Authority, representing us in all matters before the Authority, signing and execution of all documents 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 Project and/or upon award thereof to us and/or till the completion of the Project as per the Technical Services Agreement with the Authority or any entity representing the Authority.

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

IN WITNESS WHEREOF WE,_______________, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF ______, 20**.

For

……………………
(Signature)

Witnesses:
(Name, Title and Address)
1. 
2. 
[Notarised]

Accepted

……………………

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Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

- Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.

- Power of Attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution (if required under Applicable Laws).

- For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued.

- However, in the countries, which are members of the Hague Convention, the document has to be notarized by the public notary and apostilled by the designated competent authority of the issuing country.
ANNEXURE D
POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM
(Refer Clauses 2.2.3(c) and 2.1.10)

Whereas the Rajiv Gandhi Centre for Aquaculture (“Authority”) has invited bids for …………………………… (“Project”).

Whereas, __________, __________ and __________ (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

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

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

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

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF 20**.
For ________

(signature)
(Name & Title)

For ________

(Signature)
(Name & Title)

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

Witnesses:
[Notarised]
1.
2.

Notes:
- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- Power of Attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution (if required under Applicable Laws).
- For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued.
- However, in the countries, which are members of the Hague Convention, the document has to be notarized by the public notary and apostilled by the designated competent authority of the issuing country.
ANNEXURE E

FORMAT FOR BID SECURITY (BANK GUARANTEE)
(Refer Clauses 1.2.3, 2.1.9 and 2.20.1)

(To be executed on Stamp paper of appropriate value)

B.G. No.  

Dated:

In consideration of you, the Rajiv Gandhi Centre for Aquaculture (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of ………… {a Company registered under the provisions of the Companies Act, 1956/2013 or Applicable Laws of the country of incorporation or any other entity registered/incorporated under the relevant laws of India or the Applicable Laws of another country} and having its registered office at ………………… {and acting on behalf of its Consortium} (hereinafter referred to as the “Bidder” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for…………………………….. (hereinafter referred to as the “Project”) pursuant to the RFP Document dated ***** issued in respect of the Project and other related documents (hereinafter collectively referred to as “Bidding Documents”), we [Name of the Bank] having our registered office at _____ and one of its branches at Sirkazhi/Chennai (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Documents (including the RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of Rs. ……………… (Rupees ………………only) as bid security (hereinafter referred to as the “Bid Security”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.

1. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.

2. 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 fulfil and comply with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to:

(a) keep its Bid valid and open during the Bid validity period, as set forth in the said Bidding Documents, for any reason whatsoever.

(b) sign the Letter of Award and/or the Technical Services Agreement, within the specified time limit;

(c) furnish the Performance Security within the period prescribed in the Technical Services Agreement;

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……………. (Rupees …………… only).

3. This Guarantee shall be irrevocable and remain in full force for a period of One Hundred and Eighty (180) days from the Bid Due Date inclusive of a claim period of sixty (60) 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.

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 fulfilment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents. 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.

4. 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.

5. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

6. 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.

7. 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 authorized to receive the said notice of claim.

8. 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 unrealized.

9. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
10. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.

Signed and Delivered by _______ Bank

By the hand of Mr./Ms. ____ _____. its _______ and authorized official.

(Signature of the Authorized Signatory)

(Official Seal)
ANNEXURE F

JOINT BIDDING AGREEMENT

(Refer Clause 2.2.3 (g))

(To be executed on Stamp paper of appropriate value)

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

AMONGST

1. {…………., a company/any other entity incorporated/registered under the ……..} and having its registered office at ………… (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {…………., a company/any other entity incorporated/registered under the ……..} and having its registered office at ………… (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

WHEREAS,

(A) Rajiv Gandhi Centre for Aquaculture, an autonomous society under the aegis of Marine Products Export Development Authority (hereinafter referred to as the “Authority” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited bids (the “Bids”) by its Request for Qualification No. ………… dated ………… (the “RFP”) for selection of bidders for …………. (the “Project”).

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP and other Bidding Documents in respect of the Project, and

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

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

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

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

3. **Covenants**

The Parties hereby undertake that in the event the Consortium is declared the Selected Bidder and awarded the Project, it shall enter into a Technical Services Agreement with the Authority and perform all its obligations in terms of the Technical Services Agreement for the Project.

4. **Role of the Parties**

The Parties hereby undertake that Party of the First Part shall be the Lead Member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium throughout the contract period.

The Lead Member M/s ………………… would be responsible for the following obligations in the Technical Services Agreement for the Project

- …………
- …………
- …

The other member M/s ………………… would be responsible for the following obligations in the Technical Services Agreement for the Project.

- …………
- …………

The Parties are together responsible for performing all its obligations in terms of the Technical Services Agreement for the Project.

5. **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 Technical Services Agreement.

6. **Representation of the Parties**

Each Party represents to the other Parties as of the date of this Agreement that:
(a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

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

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

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

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

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

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

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

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

7. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the termination of the Technical Services Agreement. However, in case the Consortium is either not declared as a Qualified Bidder by the Authority or does not get selected as the Selected Bidder for the Project, post physical verification, the Agreement will stand terminated upon return of the Bid Security by the Authority to the Bidder in terms of the
Bidding Documents.

8. Miscellaneous

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

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

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

SIGNED, SEALED AND DELIVERED For and on behalf of
LEAD MEMBER by: (Signature)
(Name) (Designation) (Address)

SIGNED, SEALED AND DELIVERED For and on behalf of
PARTY OF THE SECOND PART by: (Signature)
(Name) (Designation) (Address)

In the presence of:
1. 2.

Notes:
1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.

2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.

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

4. However, in the countries, which are members of the Hague Convention, the document has to
be notarized by the public notary and apostilled by the designated competent authority of the issuing country.
ANNEXURE G

TECHNICAL CAPACITY OF BIDDER
(Refer to Clause 2.2.2 of the RFP)

Form 1: Summary of Experience

The information regarding the relevant experience of the firm should be provided in the format below.

Name of Bidder:

<table>
<thead>
<tr>
<th>Experience: Infrastructure Project/ design and construction of a Nucleus Breeding Centre/ Research and development to develop at least 50 families of L. vannamei shrimp (Select as applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Name:</td>
</tr>
<tr>
<td>Project Brief (Narrative description of Project)</td>
</tr>
</tbody>
</table>

Note:
1. If the design is completed for the project but the development is in progress, mention the current status as ‘Design Completed’
2. 

Description of actual contract / services provided:

Name of Client: | Address of Client: |
|-----------------|-------------------|
Contact phone number and e-mail of Client: |

Start date (month/year): | Completion date (month/year): | Value of Project: |

Signature of Bidder/Lead Member

Note:

a. The Project Data Sheets should necessarily be accompanied by notarized certificates from clients for successful completion of contract and/or statutory auditor’s certificate\(^6\) and/or agreement copy and/or Letter of Award and/or project completion certificate, as the case may be, so as to demonstrate proof of experience.

b. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/Member/Associate, in the ordinary course of business, may provide the requisite certification.

---

\(^6\) In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary
The proof of the total Project cost, services offered, completion year and description of the services offered must be provided by the Bidder for consideration as sufficient proof of experience. Projects without proof of experience shall not be considered for evaluation. In case the Bidder is an entity from outside India then the completion certificate shall be in English duly notarized. Translated copy shall also be notarized.

For Conversion of US dollar to INR, the conversion rate shall be 1 USD = INR 70. For any other currency, it should be first converted to US dollar at the rate published by International Monetary fund sixty (60) days prior to the Bid Due Date and the amount so derived in USD shall then be converted to Rupees at the aforesaid rate of 1 USD = INR 70.
ANNEXURE H
FINANCIAL CAPACITY OF BIDDER
(to be certified by the statutory auditor of Bidder/ along with the separate certificate of statutory auditor of respective Members/Associates of the Consortium)

(Refer to Clause 2.2.2 of the RFP)

I.

<table>
<thead>
<tr>
<th>Bidder Type</th>
<th>Average Annual Turnover of Three (3) Financial Years Immediately Preceding the Bid Due Date</th>
<th>Net Worth (Close of the preceding financial year prior to Bid Due Date)</th>
</tr>
</thead>
<tbody>
<tr>
<td>As on</td>
<td>NA</td>
<td>31st March 2018</td>
</tr>
<tr>
<td>Sole entity Bidder/ Lead Member</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Other Member of a Consortium</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

It is certified that the calculation of Net Worth and Turnover have been carried out as per the formula presented in Clause 2.2.2 of the RFP.

Name & address of Bidder’s Bankers:

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the balance sheets, financial statements and annual reports in accordance with Clause 2.2.5 of the RFP. The financial statements shall:
   a. reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate’s financials;
   b. be audited by a statutory auditor;
   c. be complete, including all notes to the financial statements; and
   d. correspond to accounting periods already completed and audited (no statements for
partial periods shall be requested or accepted).

**Note:**

1. *In case of a Consortium the Financial Statement reflecting the Net Worth of all the relevant Member(s) and/or its/their Associates being evaluated to meet the Financial Capacity shall be prepared and signed by the Lead Member, and the certificates from statutory auditors of the relevant Members shall be attached to this Financial Statement.*

2. *For conversion of US Dollars to INR, the rate of conversion shall be INR [70] to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date sixty (60) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into INR at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.*
ANNEXURE I
BID CHECKLIST

<table>
<thead>
<tr>
<th>S. No</th>
<th>Item</th>
<th>Checked by Bidder</th>
<th>Checked by Authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Letter comprising the Bid (Appendix – I - ANNEXURE A);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>General Information of Bidder &amp; Statement of the Legal Capacity</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Appendix – I - ANNEXURE B)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Power of Attorney for signing of Bid in the prescribed format</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Appendix – I - ANNEXURE C);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>If applicable, the Power of Attorney for Lead Member of Consortium</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>in the prescribed format (Appendix – I - ANNEXURE D);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Bid Security in the prescribed format (Appendix – I - ANNEXURE E);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Joint Bidding Agreement (in case of Consortium)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(Appendix – I - ANNEXURE F);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Technical Capacity of the Bidder (Appendix – I - ANNEXURE G);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Financial Capacity of the Bidder (Appendix – I - ANNEXURE H);</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>A copy of the Technical Services Agreement with each page initialled</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>by the person signing the Bid in pursuance of the Power of Attorney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Incorporation Documents/ Charter Documents</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>All Addendum, Corrigendum and responses to Pre-Bid Queries published</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>by the Authority with each page initialled by the person signing the</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bid in pursuance of the Power of Attorney</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Copy of the audited annual report, balance sheet and profit and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>loss statement for the last three (3) financial years</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
APPENDIX – II: INDICATIVE FORMAT FOR FINANCIAL BID

Financial Proposal

(Refer Clause 2.1.7 – ONLY FOR REFERENCE PURPOSE. {please refer the Note below})

<table>
<thead>
<tr>
<th>Contract Fee</th>
<th>INR/USD [*]</th>
</tr>
</thead>
</table>

**Note:**

1. This format is only for reference purpose and is just an indicative representation of the actual page to be filled up on the e-Procurement Portal, and is not any kind of representation whatsoever.

2. The Contract Fee amount shall be specified in both figures and words.

3. The Contract Fee shall be exclusive of applicable GST, which shall be paid in accordance with the Technical Services Agreement.

4. For conversion of US Dollars to Indian Rupees, the rate of conversion shall be INR 70 to a US Dollar.

5. For submitting the Bid, including the Financial Bid, please refer to Appendix III of RFP Volume I.
APPENDIX III
E-PROCUREMENT GUIDELINES

The following are the guidelines to be followed by the Bidders during the submission of the respective Bids on the e-Procurement Portal:

1. The Bidder shall be required to register itself on https://eprocure.gov.in, which is the e-Procurement Portal by filling out an enrolment form. Upon registration on the e-Procurement Portal, each Bidder shall be provided an User ID and password for submitting the Bid. For the purpose of registration, in case of foreign bidders, while completing the enrolment form, in case such foreign bidder does not have a registered office or representatives in India and therefore does not possess a PAN/TAN, they may enter the dummy value TEMPZ9999Z as a PAN number and continue the process.

2. Bidders, in order to participate in the bidding process, have to procure a Class III encryption type Digital Signature Certificate (DSC) so as to participate in online bidding on the e-Procurement Portal. This DSC will be required for digitally signing the bid. Bidders can get the abovementioned DSC from certifying authorities approved by the Controller of Certifying Authorities in India. Bidders, who already possess valid DSCs, need not procure new DSC.

3. In case of foreign bidders, the bidder in question has to acquire and possess a Class III DSC issued by an Indian certifying authority which issues DSCs to foreigners without requiring them to visit India. There are currently two certifying authorities in India which are issuing Class III encryption type DSC, namely: i) GNFC; and ii) eMudhra. Further details and the procedure for obtaining the DSC from these two certifying authorities can be found in the ‘Downloads’ section of the e-Procurement Portal. The foreign bidders are also encouraged to independently ascertain the information and the procedure for the acquiring the DSC directly from the abovementioned two certifying authorities.

The instructions mentioned above in points 2 and 3 are to be followed only in cases where the Bidder does not have the appropriate DSC.

4. After successfully acquiring the DSC, the Bidder is required to log in to the e-Procurement Portal using the username and password generated at the time of registration and register the DSC on the e-Procurement Portal. Registration of the DSC is a one time activity. The Bidder is advised to register its DSC on e-Procurement Portal well in advance before Bid Due Date so that it should not face any difficulties while submitting the Bid. The Authority or MPEDA shall not be held responsible if the Bidder tries to submit its Bid at the last moment before Bid Due Date and is unable to submit due to DSC registration or any other technical problems.

5. There are various search options built in the CPP Portal, to facilitate bidders to search active tenders by several parameters. These parameters could include Tender ID, Organization Name, Location, Date, Value, etc. There is also an option of advanced search for tenders, wherein the bidders may combine a number of search parameters such as Organization Name, Form of Contract, Location, Date, Other keywords etc. to search for a tender published on the CPP Portal.
6. Once the bidders have selected the tenders they are interested in, they may download the required documents / tender schedules. These tenders can be moved to the respective ‘My Tenders’ folder. This would enable the CPP Portal to intimate the bidders through SMS / e-mail in case there is any corrigendum issued to the tender document.

7. For the purpose of submission of the Bids, the Bidders have to log in to the e-Procurement Portal and digitally sign and upload the required bid documents using their DSC, including the Technical Bid and the Financial Bid, one by one as indicated in the tender document.

8. Bidder has to select the payment option as “offline” to pay the EMD/Bid Security as applicable, as per the tender document, and enter details of the instrument. Bidder should prepare the Bid Security as per the instructions specified in the tender document. The original should be submitted in hard copy to the concerned official as specified in the tender document, latest by the Bid Due Date. The details of the Bank Guarantee instrument, physically sent, should tally with the details available in the scanned copy and the data entered during bid submission time. Otherwise the uploaded bid will be rejected.

9. The Bidders shall submit the scanned copy of the Technical Bid on the e-Procurement Portal as instructed and in accordance with the formats provided under Annexures A-H of Appendix I along with scanned copies of all legal documents specified and instructed to be submitted as per the tender documents.

10. Bidders are requested to note that they should necessarily submit their Financial Bids in the format provided and no other format is acceptable. If the Financial Bid has been given as a standard BoQ format, then the same is to be downloaded and to be filled by all the bidders. Bidders are required to download the BoQ file, open it and complete the white coloured (unprotected) cells with their respective financial quotes and other details (such as name of the bidder). No other cells should be changed. Once the details have been completed, the Bidder should save it and submit it online, without changing the filename. If the BoQ file is found to be modified by the bidder, the bid will be rejected.

11. The server time (which is displayed on the bidders’ dashboard) will be considered as the standard time for referencing the deadlines for submission of the bids by the bidders, opening of bids etc. The bidders should follow this time during bid submission.

12. Upon the successful and timely submission of bids (i.e. after Clicking “Freeze Bid Submission” in the e-Procurement Portal), the portal will give a successful bid submission message & a bid summary will be displayed with the bid no. and the date & time of submission of the bid with all other relevant details.

13. The bid summary has to be printed and kept as an acknowledgement of the submission of the bid. This acknowledgement may be used as an entry pass for any bid opening meetings.

14. The Bidders are encouraged to refer to the e-Procurement Portal for further instructions regarding method of bid submission on e-Procurement Portal. For further information, Bidders are requested to go through the document titled ‘Instructions to Bidder for Online Bid Submission’ in the ‘Downloads’ section of the e-Procurement Portal.
REQUEST FOR PROPOSAL

Volume II: Technical Services Agreement for Strategic Partner

Nucleus Breeding Centre (NBC) for \textit{L. vannamei} at Kanyakumari

Rajiv Gandhi Centre for Aquaculture, Marine Products Export Development Authority, Ministry of Commerce and Industry, Government of India

Address: 3/197, Poompuhar Road, Karaïmedu Village, Sattanathapuram Post, Sirkali Taluk, Nagapattinam District, Tamil Nadu 609109

Date: March 6, 2019
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Technical Services Agreement

This Technical Services Agreement (hereinafter referred to as the “Agreement”) is made and entered into at _____ on this the ____ day of ________, 2019 by and between:

Rajiv Gandhi Centre for Aquaculture (RGCA), a society registered under the Tamil Nadu Societies Registration Act, 1975 and operating under the aegis of Marine Products Export Development Authority and having its principal offices at [***] (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of the First Part;

AND

{[***], a [company/any other relevant entity] incorporated under the provisions of [***] and having its registered office at [***], (hereinafter referred to as the "Strategic Partner" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Second Part.}¹

OR

{[***], being the Lead Member, acting for and on behalf of the Consortium, comprising of Consortium members; (i) [……]; and (ii) [……]; being a [company/ any other entity] incorporated under the provisions of [***] and having its registered office at [***] (hereinafter referred to as the "Strategic Partner" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Second Part}²

(The Authority and the Strategic Partner shall individually be referred to as a ‘Party’ and collectively as the ‘Parties’).

WHEREAS

A. The Authority is an autonomous society registered under the Tamil Nadu Societies Registration Act, 1975 functioning under the aegis of Marine Products Export

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¹ To be used in case the Strategic Partner is a single entity and the second option below to be removed.
² To be used only if the Strategic Partner is a consortium of entities and the first option above shall be removed.
Development Authority ("MPEDA") which in turn is a statutory body under the aegis of the Ministry of Commerce and Industry, Government of India with the Authority having been established to conduct research and developmental activities in respect of aquatic animals.

B. The Authority and MPEDA are dedicated towards improving yield in shrimp cultivation as well increasing the export of L. vannamei shrimp from India and to this end, the Authority and MPEDA are proposing the creation of a nucleus breeding program for L. vannamei shrimp, in India itself;

C. The Authority and MPEDA now seek to establish India’s first nucleus breeding programme and as part of the programme establish and start operating a Nucleus Breeding Centre (NBC) (defined hereafter) specifically for L. vannamei at the Site (as defined hereafter) (hereinafter referred to as the “Project”);

D. The Authority had invited proposals vide Request for Proposal Document No.*** dated [***](hereinafter defined as the "RFP") for appointment of a Strategic Partner for providing the Services (as defined hereafter) in connection with the Project;

E. After evaluation of the Bid(s) (defined hereinafter) received, the Authority had accepted the Bid of the Strategic Partner and issued a letter of acceptance No. [***] dated [***] (hereinafter referred to as the "LOA") to the Strategic Partner requiring, inter alia, the execution of this Agreement;

F. The Strategic Partner has agreed to undertake and perform its obligations with respect to the Project, subject to and on the terms and conditions set forth hereinafter.

NOW THEREFORE in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the sufficiency and adequacy of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:
ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 32) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

(b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

(c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, Government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words “include” and “including” are to be construed without limitation and shall be deemed to be followed by “without limitation” or “but not limited to” whether or not they are followed by such phrases;

(f) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
(g) any reference to day shall mean a reference to a calendar day;

(h) references to a “business day” shall be construed as a reference to a day (other than a Sunday) on which banks in Kochi, Kerala are generally open for business;

(i) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(j) references to any date, period or project milestone shall mean and include such date, period or project milestone as may be extended pursuant to this Agreement;

(k) any reference to any period commencing “from” a specified day or date and “till” or “until” a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(l) the words importing singular shall include plural and vice versa;

(m) references to any gender shall include the other and the neutral gender;

(n) “lakh” means a hundred thousand (1,00,000) and “crore” means ten million (10,000,000);

(o) “indebtedness” shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

(p) references to the “winding-up”, “dissolution”, “insolvency”, or “reorganisation” of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;

(q) any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended,
varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

(r) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party, as the case may be, in this behalf and not otherwise;

(s) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(t) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears; and

(u) the Damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty

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

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

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

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

1.4 **Priority of agreements and errors/discrepancies**

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

(a) this Agreement; and

(b) all other addenda and documents forming part hereof;

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

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

(a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

(b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

(c) between any value written in numerals and that in words, the latter shall prevail.

1.5 **Confirming Parties**

In case the Strategic Partner is a Consortium of entities, the Agreement shall be executed through the Lead Member of the Consortium, who shall be primarily responsible for performance of all the obligations under this Agreement. Notwithstanding, anything contained anywhere in this Agreement, the Strategic Partner agrees that irrespective of the Lead Member acting for and on behalf of the Consortium, all the other members of the Consortium shall be jointly and severally
liable towards the Authority for the performance of all obligations under this Agreement. The other members of the Consortium besides the Lead Member are executing this Agreement as confirming parties, hereto.
ARTICLE 2: SCOPE OF SERVICES

2.1 Scope of Services

The services to be performed by the Strategic Partner in connection with the Project and the timelines thereof, have been set out in detail in Schedule A of this Agreement ("Services"). The Services that are to be performed by the Strategic Partner are as follows:

a) Providing the Services in accordance with the Scope of Services set out in Schedule A and in conformity with the terms of this Agreement, Applicable Laws and Good Industry Practice;

b) Preparing and submitting the Conceptual Plan, during the Design Phase, for the purpose of designing the NBC and such Conceptual Plan shall necessarily include the details set out and prescribed in Schedule A

c) Conducting a visit to the Site, during the Design Phase, so as to ascertain the actual on ground Site conditions and to conduct a comprehensive Site assessment in accordance with the requirement set out in Schedule A;

d) Preparing protocols, manuals, standard operating procedures on the parameters and topics mentioned in Schedule A so as to facilitate the nucleus breeding activities to be undertaken as part of the Project;

e) Preparing and submitting a DPR containing the aspects mentioned in Schedule A- Scope of Services- and which shall include detailed designs and drawings and the BOQ containing the machineries and equipment requirement for the purpose of construction of the NBC and all other heads mentioned in Schedule A;

f) Ensuring that the DPR, including the detailed designs and drawings are in compliance with Applicable Laws including but not limited to CRZ regulations and notifications, as amended from time to time, and relevant applicable environmental laws;

g) Monitoring the construction activities of the Construction Agency appointed by the Authority so as to ensure that the construction is in accordance with the DPR prepared and submitted to the Authority;

h) Ensuring co-ordination and co-operation between the personnel of the Construction Agency and the personnel of the Strategic Partner;
i) Ensuring supply and import of SPF-SPT post larvae (PL) of *L. vannamei* shrimps in the manner, method and quantity specified in Article 15 and Schedule A, both prior to and after the achievement of commissioning of the NBC;

j) Ensuring that the supply and import of the SPF-SPT PL of *L. vannamei* shrimps takes place in compliance with Applicable Laws and Applicable Permits *inter alia* sanitary, phytosanitary and quarantine standards and regulatory approvals as prescribed by the Government of India, from time to time;

k) Operating the NBC and perform the activities specified in the Operations Phase in Schedule A, *inter alia* the selective breeding, field trial and growout activities in coordination and cooperation with the Authority, and ensuring that the Services provided in the Operations Phase are in compliance with the terms of this Agreement including the Scope of Services set forth in Part C of Schedule A;

l) Deploying the required number of personnel during the Operations Phase as specified in Article 14 and Schedule A in order to ensure that the selective breeding activities and other Services contemplated under this Agreement are fulfilled;

m) Monitoring the research and development activities taking place at the NBC by way of making periodic visits to the Site post Completion of Construction Monitoring Phase, in accordance with the timelines provided in Schedule A as well as holding half yearly review meetings with the Authority, MPEDA and the Independent Committee so as to ensure all queries, problems, issues and grievances raised by the Authority and MPEDA are adequately resolved and answered;

n) Provide the required number of training sessions to the personnel of the Authority on the aspects and topics specified and set out in Schedule A during the Term of this Agreement and in accordance with the timelines and frequency set out in Article 14;

o) Supervising the selective breeding program for *L. vannamei* in co-ordination and co-operation with the Authority and MPEDA so as to ensure supply of at least 30 (thirty) separate, least inbreeding shrimp families 2 (two) years prior to the expiry of the Term of the Agreement along with transfer of the Pedigree Data for such 30 (thirty) families in the manner specified in this Agreement;
p) Complying with all other obligations and submitting all other deliverables as specified in Schedule A in accordance with the timelines set forth therein as well as endeavour to complete all Milestones within the Scheduled Milestone Completion Dates as set out in Schedule C; and

q) Performing all activities which are incidental or related to the Scope of Services set out under this Agreement.
ARTICLE 3: TERM OF AGREEMENT

3.1 Term

3.1.1 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws, Applicable Permits and Good Industry Practice, the Authority hereby appoints the Strategic Partner and the Strategic Partner hereby agrees to perform the Services set out in Article 2 and in Schedule A, in connection with this Project.

3.1.2 Subject to and in accordance with the provisions of this Agreement, the Strategic Partner shall provide the Services set out in Schedule A during the undermentioned Phases:

(a) The Design Phase: A period commencing from the Effective Date and ending on the date of issuance of the Design Phase Completion Certificate by the Authority i.e. the date of Completion of Design Phase;

(b) The Construction Monitoring Phase: A period commencing from the date of appointment of the Construction Agency, by the Authority, and ending on the date of issuance of the Construction Monitoring Phase Completion Certificate i.e. the date of Completion of Construction Monitoring Phase;

(c) Operations Phase: A period commencing from the date of Completion of Construction Monitoring Phase Completion till the completion of the Term of the Agreement.

3.1.3 The Term of the Agreement shall commence from the Effective Date and shall, subject to Clause 3.1.4 below, end upon completion of 9 (nine) years from the Effective Date, unless this Agreement is terminated earlier by the Parties, by issuance of a Termination Notice by any Party in accordance with Article 25 (hereinafter the Agreement period, as applicable, is referred to as “Term”).

3.1.4 Extension of Term

Prior to the expiry of the Term, the Authority may choose to extend the initial Term of this Agreement by a maximum of additional 10 (ten) years on
substantially the same terms and conditions as contained herein in this Agreement, subject to the following:

a) The Authority shall intimate the Strategic Partner about its decision to engage the Strategic Partner for the grant of another term, at least 6 (six) months prior to the completion of the initial Term i.e. 6 (six) months prior to the completion of the 9th (ninth) year from the Effective Date;

b) The Authority shall only exercise the option of extending the Term if it is satisfied that the Strategic Partner has not committed any Strategic Partner Default in the 2 (two) years preceding the date of decision by the Authority to grant the extension of the Term.

The Parties shall mutually decide upon any additional obligations and Services which may be required to be provided by the Strategic Partner during the extended term.

Provided further, any payment of additional costs and fees to the StrategicPartner, including the revision of the Contract Fee, owing to provision of additional Services by the Strategic Partner if the Term is extended, upon the instruction of the Authority, shall be discussed mutually between the Parties and a mutually agreed financial arrangement shall be arrived at. These mutual discussions shall take place at the time the Authority takes the decision to extend the Term of the Agreement i.e. engage the Strategic Partner for the extended term.
ARTICLE 4: CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as otherwise, expressly provided in Articles 1, 7, 8, 23, 27, 28, 29, 30, 31 and 32 of this Agreement, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Article 4 ("Conditions Precedent").

4.1.2 Each Party shall make all reasonable endeavour to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible. Each Party shall promptly inform the other Party when any Conditions Precedent for which it is responsible has been satisfied.

4.1.3 Subject to Clause 4.1.7 below, the Conditions Precedent required to be satisfied by the Strategic Partner within a period of 30 (thirty) days from the date of execution of this Agreement shall be deemed to have been fulfilled when the Strategic Partner shall have:

a) Provide the Performance Security to the Authority as per the format and terms of this Agreement; and
b) Delivered to the Authority, a confirmation of the correctness of the representations and warranties set forth in Clause 7.1.

4.1.4 Subject to Clause 4.1.8 below, the Conditions Precedent required to be satisfied by the Authority within a period of 30 (thirty) days from the date of execution of this Agreement shall be deemed to have been fulfilled when the Authority shall have:

a) Procured and ensured that the Strategic Partner has been provided with access to the Site, in accordance with Article 10, so as to provide the Services in a seamless manner;
b) Procured for the Strategic Partner access to power supply, water supply and other basic infrastructure that may be required at the Site for the purposes of the Project; and
c) Issued to the Strategic Partner a notice to proceed ("NTP").

4.1.5 Upon request in writing by any of the Parties, the other Party may, in its discretion, waive any of the Conditions Precedent set forth in Clauses 4.1.3 or 4.1.4, above, or permit additional time to meet any of the Conditions Precedent set forth herein provided however that such Party issues a notice to the other
Party prior to the expiry of the prescribed time period for fulfilment of the Conditions Precedent, as stated in Clauses 4.1.3 and 4.1.4 above, by such other Party ("CP Waiver Notice"), stating that:

a. the Condition Precedent is being waived; or
b. the number of days by which the time period for fulfilment of any or more of the Condition Precedent is being extended after the Effective Date,

as the case may be.

4.1.6 Subject to Clause 4.1.5 above, the date on which the last of the Conditions Precedent as set out in Clauses 4.1.3 and 4.1.4, above, are satisfied by the Party responsible for satisfying such Conditions Precedent, shall be declared as the "Effective Date" for the purpose of this Agreement.

4.1.7 In the event that (i) the Strategic Partner does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in that Clause, and (ii) the delay has not occurred solely as a result of failure of the Authority to fulfil its obligations under Clause 4.1.4 or other breach of this Agreement by the Authority or due to Force Majeure, the Strategic Partner shall pay to the Authority, Damages of an amount calculated at the rate of 0.1% (zero point one percent) of the Performance Security for each day’s delay until the fulfilment of such Conditions Precedent, subject to maximum amount equal to 10% (ten percent) of the Performance Security and upon reaching such maximum threshold, the Authority may, in its sole discretion and subject to Article 9, terminate the Agreement or provide further extension subject to the payment of Damages as defined in this Clause.

4.1.8 In the event that (i) the Authority does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.4 within the period specified in that Clause, and (ii) the delay has not occurred solely as a result of the Strategic Partner’s failure to fulfil its obligations under Clause 4.1.3 or other breach of the Agreement by the Strategic Partner or due to Force Majeure, the Authority shall pay to the Strategic Partner, Damages of an amount calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day’s delay until the fulfilment of such Conditions Precedent, subject to maximum amount equal to 10% (ten percent) of the Performance Security, and upon reaching such maximum threshold, the Strategic Partner may, in its sole discretion, terminate the Agreement.

4.2 Consequences of Termination due to non-fulfilment of Conditions Precedent
4.2.1 Notwithstanding anything contained in this Agreement, in the event of termination by the Strategic Partner due to the Authority’s failure to fulfil the Conditions Precedent, the Authority shall within 7 (seven) days of Termination Notice, return the Bid Security (if Performance Security is not furnished), or the Performance Security (if the Bid Security has been replaced by furnishing of the Performance Security), as the case may be, and thereupon all rights, privileges, claims and entitlements of the Strategic Partner under or arising out of this Agreement shall be deemed to have been waived by and to have ceased with the concurrence of the Strategic Partner.

4.2.2 Notwithstanding anything contained in this Agreement, in the event of termination by the Authority due to the Strategic Partner’s failure to fulfil the Conditions Precedent, the Authority may encash the Bid Security (if Performance Security has not been furnished) or, in case the Performance Security has been furnished, replacing the Bid Security, encash an amount equal to the Bid Security value from such Performance Security, and thereupon all rights, privileges, claims and entitlements of the Strategic Partner under or arising out of this Agreement shall be deemed to have been waived by and to have ceased with the concurrence of the Strategic Partner.
ARTICLE 5: OBLIGATIONS OF THE STRATEGIC PARTNER

5.1 General Obligations of the Strategic Partner

5.1.1 Subject to and on the terms and conditions set forth in this Agreement, the Strategic Partner shall at its cost and expense undertake to provide the agreed Services with respect to the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.

5.1.2 The Strategic Partner shall comply with all Applicable Laws and Applicable Permits (including renewals as required) for the performance of its obligations and the Services under this Agreement.

5.1.3 Subject to Clauses 5.1.1 and 5.1.2 above, the Strategic Partner shall discharge its obligations in accordance with Applicable Laws, Good Industry Practice and as a reasonable and prudent service provider and shall complete the Services in accordance with the timelines specified in the Project Completion Schedule set forth in Schedule C.

5.1.4 The Strategic Partner hereby accepts and agrees to discharge obligations herein and provide the Services, subject to and in accordance with the terms and conditions set forth herein.

5.1.5 Subject to and in accordance with the provisions of this Agreement, the Strategic Partner shall be obliged or entitled (as the case may be) to:

(a) Right of access to the Site of the Project by way of grant of license for the purpose of performing and fulfilling all of the Strategic Partner’s obligations under this Agreement;

(b) Perform the Services as per the terms and conditions of this Agreement including Applicable Laws, Applicable Permits and Good Industry Practice;

(c) Bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations and the Services of the Strategic Partner under this Agreement;

(d) Demand, charge, retain and appropriate the Contract Fee in accordance with the provisions of this Agreement;

(e) Not assign this Agreement;
Perform and fulfil all of the Strategic Partner's obligations in accordance with this Agreement and in accordance with Applicable Laws, Applicable Permits and Good Industry Practice; and

Exercise such other rights and obligations as the Authority may determine as being necessary or desirable for the purpose incidental and necessary for implementing the Project.

5.1.6 The Strategic Partner shall, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details, as may be required for obtaining all Applicable Permits and obtain and keep in force and effect such Applicable Permits in conformity with the Applicable Laws;

(b) deploy the requisite number of trained personnel with the relevant qualifications and experience, including but not limited to the personnel comprising the Project Team, at the Site, as per the timelines and requirements specified in Article 14 and Schedule A;

(c) procure, as required, the appropriate proprietary rights, licences, agreements and permissions for providing the Services for the Project;

(d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Subcontractors in connection with the performance of its obligations under this Agreement;

(e) ensure and procure that its Subcontractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Strategic Partner’s obligations under this Agreement;

(f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(g) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;
(h) prepare the Conceptual Plan, make adequate number of Site visits and prepare and submit the DPR for the Authority and the Third Party Engineer’s approval as part of the Services to be provided during the Design Phase, as specifically set out in Schedule A;

(i) ensure that it monitors the construction works being undertaken by the Construction Agency, appointed by the Authority and thereby ensure that the construction of the NBC takes place in compliance with the DPR, designs and drawings prepared by the Strategic Partner and in compliance with Applicable Laws;

(j) import and supply to the Authority, the requisite number of SPF-SPT (PL) of *L. vannamei* shrimps to India, prior to and after the commissioning of the NBC, as stipulated in Schedule A and Article 15, in accordance with Applicable Laws, Applicable Permits including but not limited to any sanitary and phytosanitary standards prescribed by the Government of India;

(k) performs its specific obligations during the Operations Phase, including but not limited to the selective breeding activities and field trials, as described extensively and stipulated in Schedule A;

(l) ensure that 2 (two) years prior to the expiry of the Term of this Agreement, in association with the Authority, it supplies and develops at least 30 (thirty) distinct least inbreeding families of *L. vannamei* shrimp at the NBC along with the Pedigree Data for such 30 (thirty) families, for further selective breeding by the Authority post the expiry of the Term of this Agreement;

(m) grant a non-exclusive, irrevocable, royalty free license, in accordance with Article 22 of this Agreement, to the Authority to use the Intellectual Property rights, if any, and as well as share technical know-how and other related documentation and data with the Authority only to the extent necessary for the provision of Services by the Strategic Partner under this Agreement.

Notwithstanding anything contained in this Clause 5.1, it is hereby agreed upon between the Parties that the above obligations are general in nature and shall be in addition to and not in derogation of the specific obligations which are to be fulfilled by the Strategic Partner in accordance with the other provisions of this Agreement.
5.2 Obligations relating to the Agreement

5.2.1 It is expressly agreed that the Strategic Partner shall, at all times, be responsible and liable for all its obligations under this Agreement and no default under any agreement shall excuse the Strategic Partner from its obligations or liability hereunder.

5.2.2 The Strategic Partner shall exercise all reasonable skill, care and diligence to be expected of a properly qualified professional who has held itself out as suitable and competent to perform the Services under the Agreement and who is experienced in providing services similar to the Services in relation to the Project.

5.3 Employment of foreign nationals

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

5.4 Employment of Trained Personnel

The Strategic Partner shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions and Services required to be performed in each respective Phase, as specified in Schedule A. The minimum qualifications and experience required for the personnel to be deployed, including that of the Project Team, has been specified in Schedule A.

For the avoidance of doubt, the Strategic Partner shall at all times be wholly responsible for and in respect of its dealings with Subcontractors or third parties; and shall fully indemnify the Authority in respect of any claim, proceedings, actions, losses arising in connection thereof or in relation thereto.
The Strategic Partner shall, in respect of the personnel employed by it either directly or through any of its Subcontractors for execution of the Services, comply with all Applicable Laws for such employment, including but not limited to, Contract Labour Act, 1970, Payment of Wages Act, 1936, Minimum Wages Act, 1948, Employees’ Compensation Act, 1923 and other Applicable Laws dealing with labour matters. The Strategic Partner shall provide and maintain all necessary welfare facilities etc. for its personnel and employees of its Subcontractors in accordance with the Applicable Laws.

5.5 **Audited Accounts**

5.5.1 The Strategic Partner shall maintain books of accounts recording all its receipts, income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits with respect to accounting the Services provided under this Agreement.

5.5.2 The Authority shall have the right to inspect the records of the Strategic Partner during office hours and request for copies of relevant extracts of books of accounts as per Applicable Laws.

5.6 The Strategic Partner agrees to perform the Services and do all other things required/considered prudent so to do, in relation thereto, in accordance with the provisions of this Agreement. All employees, representatives or Subcontractors (if any) engaged by the Strategic Partner in connection with the performance of its Services and obligations under this Agreement will be under the complete control of the Strategic Partner and will not be deemed to be employees of the Authority, and nothing contained in this Agreement or in any sub-contract awarded by the Strategic Partner will be construed to create any contractual relationship between any such employees, representatives or sub-contractor and the Authority.

5.7 In addition to and not in derogation with anything else contained in this Agreement, the Strategic Partner shall ensure that while performing the Services set out under this Agreement, including but not limited to the preparation of the DPR and detailed designs and drawings, it shall at all times comply with Applicable Laws and specifically with all applicable environmental laws, rules and regulations including but not limited to the CRZ regulations, as amended from time to time.
ARTICLE 6: OBLIGATIONS OF THE AUTHORITY

6.1 General Obligations of the Authority

6.1.1 The Authority shall, at its own cost and expense, undertake, comply with, and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 The Authority agrees to provide support to the Strategic Partner and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

(a) upon written request from the Strategic Partner, and subject to the Strategic Partner complying with Applicable Laws, provide all reasonable support and assistance to the Strategic Partner in procuring Applicable Permits required from any Government Instrumentality for implementation of the Project;

(b) undertake to coordinate with the concerned authorities and other departments to issue appropriate instructions to the field officers of these departments for making available required assistance and resources to the Strategic Partner towards the discharge of its obligations as per this Agreement;

(c) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(d) support, cooperate with and discharge its obligations to facilitate the Strategic Partner in performing its obligations in accordance with the provisions of this Agreement;

(e) upon written request from the Strategic Partner, provide reasonable assistance to the Strategic Partner or its Subcontractors to obtain applicable visas and work permits for the purposes of discharge by the Strategic Partner or of its Subcontractors their obligations under this Agreement;

(f) ensure timely payments to the Strategic Partner in accordance with the provisions of this Agreement;

(g) Procure and ensure the procurement of the equipment, fittings, laboratory tools and machines in the requisite quantity, make and parameters as
provided in the BOQ prepared by the Strategic Partner during the Design Phase prior to the construction and commissioning of the NBC;

(h) ensure that all the Applicable Permits and other regulatory approvals, if any are required and which may be necessary for supply of the SPF-SPT PL of *L. vannamei* shrimps are in place during the Term of this Agreement;

(i) ensure that there is no breach of Confidential Information and also ensure that the Intellectual Property rights, technical know-how, documentation and data provided by the Strategic Partner as part of the Services, are utilized only for the objective of this Project and is not utilized and implemented elsewhere in any manner whatsoever;

(j) provide all reasonable assistance to the Strategic Partner in the procurement of any Applicable Permits including but not limited to assistance in procurement of any sanitary, phytosanitary and quarantine approvals as may be necessary under Applicable Laws for the purpose of supply of SPF-SPT PL of *L. vannamei* shrimps;

(k) ensure that the Construction Agency is appointed within 60 (sixty) days of Completion of the Design Phase;

(l) provide all reasonable assistance to the Strategic Partner during the course of the Operations Phase with respect to the selective breeding activities that shall take place at the Site of the NBC; and

(m) endeavour to provide timely approval to the Conceptual Plan, DPR and any other deliverable as stipulated in Schedule A or elsewhere in this Agreement so as to ensure that the Strategic Partner may be able to complete the Services and obligations in conformity with Schedule C-Project Completion Schedule.
ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Representations and Warranties of the Strategic Partner

The Strategic Partner represents and warrants to the Authority that:

(a) it is duly organised and validly existing under the laws of India or the laws of its country of incorporation and registration, as the case may be, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has taken all necessary corporate and other actions under Applicable Laws to authorise the execution and delivery of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(c) it has the qualifications, experience, financial standing and capacity to undertake the Project including conducting the operation of the NBC and discharging obligations hereunder, 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 against 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 charter documents, including but not limited to its Memorandum of Association or 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 are bound or affected;

(h) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(i) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(j) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a material adverse effect on its ability to perform its obligations under this Agreement;

(k) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty; and

(l) 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 Project or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority or MPEDA in connection therewith.

7.2  **Representations and Warranties of the Authority**

The Authority represents and warrants to the Strategic Partner 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;

(c) it has the financial standing and capacity to perform its obligations under the Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) there are no actions, suits or proceedings pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the default or breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform its obligations under this Agreement;

(f) 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;

(g) it has complied with Applicable Laws in all material respects;

(h) all information provided by it in the RFP and invitation to bid in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects; and

(i) upon the Strategic Partner submitting the Performance Security and performing the covenants herein, it shall not at any time during the Term hereof, interfere with the peaceful exercise of the rights and discharge of the obligations by the Strategic Partner, in accordance with this Agreement.

7.3 Disclosure
In the event that any occurrence or circumstance comes to the attention of the Parties that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any obligation of the Parties under this Agreement.
ARTICLE 8: DISCLAIMER

8.1 Disclaimer

8.1.1 The Strategic Partner acknowledges that prior to the execution of this Agreement, the Strategic Partner has, after a complete and careful examination, made an independent evaluation of the RFP, Scope of the Services, local conditions, Site visit and all information provided by the Authority or obtained procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. Save as provided in Clause 7.2, the Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy and/or completeness of the information provided by it and the Strategic Partner confirms that it shall have no claim whatsoever against the Authority in this regard.

8.1.2 The Strategic Partner acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Strategic Partner or any person claiming through or under any of them.
ARTICLE 9: PERFORMANCE SECURITY AND PERFORMANCE GUARANTEE

9.1 Performance Security

The Strategic Partner shall, for the performance of its obligations hereunder during the Performance Security Period, provide to the Authority no later than 30 (thirty) days from the execution of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs. [***] (Rupees *** only) (10% of the Contract Fee) in the form set forth in Part A of Schedule E ("Performance Security"). Until such time the Performance Security is provided by the Strategic Partner pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Strategic Partner.

9.2 Appropriation of Performance Security

Upon occurrence of a Strategic Partner Default or failure to meet any Condition Precedent during the Performance Security Period, 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 Strategic Partner Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Strategic Partner shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, within the time so granted, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 25. Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Strategic Partner shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Strategic Partner Default, and in the event of the Strategic Partner not curing such Strategic Partner Default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 25.

9.3 Release of Performance Security

The Performance Security shall be provided within 30 (thirty) days of execution of this Agreement, as mentioned in Clause 9.1, and shall remain in force and effect for a period of 60 (sixty) days post the selection of Construction Agency by the Authority ("Performance Security Period") and shall be released upon provision of the Performance Guarantee by the Strategic Partner, in accordance with Clause 9.4.
9.4 Performance Guarantee

The Strategic Partner shall, for the performance of its obligations hereunder during the Performance Guarantee Period, provide to the Authority no later than 30 (thirty) days prior to expiry of the Performance Security, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs. [***] (Rupees *** only) (5% of the Contract Fee) in the form set forth in Part B of Schedule E (the "Performance Guarantee"). Until such time the Performance Guarantee is provided by the Strategic Partner pursuant hereto and the same comes into effect, the Performance Security shall remain in force and effect, and upon such provision of the Performance Guarantee pursuant hereto, the Authority shall release the Performance Security to the Strategic Partner.

Notwithstanding anything to the contrary contained in this Agreement, in the event the Performance Guarantee is not provided by the Strategic Partner within a period of 30 (thirty) days prior to expiry of the Performance Security, the Authority may encash the Performance Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Strategic Partner under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Strategic Partner, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

9.5 Appropriation of Performance Guarantee

Upon occurrence of a Strategic Partner Default during the Performance Guarantee Period, 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 Strategic Partner Default. Upon such encashment and appropriation from the Performance Guarantee, the Strategic Partner shall, within 30 (thirty) 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, within the time so granted, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 25. Upon replenishment or furnishing of a fresh Performance Guarantee, as the case may be, as aforesaid, the Strategic Partner shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Strategic Partner Default, and in the event of the Strategic Partner not curing its default 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 Article 25.
9.6 Release of Performance Guarantee

The Performance Guarantee shall remain in force and effect from the time mentioned in Clause 9.4 and subject to provisions of Clause 9.5, shall be released after 120 (one hundred and twenty) days of completion of the Term of this Agreement ("Performance Guarantee Period").
ARTICLE 10: SITE

10.1 Right of Way

10.1.1 For the purpose of this Agreement and the covenants and warranties on the part of the Strategic Partner herein contained, the Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Strategic Partner, commencing from the Effective Date, a right of way by way of license to access the Site, as detailed in Schedule B, to undertake the Project and provide the Services together with all singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Site, for the duration of the Term and, for the purposes permitted under this Agreement, and for no other purpose whatsoever. Provided however that the rights being vested herein does not, and shall not be construed as creating any demise, interest or ownership in the Site, whatsoever in favour or the Strategic Partner or any person claiming under or on its behalf; and is a mere permission to enter the Site and perform the Services envisaged hereunder, subject to and in accordance with terms hereof.

10.1.2 It is expressly agreed that the rights granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the such rights, upon the termination of this Agreement for any reason whatsoever.

10.2 Restriction on any other use

The Strategic Partner shall use the Site only as allotted to it by the Authority and shall not use the allotted Site for any other purpose except to carry out its obligations as per the terms of this Agreement. Further, the Strategic Partner shall not sub-license its rights hereunder or create encumbrances/charge of any nature whatsoever, save and except as may be expressly set forth in this Agreement.
ARTICLE 11: OBLIGATIONS OF STRATEGIC PARTNER DURING DESIGN PHASE AND CONSTRUCTION MONITORING PHASE

11.1 Design Phase

11.1.1 During the Design Phase, the Strategic Partner shall complete the design related Services as enumerated and detailed in Part A of Schedule A within the timelines stipulated in Schedule C) in compliance with Good Industry Practice, Applicable Laws and as a reasonable and prudent service provider.

11.1.2 The Strategic Partner shall ensure that during this Design Phase, the following Services and related obligations are fulfilled:

   a) The Strategic Partner shall ensure the submission of the Conceptual Plan and such Conceptual Plan shall mandatorily contain the aspects mentioned in Part A of Schedule A;

   b) The Strategic Partner shall ensure that it undertakes a mandatory Site visit to ensure that the on-ground conditions may be observed and upon observation of the conditions, the Strategic Partner may opt to make certain changes to the Conceptual Plan.

   c) The Strategic Partner shall submit a DPR for the NBC which shall contain the components specified at SI. No. 3 of Part A of Schedule A and such DPR shall include, but not be limited to, detailed designs and drawings for the NBC.

   d) The Strategic Partner shall prepare manuals, standard operating procedures (SOP) and protocols on the operational aspects of the Project on the aspects and components specified at SI. No. 4 of Part A of Schedule A.

11.1.3 Conceptual Plan

   a) The Strategic Partner shall prepare the Conceptual Plan and submit it for review to the Authority within 45 (forty five) days from the Effective Date.

   b) The Authority, in consultation with MPEDA, shall review the Conceptual Plan and either approve of the Conceptual Plan or provide comments suggesting amendments to the Conceptual Plan within 30 (thirty) days of submission of the Conceptual Plan and in turn the Strategic Partner shall, within 7 (seven) days of receipt of such comments, submit the amended and revised Conceptual Plan.
c) In case the Authority fails to provide any comments or approve the Conceptual Plan, as the case may be, within 30 (thirty) days of submission of the Conceptual Plan by the Strategic Partner, the Conceptual Plan shall be deemed to be approved for the purpose of this Agreement.

d) As part of the review and/or approval of the Conceptual Plan, the Authority shall make comments and suggest amendments if the Authority is of the opinion that the Conceptual Plan has significant deviations from the plan, manner and scope of design and specifications which was presented during the Concept Presentation.

e) The Strategic Partner hereby agrees that it shall not submit as part of the Conceptual Plan any design or drawing which substantively and materially deviates from the design concept and understanding that was provided as part of the Concept Presentation during the submission of its Bid.

11.1.4 Submission of DPR

a) The Strategic Partner shall prepare the DPR and submit it to the Authority and the Third Party Engineer for review and comments within 120 (one hundred and twenty) days from the Effective Date.

b) The Third Party Engineer and the Authority shall review the DPR and either approve of the DPR or shall suggest amendments by providing comments on the DPR submitted by the Strategic Partner. The Authority, in consultation with Third Party Engineer, shall ensure that in case of any comments, such comments shall be consolidated and sent to the Strategic Partner for review within 30 (thirty) days of submission of the DPR by the Strategic Partner.

c) Upon receipt of such comments and amendments from the Authority, the Strategic Partner shall amend and revise the DPR suitably and shall ensure that the revised DPR is submitted to the Authority and Third Party Engineer within 15 (fifteen) days of receipt of comments and the suggested amendments from the Authority.

d) Upon submission of the revised DPR by the Strategic Partner, the Authority and the Third Party Engineer may either choose to approve the revised DPR or provide further amendments and comments to the revised DPR which the Strategic Partner shall promptly take cognizance of and incorporate in the DPR and re-submit the DPR to the Authority and the Third Party Engineer for approval. This process shall continue until the Authority and/or the Third Party Engineer provide their final approval to the DPR.
e) For the avoidance of doubt, for the purpose of this Clause 11.1.4, if the Authority and/or the Third Party Engineer fails to provide any comments or approve the DPR as submitted in accordance with Clause 11.1.4 a) and Clause 11.1.4 b), as the case may be, within 30 (thirty) days of submission of the DPR, the DPR shall be deemed to be approved for the purpose of this Agreement.

11.1.5 Submission of Manuals and SOP

The Strategic Partner shall be responsible for preparing and submitting the manuals, standard operating procedures and handling and training protocols, specifically mentioned at SI. No. 4 of Part A of Schedule A, within 60 (sixty) days from the Effective Date. The manuals, protocols, SOPs submitted shall be reviewed by the Authority. The Authority may either accept the manuals, protocols and SOPs or may provide comments suggesting amendments. The Authority shall ensure that the approval or the comments and suggestions for amendments, as the case may be, shall be provided within 30 (thirty) days of submission of the manuals, SOPs and protocols.

Upon the receipt of such comments, the Strategic Partner shall revise the manuals, SOPs and protocols to incorporate the changes suggested by the Authority, within 15 (fifteen) days of receipt of comments from the Authority.

Upon receipt of the revised manuals, SOPs and protocols, the Authority may either approve the revised manuals, SOPs and protocols or may suggest amendments and revisions by way of comments. The Strategic Partner upon receipt of such comments and suggestions, shall make the necessary revisions in the manuals, SOPs and protocols. This process shall continue until the Authority provides its final approval to the manuals, SOPs and protocols.

11.1.6 Damages for Delay

a) The Strategic Partner agrees and undertakes that it shall complete the Milestones contemplated in the Design Phase and the overall Design Phase, in accordance and conformity with the Project Completion Schedule set forth in Part A of Schedule C, on or before the respective Scheduled Milestone Completion Date or Scheduled Design Phase Completion Date, as the case may be. In the event that the Strategic Partner fails to achieve any Milestone or Completion of Design Phase within a period of 30 (thirty) days from the Scheduled Milestone Completion Date or Scheduled Design Phase Completion Date, as the case may be, as set forth in Part A of Schedule C,
unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, it shall pay Damages to the Authority amounting to a sum calculated at the rate of 0.2% (zero point two per cent) of the amount of Performance Security for delay of each day until such milestone is achieved subject to a maximum amount equal to 20% (twenty percent) of the Performance Security; provided that if any or all the Scheduled Milestone Completion Dates in the Design Phase are extended in accordance with the provisions of this Agreement, the dates set forth in Part A of Schedule C shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Part A of Schedule C has been amended as above. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 11.1.6 shall be without prejudice to the rights of the Authority under this Agreement, including the right of termination thereof.

b) In the event that the Design Phase is not completed within 90 (ninety) days from the Scheduled Design Phase Completion Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the same shall be treated as a Strategic Partner Default and the Authority shall be entitled to terminate this Agreement in accordance with Article 25, unless the time is extended by the Authority through written notice.

11.1.7 The Design Phase shall be completed by the Strategic Partner within or on the Scheduled Design Phase Completion Date. Upon the submission of the DPR and its acceptance by the Authority, the Authority shall issue a certificate of completion of Design Phase (“Design Phase Completion Certificate”) and upon issuance of such certificate the Design Phase shall be deemed to have been completed by the Strategic Partner (“Completion of Design Phase”). Furthermore, upon completion of each Milestone as provided in Part A of Schedule C, the Authority shall issue a written certificate (“Milestone Completion Certificate”) which shall evidence the completion of that particular Milestone during the Design Phase.

11.2 CONSTRUCTION MONITORING PHASE

11.2.1 The Strategic Partner shall be responsible for monitoring the construction activities being undertaken by the Construction Agency appointed by the Authority so as to ensure that the construction of the NBC is in compliance with the DPR prepared by the Strategic Partner as well as all Applicable Laws and Good Industry Practice.

11.2.2 The Strategic Partner shall ensure that the Construction Agency completes the construction, conducts the Trial Run and commissions the NBC within the
timelines specified in Part B of Schedule C. For this purpose, the Strategic Partner shall ensure that its personnel and Subcontractors shall co-operate and co-ordinate with the personnel deployed by the Construction Agency on best efforts basis.

11.2.3 For the avoidance of doubt and for the purpose of clarification, the detailed set of Services to be provided by the Strategic Partner during this Construction Monitoring Phase has been set out in Part B of Schedule A.

11.2.4 Upon completion of the construction of the NBC by the Construction Agency under the supervision of the Strategic Partner, the first Milestone in the Construction Monitoring Phase shall be deemed to have been completed. Post the completion of construction of the NBC, the NBC shall be subjected to a trial run (“Trial Run”). As part of the Trial Run, all components of the NBC shall be tested so as to ensure and certify that the NBC is capable of operating in the manner set out in the DPR and Conceptual Plan provided by the Strategic Partner. The Trial Run shall be conducted by the Strategic Partner and the Construction Agency, jointly and the Authority’s representatives shall be present at the time of conduct of the Trial Run and shall take the final decision in respect of successful completion of the Trial Run.

11.2.5 In case the Trial Run is deemed to be unsuccessful by the Authority, the Strategic Partner shall be asked to make rectifications in coordination and cooperation with the Construction Agency so as to ensure that the NBC is capable of operating in the manner set out in the Conceptual Plan and/or the DPR. In case the Trial Run is unsuccessful due to reasons which are solely attributable to the Strategic Partner, including but not limited to failure in the design provided by the Strategic Partner in its DPR and/or Conceptual Plan, the Strategic Partner shall be responsible for paying Damages to the Authority for an amount equivalent to 1% (one percent) of the value of the Performance Guarantee. The Damages mentioned herein in this Clause shall be deducted from the Contract Fee payable to the Strategic Partner at the next Payment Milestone.

11.2.6 Upon making the rectifications as suggested by the Authority, the Strategic Partner and Construction Agency shall invite the Authority for the conduct of the Trial Run once more (“Second Trial Run”). If the Second Trial Run, is declared unsuccessful by the Authority, the Strategic Partner shall again be asked to make rectifications in coordination and cooperation with the Construction Agency so as to ensure that the NBC is capable to operate in the manner set out in the Conceptual Plan and/or the DPR. In case the Second Trial Run is unsuccessful due to reasons solely attributable to the Strategic Partner including but not limited to failure in the design provided by the Strategic Partner in its DPR and/or Conceptual Plan, the Strategic Partner shall be responsible for paying Damages to
the Authority for an amount equivalent to 2% (two percent) of the value of the Performance Guarantee. The Damages mentioned herein in this Clause shall be deducted from the Contract Fee payable to the Strategic Partner at the next Payment Milestone.

11.2.7 Upon making the rectifications as suggested by the Authority, the Strategic Partner shall invite the Authority for the conduct of the Trial Run once more ("Third Trial Run"). If the Third Trial Run is declared unsuccessful by the Authority solely due to reasons attributable to the Strategic Partner, such an event will be deemed to be a Strategic Partner Default and the Agreement shall be terminated in accordance with Article 25 and the consequences therein shall follow.

11.2.8 The Construction Monitoring Phase shall be completed by the Strategic Partner within or on the Scheduled Construction Monitoring Phase Completion Date. Upon the successful completion of the Trial Run or Second Trial Run or Third Trial Run, as the case may be, the NBC shall be declared to be commissioned and the Authority shall issue a certificate of completion of Construction Monitoring Phase ("Construction Monitoring Phase Completion Certificate") to the Strategic Partner and upon issuance of such certificate the Construction Monitoring Phase shall be deemed to have been completed by the Strategic Partner ("Completion of Construction Monitoring Phase"). Furthermore, upon completion of each Milestone as provided in Part B of Schedule C, the Authority shall issue a written certificate ("Milestone Completion Certificate") which shall evidence the completion of that particular Milestone during the Construction Monitoring Phase.

11.2.9 The Strategic Partner agrees and undertakes that it shall complete the Milestones contemplated in the Construction Monitoring Phase in accordance and conformity with the Project Completion Schedule set forth in Part B of Schedule C, on or before the Scheduled Construction Monitoring Phase Completion Date. In case of any delay in the completion and commissioning of the NBC, which can be attributed solely due to the actions, defaults and omissions of the Strategic Partner in reviewing and monitoring the construction activities being undertaken by the Construction Agency, such that the Completion of Construction Monitoring Phase is not achieved within 30 (thirty) days from the Scheduled Construction Monitoring Phase Completion Date, as stipulated in Part B of Schedule C, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, the Strategic Partner shall be liable to pay Damages to the Authority amounting to a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Guarantee for delay of each day until such completion of the Construction Monitoring Phase is achieved, subject to a
maximum amount equal to 10% (ten percent) of the Performance Guarantee; provided that if any or all the Scheduled Milestone Completion Dates in the Construction Monitoring Phase are extended in accordance with the provisions of this Agreement, the dates set forth in Part B of Schedule C shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Part B of Schedule C has been amended as above. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 11.2.9 shall be without prejudice to the rights of the Authority under this Agreement, including the right of termination thereof.

11.2.10 In the event that the Construction Monitoring Phase is not completed within 90 (ninety) days from the Scheduled Construction Monitoring Phase Completion Date, due to reasons solely attributable to the Strategic Partner, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure or the due to material defaults and omissions by the Construction Agency, the Authority shall be entitled to terminate this Agreement in accordance with Article 25, unless the time is extended by the Authority through written notice.
ARTICLE 12: OBLIGATIONS OF THE STRATEGIC PARTNER DURING OPERATIONS PHASE

12.1 The Strategic Partner shall ensure that the Services mentioned in Part C of Schedule A are provided in accordance with the terms of this Agreement, Applicable Laws, Good Industry Practice and without any Deficiency.

12.2 The Services to be provided during the Operations Phase shall include conducting field trials of the SPF-SPT PL of *L. vannamei* shrimps supplied as part of the Evaluation Stream by the Strategic Partner in association and co-ordination with the Authority and using the growout data from such field trial to identify the best performing shrimp families and thereafter conduct selective breeding of the broodstock of the best performing shrimp families to derive a new generation of shrimp families which shall be in turn supplied to the BMC as part of the Germplasm Stream. The detailed Scope of Services and obligations to be performed during this Operations Phase has been provided in Part C of Schedule A. The detailed supply obligations have been specified and set out in Article 15.

12.3 As part of the Services to be provided during the Operations Phase, the Strategic Partner shall be required to provide training to the personnel of the Authority as well as monitor the operation of the NBC by undertaking periodic visits to the NBC as well as conducting reviews in association with the Authority. The detailed training and monitoring obligations of the Strategic Partner during the Operations Phase, have been set out in Article 14 of this Agreement.

12.4 The Strategic Partner shall also be responsible for sharing with the Authority, technical know-how and data, which may include Intellectual Property rights of the Strategic Partner. The Strategic Partner shall provide a non-exclusive, irrevocable, royalty free license to the Authority to use the Intellectual Property for the limited purpose of providing the Services under this Agreement. The manner in which the Intellectual Property and the technical know-how shall be shared and licensed to the Authority has been set out in Article 22 and elsewhere in this Agreement.

12.5 **No Deficiency**

During the Operations Phase, the performance of the Services and obligations of the Strategic Partner shall be periodically evaluated to ensure that they are provided without any Deficiencies. It is hereby understood between the Parties, that if Deficiencies are found in the Services, it shall lead to levy of Damages by the Authority in the manner set out in Article 13.
ARTICLE 13: LIABILITY AND DAMAGES

13.1 **Obligation to Remedy Deficiency**

13.1.1 The Strategic Partner shall be responsible forremedyng at its own cost, any Deficiency observed by the Authority with respect to the Services during the Term and/or for a period of 90 (ninety) days after Termination.

13.1.2 In the event the Strategic Partner fails to remedy the Deficiency observed by the Authority and fails to commence remedial services within a Cure Period of 30 (thirty) days from the date of receipt of notice of such Deficiency, issued by the Authority, the Authority shall be entitled to undertake such remedial measures at the risk and cost of the Strategic Partner, and recover the actual cost incurred in remedying the Deficiency from the Strategic Partner. Provided however, the Strategic Partner shall have the right to make a representation to the Authority that remedying such Deficiency may require more than 30 (thirty) days of Cure Period and upon such representation, the Authority may at its discretion extend the aforementioned Cure Period.

13.1.3 All costs incurred by the Authority hereunder shall be reimbursed by the Strategic Partner to the Authority, within 15 (fifteen) days of receipt of demand thereof.

13.2 **Damages for Delay or Failure to Remedy Deficiency**

13.2.1 In the event the Strategic Partner causes any delay or fails to remove and remedy the Deficiency and does not commence remedial services within the Cure Period set out in Clause 13.1.2, the Authority shall, without prejudice to its rights under this Agreement including termination thereof, be entitled to recover from the Strategic Partner, the following:

\[ \text{Damages for each day of delay on a per week basis at 0.01\% (zero point zero one per cent) of total Contract Fee payable to the Strategic Partner by the Authority under the Agreement, until the breach is cured or remedied.} \]

13.2.2 The Strategic Partner shall pay such Damages forthwith on receiving a demand from the Authority and in the event the Strategic Partner proposes contesting any claim for Damages, it shall take recourse to the Dispute Resolution Procedure under this Agreement.

13.3 **Recourse to Performance Security and Performance Guarantee**
The Authority shall have the right, and the Strategic Partner hereby expressly grants to the Authority the right to recover the costs and Damages specified in this Article 13 by taking recourse to the Performance Security or the Performance Guarantee, as the case may be.

13.4 **Overriding Powers of the Authority**
In the event that the Strategic Partner, upon notice under Clause 13.1, fails to rectify or remove the Deficiency within a reasonable period, the Authority may exercise overriding powers and take over the performance of any or all the obligations of the Strategic Partner to the extent deemed necessary by it for rectifying or removing such Deficiency. Provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required hereunder. Provided further that any costs and expenses incurred by the Authority in discharge of its obligations shall be entitled to be recovered from the Strategic Partner along with the Damages specified therein.

13.5 **Excuse from Performance of Obligations**

The Strategic Partner shall not be considered in breach of its obligations under this Agreement if it is unable to provide any Services on account of any of the following for the duration thereof:

(a) an event of Force Majeure;

(b) compliance with a request from the Authority or the directions of any Government Instrumentality.
ARTICLE 14: TRAINING AND MONITORING OBLIGATIONS

14.1 Monitoring Obligations

The Strategic Partner shall be obligated to ensure that during the Operations Phase, the Services contemplated during this Phase, including but not limited to selective breeding and field trials for growout shall be monitored by personnel employed by the Strategic Partner on a regular and periodic basis, such that the Services provided are in compliance with the terms of this Agreement including the Scope of Services set forth in Schedule A.

14.2 Half Yearly Meeting

During the Term, the Strategic Partner, the Authority shall take part in half yearly review meetings, (“Half Yearly Meeting”) to discuss and deliberate as to whether the Services being provided for the Project and at the NBC are adequate and do not suffer from any Deficiency. These Half Yearly Meetings shall also include participation by the representatives of the Independent Committee wherein at these Half Yearly Meetings the Authority and the representatives of the Independent Committee may point out Deficiencies in the Services or any other major and minor issues pertaining to the Services and the Parties along with the representatives of the Independent Committee shall mutually discuss and decide upon the manner in which such Deficiencies and other issues may be remediated/resolved as well as the timelines within which such issues may be resolved.

14.3 Periodic Review

The Parties hereby agree that the Strategic Partner shall undertake a periodic review during the Operations Phase. During the first year of the Operations Phase, the Strategic Partner shall mandatorily deploy its Project Team at the Site for monitoring of the Project and shall endeavour to answer all queries, grievances, comments of the Authority.

From the 2nd (second) year of the Operations Phase to the end of the Term, the representatives of the Project Team or other qualified personnel of the Strategic Partner shall visit the Site on a quarterly basis and shall participate in meetings with the Authority (“Quarterly Review”). As part of these Quarterly Reviews, the Strategic Partner shall endeavour to answer all queries, grievances, comments of the Authority. For the avoidance of doubt, representatives of MPEDA may also choose to attend and participate in these Quarterly Reviews.
Furthermore, the Strategic Partner shall ensure that, during the entirety of the Operations Phase, the Project Team and other relevant of the Strategic Partner remains available for monitoring the Project through answering the queries, grievances, comments and providing clarifications to the Authority, whether orally or in writing, as the Authority may deem necessary.

14.4 Monitoring Plan

a) The Strategic Partner shall at the beginning of every year from the second year of the Operations Phase, submit to the Authority a monitoring plan ("Monitoring Plan") laying down the schedule for the Quarterly Reviews for that year. The Monitoring Plan shall include the schedule and the discussion points contemplated by the Strategic Partner in each Quarterly Review. The Strategic Partner shall submit the Monitoring Plan for that year 30 (thirty) days prior to the beginning of that particular year of the Operations Phase.

b) Upon submission of the Monitoring Plan, the Authority may suggest certain amendments to the Monitoring Plan and the Strategic Partner shall upon receiving such suggestion, mutually discuss with the Authority and revise the Monitoring Plan accordingly.

14.5 Training Obligations

The Strategic Partner shall be obligated to provide regular and periodic training to the personnel of the Authority on the topics and aspects mentioned in Part C of Schedule A. For this purpose, the Strategic Partner shall ensure that during every year of the Operations Phase, it provides at least 3 (three) training sessions, annually, to the Authority personnel.

14.6 Training Plan

As part of its obligations, the Strategic Partner shall submit at the beginning of every year of the Operations Phase, a training plan ("Training Plan") which shall lay down the schedule and the types of training and the topics on which it intends to provide training to the staff and personnel of the Authority. The Training Plan for every year shall be submitted 30 (thirty) days prior to the beginning of that particular year of the Operations Phase to the Authority for its review. For the purpose of submission of the Training Plan for the first year of the Operations Phase, the Strategic Partner shall submit the Training Plan for that year 30 (thirty) days prior to the date of Completion of Construction Monitoring Phase.
The Authority may provide certain suggestions, comments or amendments to the Training Plan including but not limited to suggestions for inclusion for additional topics for training which the Authority deems necessary. The Strategic Partner shall use its best efforts and endeavours and include the changes and additions suggested by the Authority to the revised Training Plan and submit the same to the Authority.
ARTICLE 15: SUPPLY OBLIGATIONS

15.1 Supply of Shrimps

15.1.1 During the Term of this Agreement, the Strategic Partner shall be responsible for importing and supplying SPF-SPT PL of *L. vannamei* shrimps to the NBC and the BMC operated by the Authority, in accordance with and as stipulated by the provisions of Clause 15.2, below.

15.1.2 The Strategic Partner shall be solely responsible for importing and supplying the SPF-SPT PL of *L. vannamei* shrimps in the quantity and frequency as stipulated and mandated under the terms of this Agreement, specifically this Article 15 and Schedule A. The Strategic Partner shall ensure that the import and supply of such shrimps shall be in accordance with Applicable Laws and in accordance with Applicable Permits and Good Industry Practice.

15.1.3 The Strategic Partner shall be responsible for procuring and maintaining during the Term of this Agreement, all necessary Applicable Permits and regulatory approvals as is necessary for importing the stocks of SPF-SPT PL of *L. vannamei* shrimps, as mandated by the Government of India, from time to time, including but not limited to any applicable sanitary, phytosanitary and quarantine permits and licenses.

15.1.4 The Strategic Partner shall ensure that for the purpose of this Project, that the supply and import of PL. of *L. vannamei* as part of the Evaluation Stream shall not be from countries:

a) Which have been banned by the Government of India due to shrimps from such countries being affected by the Acute Hepatopancreatic Necrosis Syndrome (AHPNS) or commonly known as the Early Mortality Syndrome;

b) Which are engaged in commercial production of shrimps i.e. countries which are producing 50,000 tonnes of *L. vannamei* shrimps per annum, in the year prior to the Bid Due Date, as mentioned in the RFP.

15.2 Specific Supply Obligations

a) Prior to commissioning of NBC

The Strategic Partner shall ensure import and supply of Designated Number of Families of SPF (Specific Pathogen Free) along with one or more SPT (Specific Pathogen Tolerant) PL of *L. vannamei* shrimps annually, divided into two equally sized Evaluation Stream Batches, for field trial in India, as part of the Evaluation Stream (ES). Upon completion of the field trial conducted by the Strategic Partner and the Authority in India, the growout
data shall be utilized and analysed by the Strategic Partner and the best performing families shall be identified on the basis of parameters such as growth, reproduction strength and disease tolerance. The shrimps from the best performing families shall be grown to broodstock size at the Nucleus Breeding Centre being operated by the Strategic Partner (“SP-NBC”) and the said broodstock shall be selectively bred by the Strategic Partner in the SP-NBC and as a result of this selective breeding new generation of family/families shall be derived. The SPF-PPL of _L. vannamei_ shrimps of such new family/families shall be supplied to the BMC as part of the Germplasm Stream (GS). The Germplasm Stream for a year (consisting of two Germplasm Stream Batches) shall contain at least 120,000 (one hundred and twenty thousand) SPF-PPL of _L. vannamei_ shrimps such that a minimum of 60,000 (sixty thousand) broodstock may be produced by the BMC, annually.

For the avoidance of doubt and for the purpose of clarity and explanation, in every year, as part of the Evaluation Stream, there shall be two batches of SPF-PPL of _L. vannamei_ shrimps with each batch consisting of half the number of Designated Number of Families. Each such batch shall be known as an Evaluation Stream Batch. Post evaluation of the shrimps in each such Evaluation Stream Batch, through field trial, there shall be subsequent selective breeding at the SP-NBC which shall lead to the production of new families of SPF-PPL of _L. vannamei_ shrimps which shall be in turn supplied to the BMC i.e. the Germplasm Stream Batch. For the avoidance of doubt, there shall be two Germplasm Stream Batches in a year. Each Germplasm Stream Batch shall consist of a minimum of 60,000 (sixty thousand) SPF-PPL of _L. vannamei_ shrimps which shall be necessary for the production of at least 30,000 (thirty thousand) broodstock by the BMC from that Germplasm Stream Batch and since there shall be two Germplasm Stream Batches in a year (consisting of a minimum of 120,000 (one hundred and twenty thousand) SPF-PPL of _L. vannamei_ shrimps), the BMC shall be thereby capable of producing at least 60,000 (sixty thousand) broodstock annually.

b) **First two years of the Operations Phase**

The Strategic Partner shall import and supply the Designated Number of Families of SPF-PPL of _L. vannamei_ shrimps for field trial in India, divided into two equally sized batches, as part of the Evaluation Stream. Upon completion of the field trial and analysis of growout data, the best performing families are to be identified on the basis of parameters such as growth, reproduction strength and disease tolerance. The shrimps of the best performing families shall be grown to broodstock size at the NBC and thereafter the said broodstock shall be selectively bred under the supervision of the Strategic Partner and the Authority at the NBC and new generations of shrimp families are to be derived. The SPF-PPL of _L. vannamei_ shrimps of the new families derived from such selective breeding shall be supplied to the BMC as the Germplasm Stream (GS). The Germplasm Stream for a year (consisting of two Germplasm Stream Batches) shall contain at least
120,000 (one hundred and twenty thousand) SPF-SPT PL of *L. vannamei* shrimp such that a minimum of 60,000 (sixty thousand) broodstock may be produced by the BMC, annually, during the first two years of the Operations Phase.

For the avoidance of doubt and for the purpose of further explanation and clarity, during the first two years of the Operations Phase there shall be two batches of SPF-SPT PL of *L. vannamei* shrimps with each batch having half the number of Designated Number of Families. Each batch shall be known as an Evaluation Stream Batch. Post evaluation of the shrimps in such Evaluation Stream Batch, through field trial, there shall be subsequent selective breeding at the NBC which shall lead to the production of new families of SPF-SPT PL of *L. vannamei* shrimps which shall be in turn supplied to the BMC i.e. the Germplasm Stream Batch. Each Germplasm Stream Batch shall consist of at least 60,000 (sixty thousand) SPF-SPT PL of *L. vannamei* shrimps which shall be necessary for the production of at least 30,000 (thirty thousand) broodstock by the BMC and since there shall be two Germplasm Stream Batches in a year (consisting of a total of minimum 120,000 (one hundred and twenty thousand) SPF-SPT PL of *L. vannamei* shrimps), the BMC shall therefore be capable of producing at least 60,000 (sixty thousand) broodstock in that year.

Provided however, for the purpose of this Clause 15.2 (b), if at least 120,000 (one hundred and twenty thousand) SPF-SPT PL of *L. vannamei* shrimps, to be supplied annually as part of the Germplasm Stream/60,000 (sixty thousand) SPF-SPT PL of *L. vannamei* to be supplied as part of each Germplasm Stream Batch, cannot be supplied by the NBC to the BMC, the Strategic Partner shall ensure that the shortfall amount shall be supplied by the SP-NBC. For the purpose of illustration, if, as part of one Germplasm Stream Batch, the NBC is able to supply only 50,000 (fifty thousand) SPF-SPT PL of *L. vannamei* to the BMC, then the Strategic Partner shall ensure that the SP-NBC shall step in and supply the shortfall 10,000 (ten thousand) SPF-SPT PL of *L. vannamei* such that the BMC is capable of producing at least 30,000 (thirty thousand) broodstock from that Germplasm Stream Batch. For the avoidance of doubt, during the Operations Phase, the process stipulated herein shall be adhered to with respect to each Germplasm Stream Batch, thereby facilitating and enabling the BMC to produce a minimum of 60,000 (sixty thousand) broodstock annually. It is hereby clarified for the fulfilment of the obligation mentioned in the proviso above, the Strategic Partner shall not receive any extra payment in addition to the Contract Fee and the cost and expenses shall be borne solely by the Strategic Partner.

c) **3rd -7th year of the Operations Phase**

Commencing from the 3rd (third) year of Operations Phase, the NBC shall supply the Designated Number of Families of SPF-SPT PL of *L. vannamei* shrimps for field trial in India, as part of the Evaluation Stream. Upon completion of the field trial and analysis
of the growout data, the best performing families of shrimp are to be identified on the basis of parameters such as growth, reproduction strength and disease tolerance. The shrimps of the best performing families are to be grown to broodstock size at the NBC and the said broodstock shall be selectively bred under the supervision of the Strategic Partner and the Authority at the NBC and new generations of shrimp families shall be derived and developed. The SPF-SPT PL of *L. vannamei* of the new families derived from selective breeding at the NBC shall be supplied to the BMC and the other Broodstock Multiplication Centres operational in India as part of the Germplasm Stream (GS). The Germplasm Stream for a year, supplied by the NBC, shall consist of at least 120,000 (one hundred twenty thousand) SPF-SPT PL of *L. vannamei* shrimps such that a minimum of 60,000 (sixty thousand) broodstock may be produced by the BMC and the other Broodstock Multiplication Centres operational in India.

For the avoidance of doubt and for the purpose of explanation, commencing from the 3rd (third) year of the Operations Phase, during each year, the NBC shall supply the Designated Number of Families as part of the Evaluation Stream. Post evaluation of the shrimps in the Evaluation Stream Batch, through field trial, there shall be subsequent selective breeding at the NBC which shall lead to the production of new families of SPF-SPT PL of *L. vannamei* shrimps which shall be in turn supplied to the BMC and other Broodstock Multiplication Centres operational in India i.e. the Germplasm Stream Batch. Each Germplasm Stream Batch shall consist a minimum of 60,000 (sixty thousand) SPF-SPT PL of *L. vannamei* shrimps which shall be necessary for the production of a minimum 30,000 (thirty thousand) broodstock by the BMC and the other Broodstock Multiplication Centres operational in India and since there shall be two Germplasm Stream Batches supplied in a year (consisting of a total of a minimum 120,000 (one hundred twenty thousand) SPF-SPT PL of *L. vannamei* shrimps which shall be supplied in a year) from the NBC, the BMC and the other Broodstock Multiplication Centres operational in India shall therefore be capable of producing at least 60,000 (sixty thousand) broodstock annually.

Provided however, for the purpose of this Clause 15.2 (c), if at least 120,000 (one hundred and twenty thousand) SPF-SPT PL of *L. vannamei* shrimps to be supplied annually as part of the Germplasm Stream/60,000 (sixty thousand) SPF-SPT PL of *L. vannamei* to be supplied as part of each Germplasm Stream Batch in the year cannot be supplied by the NBC to the BMC, the Strategic Partner shall ensure that the shortfall amount shall be supplied by the SP-NBC. For the purpose of illustration, if, as part of one Germplasm Stream Batch, the NBC is able to supply only 50,000 (fifty thousand) SPF-SPT PL of *L. vannamei* to the BMC, then the SP-NBC shall step in and supply the shortfall 10,000 SPF-SPT PL of *L. vannamei* such that the BMC is capable of producing at least 30,000 (thirty thousand) broodstock from that Germplasm Stream Batch. For the avoidance of doubt, during the Operations Phase, the process stipulated herein shall be adhered to with respect to each Germplasm Stream Batch, thereby facilitating and enabling the BMC to produce.
a minimum of 60,000 (sixty thousand) broodstock annually. It is hereby clarified for the fulfilment of the obligation mentioned in this proviso, the Strategic Partner shall not receive any extra payment in addition to the Contract Fee and the cost and expenses shall be borne solely by the Strategic Partner.

Further, for the purpose of this Clause 15.2 c), in the event the NBC is unable to supply the Designated Number of Families of SPF-SPT PL of L. vannamei shrimps as part of the Evaluation Stream such that there is a shortfall in the number of families, the Strategic Partner shall ensure that the SP-NBC supplies such number of families of SPF-SPT PL of L. vannamei shrimps to the NBC to overcome the shortfall, such that the entire quantity of Designated Number of Families are available for the conduct of field trials as part of the Evaluation Stream. It is hereby clarified for the fulfilment of the abovementioned obligation, the Strategic Partner shall not receive any extra payment in addition to the Contract Fee and the cost and expenses shall be borne solely by the Strategic Partner.

Notwithstanding anything contained herein, for the purpose of Clauses 15.2 b) and 15.2 c), the Strategic Partner shall be obligated to supply the Designated Number of Families of SPF-SPT PL of L. vannamei from the SP-NBC, for the Evaluation Stream, in the years subsequent to the second year of the Operations Phase in the event the Parties agree and determine that the NBC has not stabilized at that time and is therefore not capable of supplying the Designated Number of Families for the Evaluation Stream. Upon such stabilization of the NBC wherein the NBC shall be capable of supplying the Designated Number of Families, the Strategic Partner shall not be obligated to supply the Designated Number of Families from the SP-NBC any further.

15.3 The Parties further hereby agree that at least 2 (two) years prior to the expiry of the Term, the Strategic Partner shall supply, at least 30 (thirty) distinct least inbreeding families of L. vannamei shrimp such that the Authority shall not require supply and import of SPF-SPT PL of L. vannamei from the Strategic Partner post the expiry of the Term. The Strategic Partner shall ensure that the origin of abovementioned 30 (thirty) families shall be preferably from diverse geographical areas such that maximum genetic variation may be exploited for the purpose of this Project.

15.4 The Strategic Partner shall be responsible for the payment of all applicable Taxes, including but not limited to customs duty and applicable Goods and Services Tax (GST) for the import and supply of the SPF-SPT PL of L. vannamei shrimps.

15.5 Damage for non-performance

a) The families of SPF-SPT PL of L. vannamei shrimps supplied as part of each Evaluation Stream Batch shall adhere to the Performance Parameters set out in Schedule I of this Agreement.
b) In case the Designated Number of Families supplied as part of the Evaluation Stream Batch fail to adhere to and perform in accordance with even one of Performance Parameters, during the course of field trial, then the same shall be treated as a non-performance default.

c) In case of such non-performance default, the Authority shall levy Damages at the rate of 0.5% (zero point five percent) of the Performance Security and/or Performance Guarantee, as the case may be, for each instance of non-performance default.

d) Provided however, that if the Independent Committee determines and recommends that the non-conformance with the Performance Parameters by the Designated Number of Families has taken place due to the occurrence of a Force Majeure Event or due to reasons which cannot be solely attributed to any lapse or default committed by the Strategic Partner, then upon the recommendation of the Independent Committee, the Authority may waive the levy of Damages on the Strategic Partner, for such non-performance default.

15.6 Improvement in Technology

During the Term of the Agreement, if the Authority, in consultation with MPEDA and the Independent Committee, are of the considered opinion that there have been improvements to the technology or any kind of technological advancement and upgradation at the BMC or any of the Broodstock Multiplication Centres operational in India, then the Authority shall in mutual consultation and discussion with the Strategic Partner decide upon reducing the quantum of Designated Number of Families, to be supplied as part of the Evaluation Stream, as specified herein above in this Article 15 and the same shall be conveyed to the Strategic Partner. However, for the avoidance of doubt, the Damages levied for the non-performance default, as specified in Clause 15.4, above, shall continue to be applicable.
ARTICLE 16: CHANGE OF SCOPE

16.1 Change of Scope

16.1.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional services which are not included in the Scope of Services as contemplated by this Agreement (“Change of Scope”). Any such Change of Scope shall be made in accordance with the provisions of this Article 16 and the costs thereof shall be expended by the Strategic Partner and reimbursed to it by the Authority in accordance with Clause 16.2.4.

16.1.2 Any services which are provided under and in accordance with this Article 16 shall form part of the Project and the provisions of this Agreement shall apply mutatis mutandis to such services.

16.2 Procedure for Change of Scope

16.2.1 In the event of the Authority determining that a Change of Scope is necessary, it shall issue to the Strategic Partner a notice specifying in reasonable detail the services contemplated thereunder (the “Change of Scope Notice”) and the resultant impact (increase or decrease) on the Contract Fee payable to the Strategic Partner under this Agreement.

16.2.2 Upon receipt of a Change of Scope Notice, the Strategic Partner shall, with due diligence, provide to the Authority such information as is necessary, together with preliminary documentation in support of:

(a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule; and

(b) the options for implementing the proposed Change of Scope and the effect, if any.

16.2.3 Upon receipt of information set forth in Clause 16.2.2 above, if the Authority decides to proceed with the Change of Scope, it shall convey its preferred option to the Strategic Partner, and the Parties shall, with assistance, thereupon of the Authority, make good faith efforts to agree upon the time and costs for implementation thereof. Upon reaching an agreement, the Authority shall issue an order (the “Change of Scope Order”) requiring the Strategic Partner to proceed with the performance thereof.
16.2.4 Within 7 (seven) days of issuing a Change of Scope Order, the Authority shall make an advance payment to the Strategic Partner of a sum equal to 20% (twenty per cent) of the cost of implementing Change of Scope Order. The Strategic Partner shall, after commencement of the activities, present to the Authority bills for payment in respect of the work in progress supported by such documentation as is reasonably sufficient for the Authority to determine the accuracy thereof. Within 30 (thirty) days of receipt of such bills, the Authority shall disburse to the Strategic Partner such amounts after making a proportionate deduction for the advance payment made hereunder, and in the event of any dispute, final adjustments thereto shall be made under and in accordance with the Dispute Resolution Procedure.

16.2.5 Notwithstanding anything to the contrary contained in this Article 16, the Authority shall not require the Strategic Partner to undertake any services if such services are likely to obstruct or impair the continuous operation of the Project.

16.2.6 Furthermore, notwithstanding anything to the contrary contained in this Article 16, all aggregate costs arising out of all Change of Scope Orders issued during the Term, shall not exceed 10% (ten percent) of the Contract Fee being paid under this Agreement for the entire Term.
ARTICLE 17: CHANGE IN LAW

17.1 Increase in costs

If as a result of Change in Law (confined to Applicable Law), the Strategic Partner suffers an increase in costs or reduction in net after-tax return or other financial burden, the aggregate financial effect of which exceeds the amount equivalent to 10% (ten percent) of the Contract Fee, the Strategic Partner may so notify the Authority and propose amendments to this Agreement so as to place the Strategic Partner in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid. Upon notice by the Strategic Partner, the Parties shall meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement including, inter alia, making good the financial loss by consulting an independent expert as mutually appointed by the Parties.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 17.1 shall be restricted to changes in law directly affecting the Strategic Partner’s costs of performing its obligations under this Agreement.

17.2 Reduction in costs

If as a result of Change in Law, the Strategic Partner benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds the amount equivalent to 10% (ten percent) of the Contract Fee, the Authority may so notify the Strategic Partner and propose amendments to this Agreement so as to place the Strategic Partner in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by the Authority, the Parties shall meet, as soon as reasonably practicable, but no later than 30 (thirty) days from the date of notice, and either agree on such amendments to this Agreement or on any other mutually agreed arrangement.

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 17.2 shall be restricted to changes in law directly affecting the Strategic Partner’s costs of performing its obligations under this Agreement.
ARTICLE 18: THIRD PARTY ENGINEER & INDEPENDENT COMMITTEE

A. Third Party Engineer

18.1 Appointment of Third Party Engineer

The Authority shall appoint a consulting engineering firm from a panel of 3 (three) firms or bodies corporate, mutually constituted by the Authority and the Strategic Partner, to be the third party engineer under this Agreement to certify the DPR in accordance with this Agreement (the "Third Party Engineer"). The appointment of such Third Party Engineer shall be made no later than 60 (sixty) days from the Effective Date.

18.2 Duties and functions

The Third Party Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule G.

18.3 Remuneration

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

18.4 Termination of appointment

18.4.1 The Authority may, in its discretion, terminate the appointment of the Third Party Engineer at any time, but only after appointment of another alternate Third Party Engineer in accordance with Clause 18.1.

18.4.2 If the Strategic Partner or the Authority has reason to believe that the Third Party Engineer is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the other Party and seek termination of the appointment of the Third Party Engineer. Upon receipt of such representation, the other Party shall hold a tripartite meeting with the Party seeking termination and the Third Party Engineer for an amicable resolution of the Dispute, and if any difference or disagreement between the Authority and the Strategic Partner remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Third Party Engineer is terminated hereunder, the Authority shall appoint forthwith another Third Party Engineer in accordance with Clause 18.1.
18.5 Authorised signatories

The Authority shall require the Third Party Engineer to designate and notify to the Authority and the Strategic Partner up to 2 (two) persons employed in its firm to sign for and on behalf of the Third Party Engineer, and any communication or document required to be signed by the Third Party Engineer shall be valid and effective only if signed by any of the designated persons; provided that the Third Party Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

18.6 Dispute resolution

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

B. Independent Committee

18.7 Appointment of Independent Committee

The Authority, in consultation with MPEDA shall appoint a group/panel of aquaculture experts, after mutual discussion with the Strategic Partner, to collectively act as the independent committee under this Agreement (“Independent Committee”). The appointment shall be made no later than 60 (sixty) days from the Effective Date.

18.8 Duties and Functions

The Independent Committee shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule H.

18.9 Remuneration

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

18.10 Termination of appointment
18.10.1 The Authority may, in its discretion, terminate the appointment of any member of the Independent Committee at any time, but only after appointment of another alternate member in the Independent Committee in accordance with Clause 18.7.

18.10.2 If the Strategic Partner or the Authority has reason to believe that the Independent Committee is not discharging its duties and functions in a fair, efficient and diligent manner, it may make a written representation to the other parties and seek termination of the appointment of any member of the Independent Committee. Upon receipt of such representation, the other Party shall hold a tripartite meeting with the party seeking termination and the Independent Committee, for an amicable resolution of the Dispute, and if any difference or disagreement remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure. In the event that the appointment of the Independent Committee is terminated hereunder, the Authority shall appoint forthwith another Independent Committee in accordance with Clause 18.7.

18.11 Authorised Signatories

The Authority shall require the Independent Committee to designate and notify to the Authority and the Strategic Partner to designate one person to sign for and on behalf of the Independent Committee, and any communication or document required to be signed by the Independent Committee shall be valid and effective only if signed by any of the designated person mentioned above; provided that the Independent Committee may, by notice in writing, substitute the designated person with another person from the Independent Committee.

18.12 Dispute resolution

If the Authority and the Strategic Partner disputes any advice, instruction, decision, direction or award of the Independent Committee, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
ARTICLE 19: CONTRACT FEE

19.1 Contract Fee

19.1.1 The Authority agrees to pay the Strategic Partner a fee of Rs. [***] (Rupees ***only) exclusive of GST and other applicable Taxes, but subject to income tax deduction at source as per Applicable Laws for providing the Services set out in this Agreement with respect to the Project, to the satisfaction of the Authority (the "Contract Fee"). The Payment Milestones are specified in Schedule D.

19.1.2 Upon the completion of the activities contemplated against each Payment Milestone to the satisfaction of the Authority, the Strategic Partner shall notify the Authority and the Authority shall in turn notify and certify, through a written notice, ("Completion Notice") that the activities against such Payment Milestone have been duly completed to the satisfaction of the Authority.

19.2 Disbursement of Contract Fee

19.2.1 The Strategic Partner shall raise an invoice for the payment of the Contract Fee within 5 (five) days of receipt of the Completion Notice against each relevant Payment Milestone and submit the said invoice to the Authority.

19.2.2 The Authority shall release the payment to the Strategic Partner no later than 30 (thirty) days from receipt of an invoice from the Strategic Partner along with necessary particulars.

19.2.3 The Authority shall, after due verification, pay the amounts mentioned in the invoice to the Strategic Partner. It is hereby clarified and Strategic Partner understands and agrees that the Contract Fee shall be subject to deductions on account of Damages levied in terms hereunder for any reason specified in this Agreement.

19.2.4 For any reason, other than those attributable to the Strategic Partner, if the Authority fails to pay the invoices within the stipulated payment period mentioned above, without assigning any reason or giving advance communication of delay in payment, then in that case the Authority shall be liable to pay interest @ Bank Rate per annum for the period of delay for such amount. For the purpose of this agreement "Bank Rate" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of Section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect.
19.2.5 The Strategic Partner hereby acknowledges and agrees that it is not entitled to any revision of the Contract Fee or other relief from the Authority except in accordance with the express provisions of this Agreement.

19.2.6 The Authority would be entitled to deduct a portion of the Contract Fee due to the Strategic Partner, as Damages, if the Strategic Partner fails to meet its obligations under the Agreement.

19.2.7 For the purpose of payment of the Contract Fee, the Strategic Partner shall intimate the Authority of its designated bank account where the payment against each Payment Milestone shall be made by the Authority.
ARTICLE 20: SAFETY AND SECURITY REQUIREMENTS

20.1. Security Requirements

The Strategic Partner shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for maintaining the security at the Site. In particular, the Parties shall develop, implement and administer a surveillance and security programme for maintenance of the Site and the NBC in particular, and shall comply with the security requirements (“Security Requirements”).

20.2 Safety Requirements

The Strategic Partner shall in performing its obligations under this Agreement comply with and procure that its personnel and Subcontractors comply with all Applicable Laws, Applicable Permits, requirements of the Authority relating to occupational health, safety and the environment.

The Strategic Partner shall adhere to standard safety procedures and standard emergency operating procedures to be adhered to as Good Industry Practice while performing the Services.
ARTICLE 21: INSURANCE

21.1 The Strategic Partner shall take out and maintain at its cost, and shall cause any Subcontractors to take out and maintain, at their cost, as the case may be including but not limited to all insurance premium payments, but on terms and conditions approved by the Authority, such insurances as Strategic Partner may reasonably consider necessary or prudent in accordance with Good Industry Practice ("Insurance Cover"). The insurance policies so procured shall mention the Authority as co-insured against the risks, and for the coverage of the insurance policies, to the extent permissible under Applicable Laws.

21.2 All insurances obtained by the Strategic Partner in accordance with this Article 21 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 7 (seven) days of obtaining any insurance, the Strategic Partner 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 30 (thirty) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Strategic Partner to the Authority.

21.3 If the Strategic Partner fails to effect and keep in force the Insurance Cover for which it is responsible pursuant hereto, the Authority shall have the right to keep in force any such insurances itself and pay such premium and recover the costs thereof from the Strategic Partner.

21.4 Waiver of Subrogation

All insurance policies in respect of the insurance obtained by the Strategic Partner, pursuant to this Article 21, shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.
ARTICLE 22: INTELLECTUAL PROPERTY RIGHTS

22.1 The Strategic Partner represents and warrants that:

a) the Strategic Partner either owns or has current rights to use or license all Intellectual Property rights embodied in the Services or any documentation provided by the Strategic Partner to the Authority under or in connection with this Agreement and that such rights to use or license does not as on date of this Agreement, to the best of its knowledge and bona fide belief, violate or infringe any third party intellectual property right. The Strategic Partner further represents and warrants that there are no actual or to the best of its knowledge, threatened proceedings against the Strategic Partner alleging infringement of any third party intellectual property right, in respect of the Services such as would restrict or prohibit the use of the Intellectual Property right by the Strategic Partner for the Services to the Authority and performance of the Strategic Partner’s obligations under this Agreement; and

b) it has all rights necessary to grant the Authority a license to use the Intellectual Property in the Services as may be necessary for the purpose of this Agreement without any additional payment of any fees, cost or expenses for using the same.

22.2 The Authority acknowledges that the Services to be provided under this Agreement applies, features or otherwise makes use of one or more Intellectual Property of which the Strategic Partner is the exclusive proprietor or is otherwise lawfully entitled to so apply, feature or make use of in the Services and that the Authority shall have no rights in or to such Intellectual Property or any incremental rights thereto other than as expressly set out in this Agreement.

22.3 The Strategic Partner grants to the Authority, in terms of this Agreement, a non-exclusive, irrevocable and royalty-free license to use the Intellectual Property rights of the Strategic Partner in the Services and any documentation and other materials provided by the Strategic Partner to the Authority under or in connection with this Agreement, to the extent necessary for the purpose of this Agreement. It is clarified for the avoidance of doubt that the license does not amount to a transfer of the Strategic Partner’s Intellectual Property from the Strategic Partner to the Authority.

22.4 Limitations in use of The Intellectual Property Right:

The Authority shall refrain from using the Intellectual Property right herein granted for any purpose other than for the Scope of Services set out under this Agreement. The Authority shall not modify, decompile, disassemble, decompile, extract, or otherwise reverse engineer any element of the Services or any technology forming part thereof.
The Authority shall not copy, publish, lease, lend, distribute, make available or otherwise encumber any Intellectual Property herein granted, except as otherwise expressly provided herein.

22.5 **Intellectual Property Indemnification**

In performing the Scope of Services, the Strategic Partner shall not incorporate into the Scope of Services, or use in connection with the provision of the Scope of Services, any materials, components, design, methods, processes or systems that involve the use of any Confidential Information or Intellectual Property rights that the Strategic Partner does not have the right to use or incorporate or which may result in claims or suits against the Authority, the Strategic Partner or any Subcontractor, arising out of claims of infringement of any third party, domestic or foreign patent rights, copyrights, other proprietary rights, or Intellectual Property rights, licenses or agreements, or applications thereof, or rights of use of confidential information.

The Strategic Partner shall fully indemnify, hold harmless and defend the Authority from and against any and all damages, claims and losses that the Authority may suffer, incur or pay by reason of any claims or suits arising out of claims of infringement of any Intellectual Property or any patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to equipment, designs, techniques, processes and information designed or used by the Strategic Partner or any Subcontractor in performance of the Scope of Services hereunder or under the Subcontracts in any way incorporated in or related to the Project.

If, in any suit or claim relating to the foregoing, a temporary restraining order or preliminary injunction is granted, the Strategic Partner shall make every effort to secure the suspension of the injunction or restraining order. If, in any such suit or claim, any part, combination or process of the Scope of Services, is finally held to constitute an infringement and its use is permanently enjoined, the Strategic Partner shall promptly make every reasonable effort to secure for the Authority a license, at no cost to the Authority, authorizing continued use of the Services. If the Strategic Partner is unable to secure such license within a reasonable time, it shall, at its own expense and without impairing performance requirements, either replace the affected Scope of Services, or part, combination or process thereof with non-infringing components, parts or modify the same so that they become non-infringing.
ARTICLE 23: FORCE MAJEURE

23.1 Force Majeure

As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 23.2, 23.3 and 23.4 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 the same by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

23.2 Non-Political Event

A Non-Political Event shall include 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;

(b) strikes or boycotts or arson or theft (other than those involving the Strategic Partner, Subcontractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting the Services to be provided with respect to the Project for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 23.3 below;

(c) any failure or delay of a Subcontractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Strategic Partner by or on behalf of such Subcontractor;

(d) any judgement or order of any court of competent jurisdiction or statutory authority made against the Strategic Partner in any proceedings for reasons other than (i) failure of the Strategic Partner to comply with any Applicable Laws or Applicable Permits, 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; or
(e) any event or circumstances of a nature analogous to any of the foregoing.

23.3 **Indirect Political Event**

An Indirect Political Event shall include 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 7 (seven) days in an Accounting Year;

(c) any failure or delay of a Subcontractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Strategic Partner by or on behalf of such Contractor;

(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.

23.4 **Political Event**

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

(a) compulsory acquisition in national interest or expropriation of rights of the Strategic Partner;

(b) 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 Strategic Partner to perform its obligations under this Agreement; provided that such delay, modification, denial, refusal or revocation did not result from the Strategic Partner’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;
(c) any failure or delay of a Subcontractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Strategic Partner by or on behalf of such Contractor; or

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

23.5 Duty to report Force Majeure Event

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

(a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 23 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.

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

23.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 23.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

23.6 Effect of Force Majeure Event on the Agreement
23.6.1 Upon the occurrence of any Force Majeure Event prior to the Effective Date, the Conditions Precedent period as set forth in Article 4 shall be extended by a period equal in length to the duration of the Force Majeure Event.

23.6.2 At any time after the commencement of the Term, if any Force Majeure Event occurs whereupon the Strategic Partner is unable to provide the Services during the period for which Force Majeure exists, no Contract Fee shall be paid by the Authority to the Strategic Partner and appropriate deductions shall be made by the Authority at the time of settling the amounts due towards the Contract Fee. However, the Strategic Partner shall not be liable to pay any Damages to the Authority in case it is unable to provide the Services on account of any Force Majeure Event.

23.7 Allocation of costs arising out of Force Majeure

23.7.1 Upon occurrence of any Non-Political Event during the Term, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

23.7.2 Upon occurrence of any Indirect Political Event, the Authority shall bear 50% (fifty percent) of the costs associated with such Force Majeure Event over and above the payment received from the Insurance Cover.

23.7.3 Upon occurrence of any Political Event, the Authority shall bear all the costs associated with such Force Majeure Event, over and above the payments received from the Insurance Cover taken by the Strategic Partner.

23.7.4 Save and except as expressly provided in this Article 23, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

23.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for more than a continuous period of 90 (ninety) days or for a total/cumulative time period of more than 360 (three hundred and sixty) days during the Term, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 23, 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.

23.9 Termination Payment for Force Majeure Event

23.9.1 If Termination is on account of Non-Political Force Majeure Events, the Authority
shall return the Performance Security/Performance Guarantee, as the case may be,
to the Strategic Partner and pay to the Strategic Partner only the unpaid, validly
outstanding and due Contract Fees for the Services provided, on a proportionate
basis, until the date of Termination. The Strategic Partner shall take appropriate
Insurance Cover for hedging risks associated with the events of Force Majeure.

23.9.2 If Termination is on account of Political Force Majeure Events the Authority shall
return the Performance Security/Performance Guarantee, as the case may be, to the
Strategic Partner and pay to the Strategic Partner only 120% (one hundred and
twenty percent) of the unpaid, validly outstanding and due Contract Fees for the
Services provided, on a proportionate basis, until the date of Termination.

23.9.3 If Termination is on account of Indirect Political Force Majeure Events the
Authority shall return the Performance Security/Performance Guarantee, as the
case may be, to the Strategic Partner and pay to the Strategic Partner only 110%
one hundred and ten percent) of the unpaid, validly outstanding and due Contract
Fees for the Services provided, on a proportionate basis, until the date of
Termination.

23.10 Dispute resolution

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

23.11 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its
obligations under this Agreement because of a Force Majeure Event, it shall be
excused from performance of such of its obligations to the extent it is unable to
perform on account of such Force Majeure Event; provided that:
(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

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

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.
ARTICLE 24: SUSPENSION

24.1 Suspension upon Strategic Partner Default

Upon occurrence of a Strategic Partner Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Strategic Partner under this Agreement including the Strategic Partner’s right to receive Contract Fee for a specified period, and (ii) exercise such rights itself or authorise any other person, to exercise the same on its behalf during such suspension (the “Suspension”). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Strategic Partner and may extend up to a period not exceeding 90 (ninety) days from the date of issue of such notice; provided that upon written request from the Strategic Partner, the Authority shall extend the aforesaid period of 90 (ninety) days by a further period not exceeding 60 (sixty) days.

24.2. Authority to act on behalf of Strategic Partner

24.2.1 During the period of Suspension, the Authority shall not be obliged to pay any Contract Fee to the Strategic Partner.

24.2.2 During the period of Suspension hereunder, all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Strategic Partner under and in accordance with this Agreement and the Project shall be deemed to have been done or taken for and on behalf of the Strategic Partner and the Strategic Partner undertakes to indemnify the Authority for all costs incurred during such period.

24.3 Revocation of Suspension

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

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

24.4 Termination
24.4.1 At any time during the period of Suspension under this Article 24, the Strategic Partner may by notice require the Authority to revoke the Suspension and elect to issue a Termination Notice. The Authority shall within 15 (fifteen) days of receipt of such Termination Notice, terminate this Agreement in accordance with Article 25.

24.4.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 90 (ninety) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 24.1, the Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Strategic Partner Default.
ARTICLE 25: TERMINATION

25.1 Termination for Strategic Partner Default

25.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Strategic Partner 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 90 (ninety) days, the Strategic Partner shall be deemed to be in default of this Agreement (a “Strategic Partner Default”), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

a) the Performance Security or the Performance Guarantee has been encashed and appropriated in accordance with Clause 9.2 and Clause 9.5, the Strategic Partner fails to replenish or provide fresh Performance Security or Performance Guarantee within a Cure Period of 30 (thirty) days;

b) subsequent to the replenishment or furnishing of fresh Performance Security or Performance Guarantee, as the case may be, in accordance with Clause 9.2 and Clause 9.5, the Strategic Partner fails to cure, within a Cure Period of 90 (ninety) days, the Strategic Partner Default for which whole or part of the Performance Security or the Performance Guarantee, as the case may be, was appropriated;

c) the Strategic Partner is in material breach of its obligations as laid down in this Agreement with respect to any part or aspect of the Project;

d) the Strategic Partner abandons or manifests intention to abandon its obligations under the Agreement without the prior written consent of the Authority;

e) a breach of any of the terms and conditions of this Agreement by the Strategic Partner has caused a Material Adverse Effect;

f) the Strategic Partner creates any Encumbrance in breach of this Agreement;

g) the Strategic Partner repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
h) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Strategic Partner under this Agreement, or of (ii) all or part of the assets or undertaking of the Strategic Partner, and such transfer causes a Material Adverse Effect;

i) an execution levied on any of the assets of the Strategic Partner has caused a Material Adverse Effect;

j) the Strategic Partner is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Strategic Partner or for the whole or material part of its assets that has a material bearing on the Project;

k) the Strategic Partner 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;

l) a resolution for winding up of the Strategic Partner is passed, or any petition for winding up of the Strategic Partner 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 Strategic Partner 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 Strategic Partner are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Strategic Partner 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; and

ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under Agreement and has a credit worthiness at least as good as that of the Strategic Partner as at the Effective Date;

m) any representation or warranty of the Strategic Partner herein contained which is, as of the date hereof, found to be materially false or the Strategic Partner is at any time hereafter found to be in breach thereof;
n) the Strategic Partner submits to the Authority any statement which has a material effect on the Authority’s rights, obligations or interests and which is false in material particulars;

o) the Strategic Partner has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement as a remedy/consequence; or

p) the Strategic Partner commits a default in complying with any other provision of this Agreement if such a default causes a Material Adverse Effect on the Authority.

25.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Strategic Partner Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Strategic Partner; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Strategic Partner of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Strategic Partner to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 25.1.1 above.

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 ( “Authority Default”) unless the default has occurred as a result of any breach of this Agreement by the Strategic Partner or due to Force Majeure. The defaults referred to herein shall include:

a) the Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Strategic Partner;

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

25.3 Termination Payments

25.3.1 Upon termination on account of a Strategic Partner Default during the Design Phase and the Construction Monitoring Phase, the Authority shall be entitled to terminate this Agreement and encash the Performance Security/Performance Guarantee, as the case may be, and the Strategic Partner shall be liable to the forfeiture of the Performance Security/Performance Guarantee, as the case may be. In such event, the Strategic Partner shall only be entitled to the unpaid, validly outstanding and due Contract Fees, on proportionate basis due for the Services provided till the date of Termination Notice. The Authority shall not make any other payment.

25.3.2 Upon termination on account of a Strategic Partner Default during the Operations Phase, the Authority shall be entitled to terminate this Agreement and encash the Performance Guarantee and the Strategic Partner shall be liable to the forfeiture of the Performance Guarantee. In such event, the Strategic Partner shall only be entitled to the unpaid, validly outstanding and due Contract Fees on proportionate basis due for the Services provided till the date of Termination Notice. The Authority shall not make any other payment.

25.3.3 Upon termination on account of Authority Default during the Term, the Authority shall return the Performance Security and/or Performance Guarantee, as the case may be, to the Strategic Partner and shall pay 120% (one hundred and twenty percent) of unpaid, validly outstanding and due Contract Fee on proportionate basis for the Services rendered in accordance with term hereof prior to the date of Termination Notice.

25.4 Other rights and obligations of the Authority

Upon termination of this Agreement for any reason whatsoever

25.4.1 The Authority shall be entitled to restrain the Strategic Partner and any person claiming through or under the Strategic Partner from entering upon the Site of the Project or any part of the Project; and
25.4.2 The Authority shall be entitled to all sums claimed by any Subcontractor(s) as being due and owing for services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Strategic Partner and such Subcontractors, and the Authority shall not in any manner be liable for such sums. It is further agreed that in the event the Authority elects to cure any outstanding defaults under the Agreement, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

25.5 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, shall survive the termination to the extent such survival is necessary for giving effect to such rights and obligations.
ARTICLE 26: TRANSFER REQUIREMENTS

26.1 Service Continuity

26.1.1 Notwithstanding Article 25, upon Termination, the Strategic Partner shall comply with and conform to the following:

a) submit to the Authority, a plan outlining the handover procedures, training of Authority staff and plan for management of personnel (the "Service Continuity Plan"); and

b) the Strategic Partner shall continue discharge of obligations for a period of 60 days from the date of Termination Notice or from the date of expiry of the Term, as the case may be (the "Service Continuity").

26.2 Transfer Requirements

26.2.1 The Strategic Partner shall, at least 2 (two) years prior to the expiry of the Term, supply and develop 30 (thirty) distinct least inbreeding *L. vannamei* shrimp families and also transfer and deliver forthwith the pedigree and genetic data, including all such Intellectual Property rights associated with such data, for such families up to generation G0 ("Pedigree Data"), so as to facilitate the Authority in continuing selective breeding and related research and development activities at the NBC post the Term of this Agreement. For the avoidance of doubt, the Pedigree Data shall be submitted in a decrypted, unlocked, readable and extractable format. The Strategic Partner shall ensure that the origin of these 30 (thirty) families shall be preferably from diverse geographical areas to exploit maximum genetic variation. If the Strategic Partner fails to supply such 30 (thirty) families and the resultant Pedigree Data within the timelines stipulated in this Clause 26.2.1, then the same shall be treated as a Strategic Partner Event of Default and the consequences set out in Article 25 shall follow.

26.2.2 Upon the expiry of the Term or termination of this Agreement (whichever is earlier), the Strategic Partner shall comply with and conform to the following Transfer Requirements:

a) ensure the handover of such Pedigree Data, free and clear of all encumbrances; For avoidance of doubt, such transfer of Pedigree Data shall include the grant of all Intellectual Property rights in respect of such Pedigree Data in favour of the Authority by way of a license, without any additional payment by the Authority so as to ensure that the Authority can continue undertaking the Services by itself
post the expiry of the Term or the termination of the Agreement, as the case may be;

b) transfer and/or deliver all Applicable Permits/Intellectual Property rights, designs, standard operating procedures, manuals, protocols relating to the Services to the extent required and permissible under Applicable Laws;

c) handover the Site, free and clear of all Encumbrances;

d) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Strategic Partner in the Project, including the right to receive outstanding insurance claims to the extent due and payable to the Authority or its nominee;

e) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the transfer and assignment of all rights, title and interest of the Strategic Partner in the Project, free from all Encumbrances, absolutely unto the Authority or to its nominee.

The abovementioned Transfer Requirements shall be fulfilled within 90 (ninety) days of the date of Termination Notice or the date of expiry of the Term, as the case may be.

26.3 Inspection and Cure

Notwithstanding anything contained in this Agreement, within 60 (sixty) days from the Termination Notice or expiry of the Term, the Authority shall verify, after giving due notice to the Strategic Partner of the time and date of such verification, compliance by the Strategic Partner with the Transfer Requirements. Defaults, if any, shall be cured by the Strategic Partner at its cost.

26.4 Vesting Certificate

The transfer of all rights, title and interest in the Project shall be deemed to be complete on the date when Authority has paid the Strategic Partner, the Contract Fee due under this Agreement and the Strategic Partner has completed the Transfer Requirements. In such case, the Authority shall, without unreasonable delay, thereupon issue a certificate ("Vesting Certificate"), which will have the effect of constituting evidence of transfer by the Strategic Partner of all of its rights, title and interest in the Project in the Authority pursuant hereto, including the fulfilment of the Transfer Requirements. It is expressly agreed that any defect in the Transfer
Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority in respect of, the Project, even if all the Transfer Requirements have been complied with by the Strategic Partner.

26.5 **Transfer Costs**

The Strategic Partner shall bear and pay all costs incidental to transfer of all of the rights, title and interest of the Strategic Partner in the Project in favour of the Authority, save and except that all stamp duties payable on any deeds or documents executed by the Strategic Partner in connection with such transfer shall be borne equally between the Parties.

26.6 In the event of any dispute relating to matters covered by and under this Article 26, the Dispute Resolution Procedure shall apply
ARTICLE 27: ASSIGNMENT AND SUBCONTRACTING

27.1 Assignment and Charges

27.1.1 Restrictions on assignment and charges

a) This Agreement shall not be assigned by the Strategic Partner to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

b) The Strategic Partner shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

27.2 Assignment by the Authority

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

27.3 Subcontracting

a) The Strategic Partner shall obtain the Authority’s prior approval in writing before entering into a subcontract with the Subcontractors for the performance of any part of the Services.

b) The Strategic Partner shall remain liable to the Authority for the acts and omissions of the Subcontractor(s) and the employees of such Subcontractor(s) as if they were the acts and omissions of the Strategic Partner. The Strategic Partner shall supervise and direct the work of all Subcontractors and shall be responsible for performance of all the Scope of Services including methods, techniques, sequences and procedures of, and for coordinating the work of the Subcontractors. The Strategic Partner shall at all times ensure and cause the Subcontractors not to take any action or commit any act or omission which could release, void, impair the Project and the Services provided herein. The Strategic Partner shall implement
and shall ensure that each of its Subcontractors adhere to Applicable Laws, Applicable Permits and Good Industry Practice.

c) The Strategic Partner shall be solely responsible for paying each Subcontractor and any other person to whom any amount is due from the Strategic Partner for subcontracting any of the Scope of Services. The Strategic Partner shall take all reasonable steps and actions to ensure that such Subcontractor performs such Scope of Services in accordance with its Subcontract which shall not be in violation of any of the terms and conditions set forth in this Agreement.
ARTICLE 28: INDEMNITY

28.1 General Indemnity

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

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

28.2 Indemnity by the Strategic Partner

28.2.1 Without limiting the generality of Clause 28.1, the Strategic Partner shall fully indemnify, hold harmless and defend the Indemnified Persons, including the Authority, from and against any and all loss and/or damages arising out of or with respect to:

(a) failure of the Strategic Partner to comply with Applicable Laws and Applicable Permits;

(b) payment of taxes required to be made by the Strategic Partner in respect of the income or other taxes of the Strategic Partner’s Subcontractors and representatives; or
28.2.2 Without limiting the generality of the provisions of this Article 28, the Strategic Partner shall fully indemnify, hold harmless and defend the Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Strategic Partner or by the Strategic Partner’s Subcontractors in performing the Strategic Partner’s obligations or in any way incorporated in the Project or related to the Agreement. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Strategic Partner shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Strategic Partner, is held to have infringed any third party’s intellectual property rights, the Strategic Partner shall promptly make every reasonable effort to secure for the Authority a licence, at no cost to the Authority from the party whose rights are infringed. If the Strategic Partner is unable to secure such licence within a reasonable time, the Strategic Partner shall, at its own expense, take steps to ensure that it no longer infringes the said intellectual property rights.

28.3 Notice and Contest of Claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 28 (the “Indemnified Party”) it shall notify the other Party (the “Indemnifying Party”) within 15 (fifteen) days of receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

28.4 Defence of Claims

28.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted
against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 28, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

28.4.2 If the Indemnifying Party has exercised its rights under Clause 28.3, the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

28.4.3 If the Indemnifying Party exercises its rights under Clause 28.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

   a) the employment of counsel by such party has been authorised in writing by the Indemnifying Party; or

   b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or

   c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

   d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

      i. that there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
ii. that such claim, action, suit or proceeding involves or could have a Material Adverse Effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 28.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

28.5 No Consequential Claims

Notwithstanding anything to the contrary contained in this Article 28, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

28.6 Survival on Termination

The provisions of this Article 28 shall survive termination.
ARTICLE 29: DISPUTE RESOLUTION

29.1 Dispute Resolution

29.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “Dispute”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 29.2.

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

29.2 Conciliation

In the event of any Dispute between the Parties, the Parties may call upon the Independent Committee and/or Third Party Engineer, as the case may be, to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Committee and/or Third Party Engineer, as the case may be, the Parties may require such Dispute to be referred to the Project Director of the Authority and the Chairman of the Strategic Partner or any other designated official of the Strategic Partner for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 29.1.1 or such longer period as may be mutually agreed by the Parties, the Parties may refer the Dispute to arbitration in accordance with the provisions of Clause 29.3.

29.3 Arbitration

29.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 29.2, shall be finally decided by reference to arbitration in accordance with this Clause 29.3. Such arbitration shall be held in accordance with the provisions of the Arbitration Act. The venue of such arbitration shall be Chennai, and the language of arbitration proceedings shall be English.
29.3.2 The Authority shall appoint one arbitrator and the Strategic Partner shall appoint another arbitrator and the two appointed arbitrators shall appoint a third arbitrator in accordance with the Arbitration Act.

29.3.3 The arbitrators shall make a reasoned award (the “Award”). Any Award made in any arbitration held pursuant to this Article 29 shall be final and binding on the Parties as from the date it is made, and the Strategic Partner and the Authority agree and undertake to carry out such Award without delay.

29.3.4 The Parties agree that an Award may be enforced against the Strategic Partner and the Authority and their respective assets wherever situated.

29.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.
ARTICLE 30: CONFIDENTIALITY

30.1 The Parties shall ensure that all Confidential Information is kept confidential and shall not, without the previous written consent of the other Party, use, copy, publish, disclose or otherwise deal with, nor cause nor permit the Subcontractors, agents, employees, directors, advisors or any persons for whom it is contractually or otherwise responsible for, to use, copy, publish, disclose or otherwise deal with any Confidential Information, otherwise than for the performance of its obligations under this Agreement, disclosure to its advisors, the financiers and their advisors or counsel or otherwise as required under the Applicable Laws or local laws. The Parties shall ensure that each Party shall not knowingly or deliberately disclose or release Confidential Information to a third party except with the express written consent of the other Parties. For the avoidance of doubt, Confidential Information, for the purpose of this Agreement and specifically this Article 30 shall not include: a) information that the receiving party can demonstrate through tangible records was in its possession prior to disclosure by the other Party and was not then subject to any restriction on disclosure; b) information that becomes generally available to the public without the fault of the receiving party; and c) information that the disclosing party regularly provides to third parties without restriction on disclosure.

30.2 In the event that any Party is required to disclose any Confidential Information by an order of a court or under the requirements of Applicable Laws or stock exchange listing rules, such Party must promptly notify the other Party of such requirement so that the other Party has the opportunity to contest such disclosure or seek protective orders in respect thereof. Any such disclosure shall be made in the form mutually agreed between the Parties.

30.3 The defaulting Party shall indemnify the non defaulting Party in case of breach of this Clause. If any Confidential Information is received by a third party from the receiving party, and that third party makes use of such information to cause harm or monetary loss to the other Party or uses the Confidential Information for their personal gain/monetary gain, the receiving party shall compensate the Party owning the Confidential Information for the loss suffered as well as for the value of gain derived by such third party. Furthermore, notwithstanding anything contained in this Agreement, each of the Parties acknowledge that the Confidential Information of the other party is important, material and includes confidential trade secrets of such Party such that breach of the promises set forth in this Article 30 would cause irreparable damage to the non-breaching Party and that in the event of such breach, the non-breaching Party shall have in addition to any and all remedies under law or in this Agreement, the right to seek an injunction or specific performance or equitable relief post the completion of the arbitration proceedings in Clause 29.3.
ARTICLE 31: MISCELLANEOUS

31.1 Governing Law and Jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and subject to Clause 29.3, the courts at Chennai shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

31.2 Waiver of Immunity

Each Party unconditionally and irrevocably:

31.2.1 agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

31.2.2 agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Party with respect to its assets;

31.2.3 waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

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

31.3 Waiver

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

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

c) shall not affect the validity or enforceability of this Agreement in any manner.

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

31.4 Liability for Review of DPR

Except to the extent expressly provided in this Agreement:

31.4.1 no review, comment or approval by the Authority of the DPR submitted by the Strategic Partner nor any failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Strategic Partner from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and

31.4.2 The Authority shall not be liable to the Strategic Partner by reason of any review, comment, approval, observation or inspection referred to in Clause 31.4.1 above.

31.5 Exclusion of implied warranties etc.

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

31.6 Survival

Termination shall:

(a) not relieve the Strategic Partner or the Authority as the case may be, of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any
obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

31.7 Entire Agreement

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

31.8 Severability

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

31.9 No Partnership

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

31.10 Third Parties

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

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

31.12 **Notices**

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

31.12.1 In the case of the Strategic Partner, be given by facsimile and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Strategic Partner may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside Chennai/Sirkazhi may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile to the number as the Strategic Partner may from time to time designate by notice to the Authority;

31.12.2 In the case of the Authority, be given by facsimile and by letter delivered by hand and be addressed to the Project Director of the Authority with a copy delivered to the Authority’s representative or such other person as the Authority may from time to time designate by notice to the Strategic Partner; provided that if the Strategic Partner does not have an office in Chennai/Sirkazhi it may send such notice by facsimile and by registered acknowledgement due, air mail or by courier; and

31.12.3 Any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered.

31.13 **Language**

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

31.14 **Counterparts**

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.
ARTICLE 32: DEFINITIONS

32.1 Definitions

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

“Accounting Year” means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

“Affected Party” shall have the meaning set forth in Clause 23.1;

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

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

“Applicable Permits” means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the provision of Services at the Project, during the subsistence of this Agreement;

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

“Associate” or “Affiliate” means, in relation to either Party, a person who is under significant influence of such Party (as used in this definition, the expression “significant influence” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the total share capital of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);
“Authority” shall mean the Rajiv Gandhi Centre for Aquaculture.

“Authority Default” shall have the meaning set forth in Clause 25.2.1;

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

“Award” shall have the meaning set forth to it in Clause 29.3.3;

“Bank” means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore);

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

“Bid” means the documents in their entirety comprised in the bid submitted by the Strategic Partner in response to the request for proposal (RFP) and the provisions thereof;

“Bid Due Date” shall mean the last date for the submission of the Bids under and in accordance with the terms of the RFP Volume I;

“Bid Security” means the security provided by the Strategic Partner to the Authority along with the Bid amounting to INR 6 million/USD 85,000 only (Indian Rupees Six Million/ United States Dollars Eighty Five Thousand Only), in accordance with the Bid documents, and which is to remain in force until substituted by the Performance Security;

“BMC” shall mean the Brood Multiplication Centre for L. vannamei shrimps being operated by the Authority in Vishakhapatnam, Andhra Pradesh, India;

“Change in Law” means the occurrence of any of the following after the Bid Due Date:

a) the enactment of any new Applicable Law;

b) the repeal, modification or re-enactment of any existing Applicable Law;

c) the commencement of any Applicable Law which has not entered into effect until the Bid Due Date;

d) a change in the interpretation or application of any Applicable Law by a judgement of a court of record which has become final, conclusive and
binding, as compared to such interpretation or application by a court of record prior to the Bid Due Date.

e) any change in the rates of GST and any other indirect tax as applicable to the Project

but shall not include (i) any change in any withholding tax on income or dividends distributed to the shareholders of the Strategic Partner; (ii) imposition of standards and condition of operations, maintenance and safety arising out of a new or revised environmental laws; (iii) imposition of standards and terms of employment and working conditions of labourers and workmen; or (iv) any rules or regulations stipulated by any regulatory procurer having jurisdiction over the Project in respect of the standards of Service; or (v) any change in direct taxes.

“Change of Scope” shall have the meaning set forth to it in Clause 16.1.1;

“Change of Scope Notice” shall have the meaning set forth to it in Clause 16.2.1;

“Change of Scope Order” shall have the meaning set forth to it in Clause 16.2.3;

“Completion Notice” shall have the meaning forth to it in Clause 19.1.2;

“Completion of Construction Monitoring Phase” shall have the meaning set forth to it in Clause 11.2.8;

“Completion of Design Phase” shall have the meaning set forth to it in Clause 11.1.7

“Conceptual Plan” shall mean the plan to be submitted by the Strategic Partner in accordance with the requirements and timelines stated in Part A of Schedule A and shall include, but not be limited to, details such as basic floorplan design, choice of technology, bio security measures to be adopted.

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

“Confidential Information” shall mean technical, product, financial, marketing or business information that is marked or otherwise designated as confidential, proprietary or trade secrets of the providing party and shall also include but not be limited to the present and future business activities, business and marketing plans, finances, financial data, data systems, trade secrets, inventions, research, technological know-how, proprietary technical documentation (including broodstock information and data), products, developments, processes, designs, drawings, formulae, markets, software, computer programs, algorithms and agreements with third parties regarding any of the foregoing which have been designated in writing as confidential or proprietary or if given, orally, is confirmed
in writing as having been disclosed as confidential or proprietary within a reasonable period of time post oral disclosure;

“Consortium” means any combination of persons that have formed a consortium or association by fulfilling the requirements set out in the RFP including executing a joint bidding agreement, for the purposes of submitting a Bid and for implementing the Project, if such consortium or association is declared as the Strategic Partner;

“Construction Agency” shall mean the construction agency appointed by the Authority to construct the NBC in alignment with the DPR and detailed designs and drawings submitted by the Strategic Partner;

“Construction Monitoring Phase” shall mean the time period specified in Clause 3.1.2 (b);

“Construction Monitoring Phase Completion Certificate” shall have the meaning set forth to it in Clause 11.2.8;

“Contract Fee” shall mean the fee payable by the Authority to the Strategic Partner as per Article 19 and in accordance with the Payment Milestones specified in Schedule D;

“CP Waiver Notice” shall have the meaning set forth to it in Clause 4.1.5;

“Cure Period” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:-
(a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
(b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
(c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Strategic Partner requires any reasonable action by the Strategic Partner that must be approved by the Authority hereunder, the applicable Cure Period shall be extended by the period taken by the Authority to accord their approval;

“Damages” shall mean the mutually pre-agreed genuine estimate of the loss suffered by relevant Party on account of non-performance and/or non-observance of obligation(s) or any covenants by other Party;

“Deficiency” means any shortcoming, in the Services or any failure to comply with the terms and conditions of the Agreement including, Applicable Laws, Applicable Permits, and Good Industry Practice during any of the Phases;
“Designated Number of Families” shall mean the [insert number of families]\(^3\) distinct, least inbreeding families of SPF-SPT \textit{L. vannamei} shrimps whose PLs are to be supplied by the Strategic Partner as part of each Evaluation Stream, in accordance with the submission and declaration made the Strategic Partner as part of its Bid;

“Design Phase” shall mean the time period specified and provided in Clause 3.1.2 (a);

“Design Phase Completion Certificate” shall have the meaning set forth to it in Clause 11.1.7;

“Dispute” shall have the meaning set forth in Clause 29.1.11;

“Dispute Resolution Procedure” means the procedure for resolution of Disputes set forth in Article 29;

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

“DPR” shall mean the detailed project report which is to be submitted by the Strategic Partner for the purpose of the designing and constructing the NBC and such DPR shall include the detailed designs, drawings and other specifications as set out in Schedule A.

“Evaluation Stream” shall mean the stream of SPF-SPT PL of \textit{L. vannamei} shrimps, consisting of the Designated Number of Families, annually, supplied by the Strategic Partner for the purpose of conducting field trial in India so as to identify the best performing shrimp families;

“Evaluation Stream Batch” shall mean one of the two batches of shrimps, supplied as part of the Evaluation Stream, and each such batch shall necessarily consist of half the number of Designated Number of Families;

“The number of families to be supplied in order to meet the Project objectives, shall be filled in at the time of execution of this Agreement in accordance with the number of families which was proposed by the Strategic Partner in its Concept Presentation so as to meet the Project objective.
“Encumbrances” shall mean any 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

“Force Majeure” or “Force Majeure Event” shall have the meaning set forth to it in Clause 23.1;

“Germplasm Stream” shall mean the stream of SPF-SPT PL of *L. vannamei* shrimps supplied to the BMC and which have been derived from conducting selective breeding of the broodstock of the best performing shrimp families as analysed during the field trial of the shrimps of the Evaluation Stream.

“Germplasm Stream Batch” shall mean any one of the two batches of the Germplasm Stream supplied to the BMC, in a year, in accordance with Article 15.

“GOI” means the Government of India;

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

“Government Instrumentality” means any department, division or sub-division of the Government or the Government of India and includes any commission, board, Government, agency or municipal and other local Government or statutory body including Panchayat under the control of the Government of India, and having jurisdiction over the performance of all or any of the services or obligations of the Strategic Partner under or pursuant to this Agreement;

“Half Yearly Meeting” shall have the meaning set forth to it in Clause 14.2;

“Indemnified Party” means the Party entitled to the benefit of an indemnity pursuant to Clause 28.3;

“Indemnified Persons” shall have the meaning set forth to it in Clause 28.1;

“Indemnifying Party” means the Party obligated to indemnify the other Party pursuant to Clause 28.3;

“Independent Committee” shall have the meaning set forth to it in Clause 18.7;
“Indirect Political Event” shall have the meaning set forth in Clause 23.3;

“Intellectual Property” means recognized protectable intellectual property of a Party such as patents, utility models, copyrights, corporate names, trade names, trademarks, trade dress, service marks, applications for any of the foregoing, software, firmware, trade secrets, mask works, industrial design rights, rights of priority, know how, design flows, methodologies and any and all other intangible protectable proprietary information that is legally recognized;

“Insurance Cover” means the aggregate of the maximum sums insured under the insurances taken out by the Strategic Partner pursuant to Article 21, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable in relation to such act or event;

“Lead Member” shall mean the lead member of the Consortium

“LOA” means the letter of acceptance referred to in Recital E;

“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;

“Milestone” shall refer to each milestone within each Phase as specified in Schedule C;

“Milestone Completion Certificate” shall mean the certificate to be issued by the Authority evidencing the completion of each Milestone within each Phase;

“Monitoring Plan” shall have the meaning set forth to it in Clause 14.4

“MPEDA” shall mean the Marine Products Export Development Authority;

“Non-Political Event” shall have the meaning set forth in Clause 23.2;

“NBC” shall mean the Nucleus Breeding Centre for L. vannamei shrimps proposed to be developed, constructed and operated at the Site.

“NTP” means the notice to proceed issued by the Authority to the Strategic Partner under Clause 4.1.4 (c);

“Operations Phase” shall mean the time period specified and mentioned in Clause 3.1.2 (c);
“Parties” means the parties to this Agreement collectively and “Party” shall mean any of the parties to this Agreement individually;

“Payment Milestone” shall mean the payment milestones set out in Schedule D;

“Pedigree Data” shall have the meaning set forth in Clause 26.2.1;

“Performance Guarantee” shall have the meaning set forth in Clause 9.4;

“Performance Guarantee Period” shall have the meaning set forth in Clause 9.6;

“Performance Parameters” shall refer to the parameters set out in Schedule I of this Agreement and which lays down the performance parameters required to be fulfilled by the SPF-SPT PL of L. vannamei shrimps being supplied as part of the Evaluation Stream;

“Performance Security” shall have the meaning set forth in Clause 9.1;

“Performance Security Period” shall have the meaning set forth to it in Clause 9.3;

“Phase” shall mean any of the phases of this Project i.e. Design Phase, Construction Monitoring Phase and/or the Operations Phase;

“PL” shall mean post larvae of L. vannamei shrimps;

“Political Event” shall have the meaning set forth in Clause 23.4;

“Project Completion Schedule” shall mean Schedule C;

“Project Team” shall mean the dedicated team of the Strategic Partner deployed at the Site of the NBC during the Operations Phase, as per the timelines prescribed in Article 14.3 and comprising of members as specified at SI. No. 8 of Part C of Schedule A;

“Quarterly Review” shall have the meaning set forth in Clause 14.3;

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

“RFP” shall have the meaning set forth to it in Recital D;

“Safety Requirements” shall have the meaning set forth in Clause 20.2;

“Scope of the Services” shall have the meaning set forth in Schedule A;
“Scheduled Milestone Completion Date(s)” shall mean the scheduled completion date for each Milestone as specified in Schedule C;

“Scheduled Design Phase Completion Date” shall have the meaning set forth to it in Schedule C;

“Scheduled Construction Monitoring Phase Completion Date” shall have the meaning set forth in Schedule C;

“Scheduled Operations Phase Date” shall have the meaning set forth in Schedule C;

“Second Trial Run” shall have the set forth to it in Clause 11.2.6

“Security Requirements” shall have the meaning set forth to it in Clause 20.1;

“SP-NBC” shall have the meaning set forth to it in Clause 15.2 (a);

“SPF” shall mean Specific Pathogen Free which shall in turn mean that such shrimps shall be free of the OIE listed diseases/pathogens;

“SPT” shall mean Specific Pathogen Tolerant which shall in turn mean that such shrimps shall be tolerant to one or more OIE listed or non-listed important (decided mutually by and between the Parties) diseases/pathogens;

“SPF-SPT” shall mean that SPF shrimps families having one or more SPT characteristics;

“Strategic Partner” shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals

“Strategic Partner Default” shall have the meaning set forth to it in Clause 25.1.1;

“Services” shall have the meaning set forth to it in Clause 2.1 and shall include all the services which have been detailed in Schedule A;

“Site” means the area allocated for the Project and for setting up of the NBC and more specifically set out in Schedule B;

“State” means the State of Tamil Nadu and “State Government” means the government of that State;

“Subcontractor” means the person or persons, as the case may be, with whom the Strategic Partner has entered into any contract or any other agreement or contract for
provision of the Services or matters incidental thereto, for and on behalf of the Strategic Partner. The Strategic Partner shall and will remain solely responsible to the Authority for the overall obligations and liabilities of the Contractor engaged by the Strategic Partner”

“Suspension” shall have the meaning set forth in Clause 24.1;

“Taxes” means any Indian taxes including excise duties, customs duties, GST, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the Services charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

“Term” means the period set out in Clause 3.1.3 of this Agreement;

“Termination” means the expiry or earlier termination of this Agreement hereunder;

“Termination Notice” means the communication issued in accordance with this Agreement by one Party to the other Party after terminating this Agreement in accordance with Article 25;

“Third Party Engineer” shall have the meaning set forth to it in Clause 18.1;

“Third Trial Run” shall have the meaning set forth to it in Clause 11.2.7

“Training Plan” shall have the meaning set forth to it in Clause 14.6;

“Transfer Requirements” shall mean the requirements set forth in Clause 26.2.2;

“Trial Run” shall have the meaning set forth to it in Clause 11.2.4;

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

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

(Signature)
(Name)
(Designation)

SIGNED, SEALED AND DELIVERED
For and on behalf of STRATEGIC PARTNER by:

(Signature)
(Name)
(Designation)
**SCHEDULE A: SCOPE OF SERVICES**

The aim and objective of this Project is to develop state-of-the-art NBC in India with cutting age technology to produce high quality (growth & fecundity comparable to broodstock available from other sources and SPF with disease tolerance characters) *L. vannamei* broodstock in the NBC and at the expiry of the Term to ensure that the NBC has capacity to produce good quality broodstock for at least for another 20 years. The Strategic Partner may suggest alterations and additions to this Scope of Services during the Concept Presentation which will be scrutinized by the Authority and the appointed Independent Committee.

The Scope of Services of the Strategic Partner shall be in three phases over 9 (nine) years from the Effective Date:
- Phase I: Design Phase
- Phase II: Construction Monitoring Phase
- Phase III: Operations Phase

**PART A-Phase I: Design Phase**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Deliverables/Activities to be performed</th>
<th>Time for Completion</th>
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<tbody>
<tr>
<td>1</td>
<td>Preparation of a Conceptual Plan</td>
<td>Submission of Conceptual Plan within 45 (forty five) days of the Effective Date</td>
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</table>

The Strategic Partner is to prepare a Conceptual Plan and submit the same to the Authority. Conceptual Plan to include the following:

- Basic floorplan design of the NBC, the broad goals of the breeding program and the preliminary process flow and work plan which is to be adopted at the NBC. For the purpose of development of the basic floorplan design, the Authority shall provide the Strategic Partner detailed Site layout.
- Choice of technology to be adopted e.g. Raceway vs Circular Tanks systems including the rationale for the choice of technology, the cost benefit analysis of adopting such technology and the complete system of design for breeding, growth ponds (Indoor / Outdoor) and performance testing under simulated conditions.
- Feed options which shall be adopted at the NBC
- The design of the water management systems to be put in place at the NBC including Reservoirs systems, Water intake / purification / re – circulation systems, Water distribution systems, Water discharge and waste water treatment and Effluent treatment systems
- Disease surveillance strategies which are to be adopted at the NBC including a preliminary design of the disease challenge facility
- Setting out the laboratory requirements at the NBC and the requirement of laboratory related equipment. Set out the design of
the micro-biology, PCR diagnostic and infectivity study laboratories which shall be capable of identifying and testing for pathogens such as **Viruses**: TSV, WSSV, YHV/GAV/LOV, IHNV, BP, MBV, BMN, HPV, IMNV; **Prokaryote**: NHP, RLBMHD, EMS/AHPND **Protozoan**: Microsporidians, Haplosporidians, Gregarines

- Also set out the requirement of a Molecular markers development facility and set out its capabilities as well as set out the requirement of the water quality labs and any other laboratories and related equipment needed for the NBC.

<table>
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<th>2</th>
<th>Site Visit</th>
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<tr>
<td>The Strategic Partner shall make a visit to the Site to verify the actual on-ground conditions. As part of the Site visit, the Strategic Partner shall conduct the following activities:</td>
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<tr>
<td>- Detailed site assessment and undertake all necessary surveys including topography and soil surveys in order to enable them to carry out detailed planning &amp; designing for the purpose of subsequent submission of the DPR.</td>
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<td>- Identify impact of existing and/or proposed development on its immediate environs and undertake necessary steps to minimize the impacts that it may have on the designs and drawings being contemplated.</td>
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<tr>
<td>- Verification of any already available drawings and blueprints of the Site and comparison with actual on-ground site conditions and thereafter prepare a base map for the Site</td>
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<tr>
<td>- Identify and list down all applicable Site development and building construction norms such as Development Control Regulations, Statutory Master Plan, CRZ, approvals from relevant competent authorities and environment regulations, approval processes to be undertaken.</td>
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<tr>
<td>- At the end of the Site visit, provide a revised conceptual design document including floorplan designs for all zones and components of the NBC, the necessary environmental/culture conditions and system details such as number and size of tanks, pumps and filters and other equipment which may be necessary to be supplied at the NBC.</td>
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<tr>
<th>3</th>
<th>Preparation and submission of DPR</th>
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<tbody>
<tr>
<td>Post the Site visit, the Strategic Partner shall prepare the detailed designs and drawings for the NBC. The activities under this deliverable shall include:</td>
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<tr>
<td>- Prepare detailed architectural drawings, technical specifications, structural designs &amp; drawings, and schedule of As per the requirements of the Strategic Partner</td>
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</table>

| Submission of DPR to be approximately within 120 (one hundred and
materials/bill of quantities and finishes for all components of the NBC.

- The planning and design shall be based upon principles of sustainable development and green initiatives, resulting in minimum impact on natural environment. Strategic Partner shall incorporate principles of water conservation, low pollution, water recycling and hazard/disaster mitigation while preparing and submitting the DPR.
- As part of the DPR, the Strategic Partner shall prepare detailed lay out and refined drawings and blueprints for site plan, floor plans, elevations, sections as well as develop a landscape plan along with detailed drawings and specifications.
- The DPR shall also consist of service plans related to water supply, sewerage, storm water drainage, solid waste management, fire hydrants, electrical and other related or other specialized services. The service plans should also provide for entry-exit plans, bio – security management, public health and others including plans for transportation of movable and immovable components, mechanical components or equipment of the Project to and from the Site and/or facilities as per requirement and compliance with national and local mechanical standards.
- As part of the DPR submission, the Strategic Partner shall submit a detailed Environmental Management Plan after conducting an Environmental Impact Assessment
- The Strategic Partner shall mandatorily submit a specific Disaster Management Plan for the hazards to which the NBC Site is exposed to such as flood, cyclone, tsunami, earthquake, rain, fire etc. if applicable
- The Strategic Partner shall identify and list all the statutory approvals, licenses and permits required to be obtained for the Project including those required for construction works.
- The Strategic Partner shall provide “Basis of Planning & Design” report covering all assumptions, basis of planning and design and various other details related to all buildings and facilities to be provided at Site.
- As part of the DPR, the Strategic Partner shall prepare extensive list of items/equipment/instruments to be procured for the NBC i.e. the BOQ, as well as providing estimated cost, specifications and list of recommended makes/manufacturers/suppliers for each item.

For the avoidance of doubt, the Strategic Partner shall ensure that the DPR and all related components of the DPR including the designs and drawings shall be in compliance with Applicable Laws including but not limited to all CRZ regulations and all other applicable environmental laws.
For the purpose of making the DPR, the Strategic Partner shall make field investigations as may be required. Post submission of the DPR, the same shall be evaluated and scrutinized by the Third Party Engineer appointed in accordance with this Agreement. The quality assurance procedures, engineering and construction time schedules, cost estimates and procurement plan will also be reviewed by the third-party engineer.

4 Preparation of Standard Operating Procedures (SOPs)/Manuals/Protocols

During this Design Phase, the Strategic Partner shall be obligated to prepare certain standard operating procedures (SOP)/manuals/protocols for the NBC. These SOPs/manuals/protocols shall include:

- Training manuals and training programme for scientists running the research programme
- Training programme for the support staff for maintaining bio–security
- Manual/SOP for selective breeding protocols including larval rearing and maturation- this shall include a basic selection protocol to prevent in-breeding of offspring and a basic breeding plan for breeding post larvae shrimps.
- Manual/SOP for feeding protocols and live feed management
- Manual/SOP for grow-out evaluation
- Manual/SOP for nursery rearing and associated protocols
- Manual/SOP for field trial protocols- shall include written hatchery and grow-out evaluation protocols for evaluation farming at Indian conditions, shrimp sampling procedures, data collection methods, experimental design, data file templates, data reporting instructions, etc.
- Manual/SOP for genetic tagging
- Manual/SOP for lab testing protocols
- Bio – security protocols for humans / livestock / feed / water / equipment etc.

To be submitted to the Authority within 60 (sixty) days from the Effective Date.

Approval shall be granted by the Authority within 120 (one hundred and twenty) days from the Effective Date

PART B- Phase II: Construction and Monitoring Phase-

<table>
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<tr>
<th>SI. No.</th>
<th>Deliverable/ Activities</th>
<th>Time for Completion</th>
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<tbody>
<tr>
<td>1</td>
<td>Upon the Completion of the Design Phase i.e. the issuance of the Design Phase Completion Certificate, the construction of the NBC shall take place by the Construction Agency to be appointed by the Authority for the NBC to be constructed</td>
<td>a) NBC to be constructed</td>
</tr>
</tbody>
</table>
Authority. The Strategic Partner’s obligation shall be to monitor the activities of the Construction Agency.

The scope of the Services to be provided in this Phase shall be as provided herein below.

- The Strategic Partner shall ensure that all the construction done by the Construction Agency is done as per the specifications to which the detailed design/DPR has been prepared
- The Strategic Partner shall submit monthly report to the Authority on status of construction works
- Keep the Authority informed about compliance or any variance from the completion schedule and recommend to the Authority steps or amendments (if any) required to ensure timely completion of the construction of the NBC.
- The Strategic Partner shall ensure a system of Quality Assurance of works by the Construction Agency; approve materials and sources of materials; review all bituminous mix designs and concrete mix designs proposed by the Construction Agency and approve/suggest modifications in the mix design, sampling and testing procedure and Quality Control measures to ensure required standard and consistency in quality.
- Review and report to the Authority as to whether the Quality Assurance System of the Construction Agency complies with the requirements of standards stipulated by the Authority and provide to the Authority details of the non-compliance, as soon as reasonably practicable.
- Inspect completed construction works on receipt of a notice and advise the Authority if the Construction Agency has discharged all its obligations and if a completion certificate can be issued by the Authority
- Conduct periodic audits of the obligations of the Construction Agency for compliance with the Authority’s requirements
- Suggest modifications in the Construction Agency’s work program method statements, material sources etc., including activity scheduling and resource programming
- The Strategic Partner shall verify, and if necessary order correction of, the as-built drawings (if any) supplied by the Construction Agency
- The Strategic Partner shall direct the Construction Agency, on behalf of the Authority, to carry out all such works or to do such things as may be necessary in his opinion to avoid or to reduce the risk of any emergency affecting the safety of life or of adjoining property
- The Strategic Partner shall direct the Construction Agency to take all necessary steps including those mentioned in the

b) Trial Run and commissioning of the NBC within 24 (twenty four) months from the Effective Date

within 18 (eighteen) months from the Effective Date
construction contract to protect the environment on and off the site which arise due to construction operations

- The Strategic Partner shall direct the Construction Agency to take all necessary steps to maintain the rate of progress of works as per the approved Programme Schedule of the Construction Agency on monthly basis.
- The Strategic Partner shall prepare and issue monthly and quarterly progress reports during this Phase and along with detailed quality control test statement in an approved format and also prepare detailed contract completion report and submit the same to the Authority.
- Strategic Partner shall assist the Authority in taking over the works from the Construction Agency, in particular by preparing list of punch-points and deficiencies which need to be corrected/completed.
- In the event that the Construction Agency carries out any remedial works for removal or rectification of any defects or deficiencies, the Strategic Partner shall require the Construction Agency to carry out, or cause to be carried out, tests to determine that such remedial works have brought the construction works into conformity with the specifications and standards of the Project.
- The Strategic Partner shall make independent measurements and quality checks towards realization of the Construction Agency’s milestone and ensure that all necessary documentation is provided in support of the realization of the works completed against the milestone.
- The Strategic Partner shall monitor and check the day to day quality control of the works carried out and keep all records as per the directions of the Authority and verify completion of milestones/ interim work, when the quality of the works is satisfactory and the works have been carried out as per the requirements of the project.
- The Strategic Partner shall deploy the following personnel on full time basis during this Phase:

<table>
<thead>
<tr>
<th>S.No</th>
<th>Position</th>
<th>Nos.</th>
<th>Qualification &amp; Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Construction Manager</td>
<td>1</td>
<td>Minimum 10 (ten) years’ experience on NBC construction or relevant aquaculture engineering areas or waterworks.</td>
</tr>
</tbody>
</table>

- The Strategic Partner shall support the Construction Agency for obtaining the completion certificate from Authority on successful Trial Run and commissioning of the NBC. For the avoidance of doubt, it is clarified that the approvals required
prior to commencement of construction shall be the responsibility of the Strategic Partner.

2 Conduct of the Trial Run

Post the completion of construction of the NBC, the NBC shall be subjected to a Trial Run which shall be conducted jointly by the Strategic Partner and the Construction Agency and upon successful completion of the Trial Run the Construction Monitoring Phase shall be certified to be completed.

The manner in which the Trial Run shall be conducted has been set forth in detail in Article 11.

**PART C: Phase III: Operations Phase**

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Deliverable/Activities to be performed</th>
<th>Time for Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>a)</td>
<td><strong>Prior to the Operations Phase</strong></td>
<td>This procedure and supply requirement shall continue and remain in place until the Completion of the Construction Monitoring Phase.</td>
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<tr>
<td></td>
<td>Import/supply of the Designated Number of Families of SPF-SPT PL of <em>L. vannamei</em>, annually, in two batches, for field trial in India, as part of the <strong>Evaluation Stream</strong>. Upon completion of the field trial by the Strategic Partner and the Authority, in India, the growout data is to be utilized by the Strategic Partner and the best performing families are to be identified on the basis of parameters such as growth, reproduction strength and disease tolerance. The shrimps of the best performing families shall be grown to broodstock size at the SP-NBC and the said broodstock shall be selectively bred at the SP-NBC and new generation of shrimp families shall be derived. The Strategic Partner shall supply at least 120,000 SPF-SPT PL of <em>L. vannamei</em> of the new families derived from selective breeding at the SP-NBC to the BMC operated by the Authority i.e. the <strong>Germplasm Stream</strong>, such that 60,000 (sixty thousand) broodstock may be produced by the BMC, annually.</td>
<td></td>
</tr>
<tr>
<td>b)</td>
<td><strong>First two years of the Operations Phase</strong></td>
<td>This procedure is to be followed only for the first two years of the Operations Phase or till the time the NBC output stabilizes</td>
</tr>
<tr>
<td></td>
<td>Import and supply of Designated Number of Families of SPF-SPT PL of <em>L. vannamei</em>, in two batches, for field trial in India, as part of the <strong>Evaluation Stream</strong>. Upon completion of the field trial, based on the growout data, the best performing families of shrimp are to be identified on the basis of parameters such as growth, reproduction strength and disease tolerance. The shrimps of the best performing families shall be</td>
<td></td>
</tr>
</tbody>
</table>
grown to broodstock size at the NBC and the said broodstock shall then be selectively bred under the supervision of the Strategic Partner and the Authority at the NBC and new generations of shrimp families to be derived. The Strategic Partner shall supply at least 120,000 SPF-SPT PL of L. vannamei of the new families derived from selective breeding at the NBC, as part of the Germplasm Stream to the BMC, Vishakhapatnam such that at least 60,000 (sixty thousand) broodstock can be produced in the year.

Further, as a risk mitigation measure, in case the NBC is unable to supply the required SPF-SPT PL of L. vannamei, then the shortfall shall be supplied by the SP-NBC.

c) 3rd - 7th year of the Operations Phase

The NBC shall supply the Designated Number of Families as part of the Evaluation Stream for field trial. At the field trial, the shrimps of the best performing families in the NBC are to be identified on the basis of parameters such as growth, fecundity, disease tolerance etc and to be grown to broodstock size at the NBC and the said broodstock shall be selectively bred under the supervision of the Strategic Partner and the Authority at the NBC and new generations of shrimp families shall be derived. The Strategic Partner shall supply at least 120,000 SPF-SPT PL of L. vannamei of the new families derived from selective breeding at the NBC to the BMC and other Broodstock Multiplication Centres in India such that at least 60,000 (sixty thousand) broodstock can be produced by the BMC and other Broodstock Multiplication Centres operational in India, in each year.

Further, as a risk mitigation measure, in case the NBC is unable to supply the required SPF-SPT PL of L. vannamei, then the shortfall shall be supplied by the SP-NBC.

During the third to seventh year of the Operations Phase, in case there is a shortfall in the Designated Number of Families to be supplied by the NBC, as part of the Evaluation Stream for field trial, the Strategic Partner shall step in and supply the shortfall number of families such that the total Designated Number of Families are available for that year’s Evaluation Stream.

The supply requirements set out herein have been explained in further detail in Article 15. Article 15 and this SI. No. 1 of Part C of Schedule A are to be read together.

2 Transfer of Microsatellite markers for parentage testing:
The Strategic Partner shall transfer a microsatellite marker suite (at least 10 markers; including protocols) to the Authority. The Strategic Partner should provide training to Authority’s staff on sample collection, preparation, and amplification, as well as marker scoring and parentage assignment (using software). Throughout this Phase, the Strategic Partner should provide known test samples to the Authority for the purpose of verifying the Authority’s protocols/results for microsatellite genotyping. Detailed strategies to implement above requirements need to be furnished within 3 (three) months from date of completion of Construction Monitoring Phase.

| 3 | Development and transfer of SNP markers to identify QTLs of desirable traits: |

The Strategic Partner will help develop a large number of SNP markers to identify QTLs of desirable traits, such as shrimp growth, disease tolerance and survival in India which could be integrated into the genetic selection program of the Authority. SNPs could also be utilized for parentage assignment/confirmation tasks.

| 4 | Production of first batch of shrimps for Evaluation and Selection |

Strategic Partner should be present at the NBC during all critical phases of the first ES (Evaluation Stream) field trial to oversee breeding program activities, family production, train relevant Authority staff, adjust SOPs (if needed), implement evaluation protocols, assist with reproductive data collection, selection of ES families and transfer of ES families to brood stock module.

| 5 | Selective Breeding Activities |

- Rearing of breeding stock to reproductive size
- Inducing maturation in captivity
- Mating through natural or artificial insemination.
- Isolation of each spawn as an individual family
- Larval rearing of each family to advanced post larvae
- Rearing of post larvae to 1-3 g
- Tagging of individuals within each family with a unique combination of elastomer dyes / chips or any other suitable methods
- Comparison of performance of families within the NBC, field trials and laboratory challenge trials
- Selection of families with preferred traits – Details of selection procedure and selection intensities at

To take place at the start of the 1st year of the Term

To take place on a regular basis during the Operations Phase

Between the 2nd-5th years of the Operations Phase
different operational level of breeding programme (*i.e.* spawn size; number of viable nauplii / Post-larvae (PL) or juvenile shrimp from all families) need to be formulated

- Grow-out of preferred families to reproductive size

<table>
<thead>
<tr>
<th>6</th>
<th><strong>Data Analysis post field trial/grow-out trial</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>The Strategic Partner shall be involved in analysis of the reproductive and grow-out data taken from each grow-out/field trial. The Strategic Partner shall analyse the reproductive and grow-out performance data for each ES (Evaluation Stream) grow-out trial.</strong> The Strategic Partner should provide Authority with the list of selected shrimp families from such ES grow-out/field trial.</td>
<td><strong>Within 3 (three) weeks of conclusion of each grow-out/field trial during Operations Phase.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>7</th>
<th><strong>Training Activities</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• <strong>During this Operations Phase, the Strategic Partner shall provide training to the Authority’s staff on the following topics/aspects such as start-up &amp; stocking of PLs, brood stock grow-out, maturation &amp; nauplii production, hatchery and PL production, nursery management, tagging of PLs or juveniles, data collection, parentage analysis using microsatellites &amp; SNP markers, family-based pedigree maintenance (calculation of EBV &amp; inbreeding, Genetic gain etc.), disease surveillance and bio-security issues related to shrimp farming.</strong></td>
<td><strong>There shall be at least 3 (three) trainings per year and the Authority may even request the Strategic Partner to provide for further training sessions.</strong></td>
</tr>
<tr>
<td>• Strategic partner should provide training to Authority’s personnel on sample collection, preparation, and amplification, as well as marker scoring and parentage assignment (using software).</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>8</th>
<th><strong>Monitoring Activities</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>• <strong>The Strategic Partner should periodically inspect breeding program activities for quality control purposes. A detailed plan should be furnished for such monitoring activities and such plan shall necessarily mention the manner in which the Strategic Partner shall endeavour to remediate any problem or shortcoming in the selective breeding program and other research and development activities being undertaken at the NBC.</strong></td>
<td><strong>The Monitoring Plan should be submitted 30 days prior to the commissioning of the NBC.</strong></td>
</tr>
<tr>
<td>• Strategic Partner to deploy a minimum of 3 (three) personnel for monitoring of the Project at the Site and the</td>
<td></td>
</tr>
</tbody>
</table>
same shall be referred to as the Project Team. The Project Team shall consist of:

<table>
<thead>
<tr>
<th>SI. No</th>
<th>Position</th>
<th>Qualification</th>
<th>No. of persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Project Head</td>
<td>• At least 15 years of experience in selective breeding at NBC for L. vannamei</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Research Associate</td>
<td>• At least 10 years of research experience at an NBC for L. vannamei</td>
<td>1</td>
</tr>
<tr>
<td>3</td>
<td>Research Assistant</td>
<td>At least 5 years of professional experience at NBC for L. vannamei</td>
<td>1</td>
</tr>
</tbody>
</table>

- The Project Team shall be stationed at the Site during the first year of the Operations Phase. Thereafter, commencing from the second year of the Operations Phase, the Project Team, or other qualified personnel of the Strategic Partner shall undertake quarterly visits to the Site.
- The Strategic Partner shall ensure that throughout the Operations Phase, the Project Team remains available for monitoring the Project through answering queries, grievances, comments and providing clarifications to the Authority, whether orally or in writing, as the Authority may deem necessary.
- Strategic Partner to also ensure periodic visits to the Site of the NBC to address grievances, queries and resolve problems that the Authority may be facing in operating the nucleus breeding program.
- In addition to the above, the Strategic Partner and the Authority to mandatorily have half yearly review meetings to determine progress of the nucleus breeding program. This half yearly review is to take place in India.

9 Handover Requirements

Strategic Partner should transfer to the Authority pedigree information (breeding and phenotypic records) with all relevant data for all direct ancestors of shrimp families for a minimum of 30 (thirty) *L. vannamei* shrimp families from the

Transfer of such families and their Pedigree Data to happen at least two
G0 generation, present at the NBC i.e. the Pedigree Data, so that the Authority may continue family based breeding efforts without assistance from the Strategic Partner after the completion of the term of the Agreement. The Strategic Partner shall ensure that the origin of the abovementioned families shall be preferably from diverse geographical areas so as to ensure and exploit maximum genetic diversity.

| 10 | Re-population requirements. The Strategic Partner should be prepared to re-populate the NBC if the shrimp families being developed at the NBC get infected with diseases, thereby making further breeding impossible. | years prior to the completion of the Term (i.e. during 8th - 9th Years) | Continuing obligation throughout the Operations Phase. |
SCHEDULE B: SITE DETAILS

The Site for the NBC is situated at Thekkurichi village, Rajakkamangalam, Kanyakumari district, Tamil Nadu, India with an approximate area of 35 acres.

The site map, including the dimensions of the Site has been provided herein below:
SCHEDULE C: PROJECT COMPLETION SCHEDULE

The Strategic Partner is required to provide the Services for a period of 9 (nine) years from the Effective Date (Term).

The Services to be provided are divided in milestones, as provided herein below:

**Part A: Design Phase**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Scheduled Milestone Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Milestone 1: Submission of Conceptual Plan</td>
<td>45 (forty five) days from the Effective Date</td>
</tr>
<tr>
<td>Project Milestone 2: Acceptance of Conceptual Plan</td>
<td>120 (one hundred and twenty) days from the Effective Date</td>
</tr>
<tr>
<td>Project Milestone 3: Submission of SOPs, manuals and operation protocols</td>
<td>60 (sixty) days from Effective Date</td>
</tr>
<tr>
<td>Project Milestone 4: Acceptance of SOPs, manuals and operation protocols</td>
<td>120 (one hundred and twenty) days from the Effective Date</td>
</tr>
<tr>
<td>Project Milestone 5: Submission of DPR</td>
<td>120 (one hundred and twenty) days from the Effective Date</td>
</tr>
<tr>
<td>Project Milestone 6: Acceptance of DPR and completion of Design Phase and issuance of the Design Phase Completion Certificate</td>
<td>Within 6 (six) months from Effective Date (“Scheduled Design Phase Completion Date”)</td>
</tr>
</tbody>
</table>

**Part B: Construction Monitoring Phase**

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Scheduled Milestone Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Milestone 1: Completion of construction of the NBC by the Construction Agency</td>
<td>18 (eighteen) months from the Effective Date</td>
</tr>
<tr>
<td>Project Milestone 2: Date of completion of Trial Run commissioning of the NBC and issuance of the Construction Monitoring Phase Completion Certificate</td>
<td>24 (twenty four) months from the Effective Date (“Scheduled Construction Monitoring Phase Completion Date”)</td>
</tr>
</tbody>
</table>

**Part C: Operations Phase**

The specific Milestones and deliverables for the Services during the Operations Phase has been set out in Part C of Schedule A. The “Scheduled Operations Phase Completion Date” shall be 7 (seven)
years from the date of Completion of the Construction Monitoring Phase and the Operations Phase shall be deemed to be complete on the date of issuance of the Project Completion Certificate.
SCHEDULE D: PAYMENT MILESTONES

The tables below sets out the Payment Milestones of the Contract Fee.

### Payment Milestones – Design Phase

<table>
<thead>
<tr>
<th>Payment Milestones</th>
<th>% of total Contract Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submission of Conceptual Plan</td>
<td>1%</td>
</tr>
<tr>
<td>Acceptance of Conceptual Plan</td>
<td>1%</td>
</tr>
<tr>
<td>Submission of SOPs, manuals and protocols</td>
<td>2%</td>
</tr>
<tr>
<td>Acceptance of SOPs, manuals and protocols</td>
<td>2%</td>
</tr>
<tr>
<td>Submission of DPR</td>
<td>2%</td>
</tr>
<tr>
<td>Acceptance of DPR and Completion of Design Phase</td>
<td>2%</td>
</tr>
</tbody>
</table>

Total portion of Contract Fee payable during Design Phase—10% of Contract Fee

### Payment Milestones – Construction Monitoring Phase

<table>
<thead>
<tr>
<th>Payment Milestones</th>
<th>% of total Contract Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of construction of the NBC</td>
<td>5%</td>
</tr>
<tr>
<td>Successful Trial Run and commissioning of the NBC</td>
<td>5%</td>
</tr>
</tbody>
</table>

Total portion of Contract Fee payable during Construction Monitoring Phase—10% of Contract Fee

### Payment Milestones – Operations Phase

<table>
<thead>
<tr>
<th>Payment Milestones</th>
<th>% of total Contract Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of first year of the Operations Phase</td>
<td>20%</td>
</tr>
<tr>
<td>Completion of second year of the Operations Phase</td>
<td>5%</td>
</tr>
<tr>
<td>Completion of third year of the Operations Phase</td>
<td>5%</td>
</tr>
<tr>
<td>Completion of fourth year of the Operations Phase</td>
<td>5%</td>
</tr>
<tr>
<td>Completion of fifth year of the Operations Phase</td>
<td>5%</td>
</tr>
<tr>
<td>Handover of the 30 (thirty) distinct least inbreeding families of SPF-SPT <em>L. vannamei</em> during the at the beginning of the sixth year of the Operations Phase</td>
<td>15%</td>
</tr>
<tr>
<td>Event</td>
<td>Percentage</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------------</td>
</tr>
<tr>
<td>Completion of the sixth year of the Operations Phase</td>
<td>12.5%</td>
</tr>
<tr>
<td>Completion of seventh year of the Operations Phase i.e. expiry of Term**</td>
<td>12.5%</td>
</tr>
<tr>
<td>Total portion of Contract Fee payable during Operations Phase—80% of Contract Fee</td>
<td></td>
</tr>
</tbody>
</table>

**For the avoidance of doubt, the payment for the Payment Milestone linked with the completion of the seventh year of the Operations Phase shall be made to the Strategic Partner in the month preceding the expiry of the Term in accordance with the mechanism provided in Article 19.
SCHEDULE E: FORMAT OF BANK GUARANTEE

PART A- PERFORMANCE SECURITY

[on appropriate stamp paper]

Dated [●]

Authority

……………………………
……………………………
……………………………
……………………………

Bank Guarantee No. [●]

THIS DEED OF GUARANTEE is executed on this [insert date] day of [insert month and year] at [insert place] by [insert name of bank] with its head/registered office at [insert address], (hereinafter referred to as the Guarantor, which expression shall unless it is repugnant to the subject or context thereof include successors and assigns)

IN FAVOUR OF:

RAJIV GANDHI CENTRE FOR AQUACULTURE represented by [●] (hereinafter referred to as the Authority which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and permitted assigns);

WHERAS

1. We understand that [●], (the “Strategic Partner”) has entered into an Agreement dated [●] (the “Agreement”), with the Authority whereby the Strategic Partner has undertaken to provide the Services, subject to and in accordance with provisions of the Agreement.

2. The Agreement requires the Strategic Partner to furnish a Performance Security to the Authority in a sum of Rs. [●] (Rupees [●]) (the “Guarantee Amount”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Design Phase and until the appointment of the Construction Agency (as defined in the Agreement) as per the provisions of the Agreement.

3. We [●], through our Branch at [●] (the “Bank”) have agreed to furnish this Bank Guarantee by way of Performance Security
NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Strategic Partner’s obligations during the Term, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Strategic Partner, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an officer duly authorized by the Project Director of the Authority, that the Strategic Partner has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Strategic Partner is in default in due and faithful performance of its obligations during the Term under the Agreement and its decision that the Strategic Partner is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Strategic Partner, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Strategic Partner for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Strategic Partner and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Strategic Partner before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Strategic Partner contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Strategic Partner, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be
released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Strategic Partner or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Strategic Partner under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force for the period specified in Paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, not later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Security shall cease to be in force and effect till the subsistence of the Agreement and provided the Strategic Partner is not in breach of this Agreement. On successful completion of Term and upon request made by the Strategic Partner for release of the Performance Security along with the particulars required hereunder, duly certified by a statutory auditor of the Strategic Partner, the Authority shall release the Performance Security forthwith.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
11. This Guarantee shall come into force with immediate effect and shall remain in force and effect for 60 days from the appointment of the Construction Agency or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this …. Day of …… 2019

SIGNED, SEALED AND DELIVERED

For and on behalf of the BANK

By:

Signature:

Name:

Designation:

Address:
PART B- PERFORMANCE GUARANTEE

[On Appropriate Stamp Paper]

Bank Guarantee No. [●]

THIS DEED OF GUARANTEE is executed on this [insert date] day of [insert month and year] at [insert place] by [insert name of bank] with its head/registered office at [insert address], (hereinafter referred to as the Guarantor, which expression shall unless it is repugnant to the subject or context thereof include successors and assigns)

IN FAVOUR OF:

RAJIV GANDHI CENTRE FOR AQUACULTURE, represented by [●] (hereinafter referred to as the Authority which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and permitted assigns);

WHEREAS:

(A) We understand that [●], (the “Strategic Partner”) has entered into an Agreement dated [●] (the “Agreement”), with the Authority whereby the Strategic Partner has undertaken to provide the Services, subject to and in accordance with provisions of the Agreement.

2. The Agreement requires the Strategic Partner to furnish a Performance Guarantee to the Authority in a sum of Rs. [●] (Rupees [●]) (the “Guarantee Amount”) as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Operations Phase (as defined in the Agreement) as per the provisions of the Agreement.

3. We [●], through our Branch at [●] (the “Bank”) have agreed to furnish this Bank Guarantee by way of this Performance Guarantee

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

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Strategic Partner’s obligations during the Performance Guarantee Period, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Strategic Partner, such sum or sums up to an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an officer duly authorized by the Project Director of the Authority that the Strategic Partner has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Strategic Partner is in default in due and faithful performance of its obligations during the Performance Guarantee Period under the Agreement and its decision that the Strategic Partner is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Strategic Partner, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Strategic Partner for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Strategic Partner and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Strategic Partner before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/or performance of all or any of the obligations of the Strategic Partner contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Strategic Partner, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Strategic Partner or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Strategic Partner under the Agreement.
7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, during the Performance Guarantee Period, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Guarantee shall cease to be in force and effect upon the expiry of the Performance Guarantee Period.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.

10. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

11. This Guarantee shall come into force with immediate effect and shall remain in force during the Performance Guarantee Period pursuant to the provisions of the Agreement.

Signed and sealed this ............ day of ........., 2019. at ........

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

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

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

The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.
SCHEDULE F: FORMAT OF CERTIFICATES

PART A

Design Phase Completion Certificate

1. I/We, .................. (Name of the Authority), under and in accordance with the Agreement dated ............ (the Agreement), for the Project, hereby certify that the DPR and the related designs and drawings for the NBC have been submitted and accepted in accordance with the provisions of the Agreement, and we are satisfied that the Design Phase can be said to have been completed.

2. It is certified that, in terms of the aforesaid Agreement, all the Services forming part of Design Phase have been completed, and the Design Phase can be declared complete as on this .......... day of ........, 20.......

SIGNED, SEALED AND DELIVERED
For and on behalf of
Third Party Engineer by:
(Signature)
(Name)
(Designation)
(Address)
PART B

Construction Monitoring Phase Completion Certificate

1. We,...................... (the Authority), under and in accordance with the Agreement dated .......... (the Agreement), for the Project, hereby certify that the NBC has been successfully commissioned in accordance with the provisions of the Agreement, and we are satisfied that the Construction Monitoring Phase can be said to have been completed.

2. It is certified that, in terms of the aforesaid Agreement, all the Services forming part of Construction Monitoring Phase have been completed, and the Construction Monitoring Phase can be declared complete as on this .......... day of ........, 20.......

SIGNED, SEALED AND DELIVERED
For and on behalf of
Authority by:
(Signature)
(Name)
(Designation)
(Address)

PART C

Milestone Completion Certificate

1. We,...................... (the Authority), under and in accordance with the Agreement dated .......... (the Agreement), for the Project, hereby certify that the Milestone Number [**] of the [insert relevant Phase] has been completed successfully in accordance with the provisions of the Agreement.

SIGNED, SEALED AND DELIVERED
For and on behalf of
Authority by:
(Signature)
(Name)
(Designation)
(Address)
PART D

**Vesting Certificate**

2. **Rajiv Gandhi Centre for Aquaculture** (the Authority) refers to the Agreement dated [●] entered into between the Authority and [●] (the Strategic Partner) for the Project.

2 The Authority hereby acknowledges compliance and fulfilment by the Strategic Partner of the Transfer Requirements set forth in Clause 26.2 of the Agreement on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Strategic Partner in or about the Project shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.

3 Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Strategic Partner to rectify and remedy any defect or deficiency in any of the Transfer Requirements and/or relieving the Strategic Partner in any manner of the same.

Signed on this [●] day of [●], 20[●] at [●].

**AGREED, ACCEPTED AND SIGNED**

For and on behalf of

STRAategic PARTNER by:

(Signature)

(Name)

(Designation)

(Address)

**SIGNED, SEALED AND**

For and on behalf of

AUTHORITY by:

(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.  

2.  

In the presence of:
SCHEDULE G: TERMS OF REFERENCE FOR THIRD PARTY ENGINEER

1 Scope

1.1 These Terms of Reference for the Third Party Engineer (the **TOR**) are being specified pursuant to the Agreement dated……….. (the **Agreement**), which has been entered into between the Authority and ……………….. (the **Strategic Partner**) for the Project and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

2 Definitions and interpretation

2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, *mutatis mutandis*, to this TOR.

3 Role and functions of the Third Party Engineer

3.1 The role and functions of the Third Party Engineer shall include the following:

(i) review the DPR for the purpose of construction of the NBC including the review of detailed design, drawings, methodology, quality assurance procedures as set forth in Paragraph 4 of this TOR;
(ii) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
(iii) assisting the Parties in resolution of disputes as set forth in Paragraph 5; and
(iv) undertaking all other duties and functions in accordance with the Agreement.

3.2 The Third Party Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Design Phase
4.1 During the Design Phase, the Third Party Engineer, along with the Authority, shall undertake review of the DPR, which shall include the final design and drawings which shall be submitted by the Strategic Partner. The Third Party Engineer, along with the Authority may either choose to accept the DPR submitted by the Strategic Partner or the Third Party Engineer along with the Authority may provide comments and amendments to the DPR. The Third Party Engineer and the Authority shall complete such review and either accept the DPR or choose to send the amendments, comments and revisions of the DPR to the Strategic Partner, within 30 (thirty) days of submission of the DPR by the Strategic Partner.

4.2 Upon receipt of such comments and amendments from the Authority and the Third Party Engineer, the Strategic Partner shall amend and revise the DPR suitably and shall ensure that the revised DPR is submitted to the Authority and Third Party Engineer within 15 (fifteen) days of receipt of comments and the suggested amendment.

4.3 Upon submission of the revised DPR by the Strategic Partner, the Authority and the Third Party Engineer may either choose to approve the revised DPR or provide further amendments and comments to the revised DPR which the Strategic Partner shall promptly take cognizance of and incorporate in the DPR and re-submit the DPR to the Authority and the Third Party Engineer for approval. This process shall continue until the Authority and the Third Party Engineer provide their final approval to the DPR.

5 Assistance in Dispute resolution

5.1 When called upon by the Parties in the event of any Dispute, the Third Party Engineer shall mediate and assist the Parties in arriving at an amicable settlement.

5.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

6 Other duties and functions

The Third Party Engineer shall perform all other duties and functions specified in the Agreement.

7 Miscellaneous

7.1 A copy of all communications, comments, instructions with respect to the DPR sent by the Third Party Engineer to the Strategic Partner pursuant to this TOR, shall be furnished by the Third Party Engineer to the Authority forthwith.

7.2 The Third Party Engineer shall obtain, and the Strategic Partner shall furnish in two
copies thereof, all communications and reports required to be submitted, under this Agreement, by the Strategic Partner to the Third Party Engineer, whereupon the Third Party Engineer shall send one of the copies to the Authority along with its comments thereon.

7.3 Upon completion of its assignment hereunder, the Third Party Engineer shall duly classify and list the DPR and all the relevant drawings, documents and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof.
SCHEDULE H: TERMS OF REFERENCE FOR INDEPENDENT EXPERT

1. Scope

1.1 These Terms of Reference for the Independent Committee (the TOR) are being specified pursuant to the Agreement dated ………… (the Agreement), which has been entered into between the Authority and ……………….. (the Strategic Partner) for the Project and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

2 Definitions and interpretation

2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

2.3 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, mutatis mutandis, to this TOR.

3 Role and functions of the Independent Committee

3.1 The role and functions of the Independent Committee shall include the following:

(i) Certify and ascertain as to whether the Designated Number of Families supplied as part of the Evaluation Stream adhere to and conform to the Performance Parameters which are set out in Schedule I;

(ii) Certify and ascertain during the period prior to the Operations Phase and during the first two years of the Operations Phase, that the NBC or the SP-NBC, as the case may be, has supplied 120,000 (one hundred and twenty thousand) SPF-SPT PL of *L. vannamei* shrimps to the BMC as part of the Germplasm Stream for the year in accordance with the terms of the Agreement;

(iii) Certify and ascertain during the period between the third year and the seventh year of the Operations Phase, that the NBC has supplied 300,000 (three hundred thousand) SPF-SPT PL of *L. vannamei* shrimps to the BMC and the other Broodstock Multiplication Centres as part of the Germplasm Stream for the year in accordance with the terms of the Agreement;

(iv) Verify and confirm that the BMC has been able to produce 60,000 (sixty) broodstock per year during the period prior to the Operations Phase and during the first two years of the Operations Phase and that the BMC and the other Broodstock Multiplication Centres operational in India have been able to produce...
150,000 (one hundred and fifty thousand) broodstock per year during the period between the third and seventh year of the Operations Phase;

(v) Ascertain and verify to and along with the Authority that two years prior to the completion of the Term, the Strategic Partner has been able to supply and develop at least 30 (thirty) distinct least inbreeding families of *L. vannamei* shrimps and has transferred the Pedigree Data for such families with the origin of such families being from diverse geographical areas so as to exploit maximum genetic variation;

(vi) Confirm that the Strategic Partner has adequately and completely transferred the microsatellite markers in accordance with the timelines and requirements set out in Schedule A of the Agreement;

(vii) Ensure and confirm that the Strategic Partner has developed and transferred the SNP markers to identify QTLs of desirable traits in accordance with the timelines and requirements set out in Schedule A;

(viii) Participate and provide inputs in the Half Yearly Meetings with the Strategic Partner and the Authority to decide upon any Deficiency in the Services being provided by the Strategic Partner; and

(ix) Perform such other activities and tasks which are incidental or ancillary to the activities and tasks stated in this Paragraph 3, upon the instructions of the Authority.

3.2 The Independent Committee shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Specific Obligations during Operations Phase

4.1 The Independent Committee shall ascertain and verify that the Designated Number of Families supplied as part of the Evaluation Stream conform to the Performance Parameters stipulated in Schedule I and that whether such non-performance ought to lead to the levy of Damages on the Strategic Partner.

4.2 The Independent Committee shall independently ascertain that field trial and growout exercises conducted by the Strategic Partner are taking place in accordance with Good Industry Practice;

4.3 The Independent Committee shall ensure that the Strategic Partner shall transfer and supply the microsatellite markers in accordance with the timelines and requirements set out in Schedule A of the Agreement as well as ensure and confirm that the Strategic Partner has developed and transferred the SNP markers to identify QTLs of desirable traits in accordance with the timelines and requirements set out in Schedule A;

4.4 The Independent Committee shall verify and ascertain that during the first two years of
the Operations Phase, the NBC is supplying at least 120,000 SPF-SPT PL of *L. vannamei* such that 60,000 (sixty thousand) broodstock may be produced by the BMC;

4.5 The Independent Committee shall verify and ascertain that during the third to seventh years of the Operations Phase, the NBC and SP-NBC is supplying at least 300,000 (three hundred thousand) SPF-SPT PL of *L. vannamei* such that 150,000 (one hundred and fifty thousand) broodstock may be produced by the BMC and other Broodstock Multiplication Centres operational in India;

4.6 The Independent Committee may be required to ascertain and verify, at the request of the Authority, to oversee and resolve any disputes regarding outputs derived from the selective breeding activities and the field trials that shall take place during the Operations Phase.

4.7 The Independent Committee shall also be required to verify 2 (two) years prior to the expiry of the Term, that the Strategic Partner have supplied and developed at least 30 (thirty) distinct least inbreeding shrimp families along with the transfer of all the Pedigree Data for such 30 (thirty) distinct shrimp families.

4.8 The Independent Committee may be required to perform such other activities upon the instruction of the Authority which are incidental or related to the activities stated in this Paragraph 4.

5 Assistance in Dispute resolution

5.1 When called upon by the Parties in the event of any dispute with respect to any of the obligations, including but not limited to the fulfilment of the supply obligations set out in Article 15 of the Agreement by the Strategic Partner, the Independent Committee shall mediate and assist the Parties in arriving at an amicable settlement.

5.2 In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

6 Other duties and functions

The Independent Committee shall perform all other duties and functions specified in the Agreement.

7 Miscellaneous

7.1 A copy of all communications, comments, instructions sent by the Independent Committee to the Strategic Partner pursuant to this TOR, shall be furnished by the
Independent Committee to the Authority forthwith.

7.2 The Independent Committee shall obtain, and the Strategic Partner shall furnish in two copies thereof, all communications required to be submitted, under this Agreement, by the Strategic Partner to the Independent Committee, whereupon the Independent Committee shall send one of the copies to the Authority along with its comments thereon.
The following shall be the Performance Parameters, all of which are required to be exhibited and fulfilled by the shrimp families supplied by the Strategic Partner as part of the Evaluation Stream failing which the same shall be treated as non-performance default.

**Note: The blank spaces marked as [*] in this table shall be filled and completed as per the declaration and submission made by the Strategic Partner in its Concept Presentation during the submission of its Technical Bid. The table and this Schedule I shall be accordingly completed and updated at the time of execution of this Agreement.**

<table>
<thead>
<tr>
<th>Performance Parameter</th>
<th>Requirement**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breeding Performance- the female of the family must produce [*] nauplii</td>
<td>A minimum of [*] % of the families in the Evaluation Stream shall adhere to this parameter</td>
</tr>
<tr>
<td>Specific Pathogen Free- Disease Free (must be free of OIE listed diseases) and non-listed important diseases/pathogens as agreed upon mutually between the Strategic Partner and the Authority</td>
<td>100 % of the families in the Evaluation Stream</td>
</tr>
</tbody>
</table>
| Specific Disease Tolerant (SPT)                                                      | One or more OIE-listed disease/s or pathogen/s, as specified herein below: [*]
| Bidder shall also state and provide the degree of tolerance, preferably in % terms, to the abovementioned diseases. | |
| A survival rate of 70%                                                               | A minimum of [*] % of the families in the Evaluation Stream shall adhere to this parameter |
| Growth- exhibits growth of [*] in 4 month                                             | A minimum of [*] % of the families in the Evaluation Stream shall adhere to this parameter |