



MAHARASHTRA TOURISM DEVELOPMENT CORPORATION

**Development and Operation/Maintenance of Ambazari Garden in
Nagpur, Maharashtra on Design, Build, Finance, Operate and
Transfer (DBFOT) Basis**

Concession Agreement

November 2019

Maharashtra Tourism Development Corporation Ltd.
Apeejay House, 4th Floor, 3 DinshawVachha Road,
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*Concession Agreement for Development and Operation/Maintenance of Ambazari Garden in Nagpur,
Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis*
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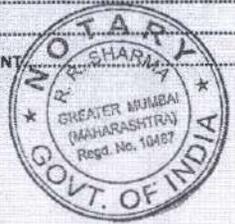


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महाराष्ट्र MAHARASHTRA

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THE CONCESSION AGREEMENT

THIS AGREEMENT is entered into on this the 22nd day of November Month, 2019.

BETWEEN

1. The Maharashtra Tourism Development Corporation Ltd. (MTDC) established under the Companies Act, 1956, engaged in development and maintenance of the Ambazari Garden locations of Maharashtra incorporated, and represented by its Executive Engineer and having its principal office at Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K.C College, Church gate, Mumbai-400020, Maharashtra, India (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of One Part

AND

2. M/s. Garuda Amusements Park (Nagpur) Private Limited, a company incorporated under the provisions of the Companies Act, 2013 with Corporate Identity Number (CIN) U92419MH2019PTC325474 and having its registered office at 201, A wing, Fortune 2000, C-3, G Block, Bandra Kurla Complex, Bandra (East), Mumbai- 400 051, (hereinafter referred to as the "Concessionaire" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Other Part.

WHEREAS:

(A) The Government of Maharashtra had entrusted to the Authority the development and operation/maintenance of Ambazari Garden in Nagpur (Approx. 42.42 acres) in the state of Maharashtra (the "Project") on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis, which shall be financed by the Concessionaire who shall recover its investment

पध्याल सुदांक कार्यालय, मुंबई
 प.सु.नि.क्र. 600000/2019
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 सदान अधिकारी



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 39) 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.

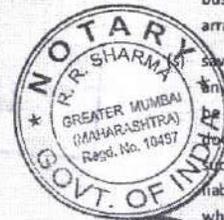
1.2 Interpretation

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) references to "construction" or "building" include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "construct" or "build" shall be construed accordingly;



- (g) references to "development" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation and other activities incidental thereto, and "develop" shall be construed accordingly;
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (i) any reference to day shall mean a reference to a calendar day;
- (j) Reference to a "business day" shall be construed as reference to a day (other than a Sunday) on which banks in the State are generally open for business;
- (k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (l) 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;
- (m) 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;
- (n) the words importing singular shall include plural and vice versa;
- (o) References to any gender shall include the other and the neutral gender;
- (p) "lakh" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);
- (q) "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;
- (r) 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;



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

any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party hereto.

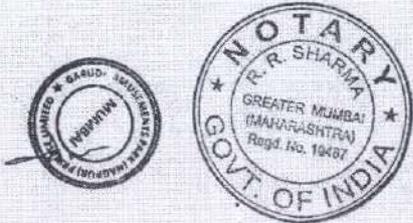
Engineer shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party or the Engineer, as the case may be, in this behalf and not otherwise;

- (u) the Schedules and Recitals to this Agreement and the Request for Proposals ("RFP") forms 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;
- (v) references to Redtals, Articles, Clauses, Sub-clauses, Provisos or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses, Provisos and Schedules of or to this Agreement; reference to an Annex shall, subject to anything to the contrary specified therein, be construed as a reference to an Annex to the Schedule in which such reference occurs; and reference to a Paragraph shall, subject to anything to the contrary specified therein, be construed as a reference to a Paragraph of the Schedule or Annex, as the case may be, in which such reference appears;
- (w) 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 (the "Damages"); and
- (x) Time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

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

1.2.3 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, clauses and schedules

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in 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 agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

(a) this Agreement (Request for Proposal, Common Set of Deviations including Corrigendum & Addendum issued by the Authority); and

(b) all other agreements and documents forming part hereof or referred to herein,

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

1.4.2 Subject to provisions of 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 two Schedules, the Schedule relevant to the issue shall prevail;

(d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

(e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

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



Part II - The Concession



ARTICLE 2. SCOPE OF THE PROJECT

2.1 Scope of the Project

The scope of the Project (the "Scope of the Project") shall mean and include, during the Concession Period:

- (a) construction of the Project on the Site set forth in Schedule-A along with support facilities for development of the Project in accordance with scope of work as mentioned in Schedule-B and together with provision of Project Facilities as specified in Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D;
- (b) operation and maintenance of the Project in accordance with the provisions of this Agreement; and
- (c) performance and fulfilment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement.



ARTICLE 3. GRANT OF CONCESSION

3.1 The Concession

3.1.1 Subject to and in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits, the Authority hereby grants to the Concessionaire the concession set forth herein including the exclusive right, lease and authority to construct, operate and maintain the Project (the "Concession") during the total concession period of 27 years 9 months inclusive of construction period of 2 (two) years and the Concessionaire hereby accepts the Concession and agrees to implement "the Project" subject to and in accordance with the terms and conditions set forth herein. The land has been allotted to MTDC by Government of Maharashtra (GoM) vide Government Resolution (GR) No.जमीन-2015/प्र.क्र.299/ज-8 dated 21.08.2017 on lease for a period of 30 (thirty) years subject to terms and conditions as mentioned in the said Government Resolution (GR).

If the extension* of lease is provided by GoM to the Authority the Concession period shall be extended subsequently. The terms shall be mutually decided between the Authority and the Concessionaire for such extended period.

* The Government of Maharashtra has extended the lease of the said land for 99 years vide GR No. जमीन-2015/प्र.क्र.299/ज-8 dated 19.08.2019

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

- (a) access, lease and handover to the Site for the purpose of and to the extent conferred by the provisions of this Agreement;
- (b) finance and construct the Project;
- (c) manage, operate and maintain the Project and regulate the use thereof by third parties;
- (d) demand, collect and appropriate Fee from Users liable for payment of Fee for using the Project or any part thereof;
- (e) perform and fulfil all of the Concessionaire's obligations under and in accordance with this Agreement;
- (f) save as otherwise expressly provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement; and
- (g) neither assign, transfer or sublet or create any lien or encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Project nor transfer, lease or part possession thereof, save and except as expressly permitted by this Agreement or the Substitution Agreement.

ARTICLE 4. CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as expressly provided in Articles 4, 5, 6, 7, 8, 9, 10, 20, 25,35 and 39, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "Conditions Precedent").

4.1.2 The Concessionaire may, upon providing the Performance Security to the Authority in accordance with Article 9, on or before the date of signing of this Agreement, by notice require the Authority to satisfy all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 30 (thirty) days thereafter. The Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when the Authority shall have handed over the Site to the Concessionaire in accordance with the provisions of Article 10.

4.1.3 The Conditions Precedent required to be satisfied by the Concessionaire within a period of 150(one hundred and fifty) days from the date of this Agreement shall be deemed to have been fulfilled when the Concessionaire shall have:

- (a) executed and procured execution of the Substitution Agreement;
 - (b) executed the Lease Deed for the Project Site as per Schedule P and paid the lease rental as per Clause 21.2 for the first year;
 - (c) procured all the Applicable Permits unconditionally or if subject to conditions, then all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect;
 - (d) executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Concessionaire;
 - (e) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders; and
- delivered to the Authority from the Consortium Members, their respective confirmation of the correctness of the representations and warranties set forth in Sub-clauses (k), (l) and (m) of Clause 7.1 of this Agreement.

4. Each Party shall make all reasonable endeavours 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



responsible. Subject only to payment of Damages, it is agreed between the Parties that the obligation to fulfil each parties' Conditions Precedent is an independent obligation of the respective Party.

4.1.5 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2 Damages for delay by the Authority

In the event that (i) the Authority does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the Concessionaire or due to Force Majeure, the Authority shall pay to the Concessionaire Damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to the maximum limit equal to the amount of the Bid Security and upon reaching such limit, the Concessionaire may, in its sole discretion terminate the Agreement. The Damages payable hereunder shall be the sole remedy available to the Concessionaire for delay by the Authority.

Provided further that in the event of delay by the Concessionaire in procuring fulfilment of the Conditions Precedent specified in Clause 4.1.3, no Damages shall be due or payable by the Authority under this Clause 4.2 until the date on which the Concessionaire shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.3.

4.3 Damages for delay by the Concessionaire

In the event that (i) the Concessionaire does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of failure to fulfil the obligations under Clause 4.1.2 or other breach of this Agreement by the Authority, or due to Force Majeure, the Concessionaire shall pay to the Authority Damages in an amount calculated at the rate of 0.3% (zero point three per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent. Provided, however, that the Damages payable hereunder shall be subject to the maximum limit equal to the amount of the Bid Security and upon reaching such limit, the Authority may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement. Provided further that in the event of delay by the Authority in procuring fulfilment of the Conditions Precedent specified in Clause 4.1.2, no Damages shall be due or payable by the Concessionaire under this Clause 4.3 until the date on which the Authority shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.2.

4.4 Commencement of Concession Period

The date on which Financial Close is achieved and all the Conditions Precedent specified in Clause 4.1 are satisfied shall be the Appointed Date which shall be the date of commencement of the Concession Period. For the avoidance of doubt, the Parties agree that the Concessionaire may, upon occurrence of the Appointed Date hereunder, by notice convey the particulars thereof to the Authority, and shall thereupon be entitled to commence construction on the Project.

4.5 Deemed Termination upon delay

Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 1st (first) anniversary of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the non-occurrence of the Appointed Date is for reasons attributable to the Concessionaire, the Performance Security of the Concessionaire shall be encashed and appropriated by the Authority as Damages thereof.



ARTICLE 5. OBLIGATIONS OF THE CONCESSIONAIRE

5.1 Obligations of the Concessionaire

5.1.1 Subject to and on the terms and conditions of this Agreement, the Concessionaire shall, at its own cost and expense, procure finance for and undertake the design, engineering, procurement, construction, operation and maintenance of the Project and observe, fulfil, comply with and perform all its obligations set out in this Agreement or arising hereunder.

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

5.1.3 Save and except as otherwise provided in this Agreement or Applicable Laws, as the case may be, the Concessionaire shall, in discharge of all its obligations under this Agreement, conform with and adhere to Good Industry Practice at all times.

5.1.4 The Concessionaire shall, at its own cost and expense, 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 Applicable Permits, other than those set forth in Clause 4.1.2, and obtain and keep in force and effect such Applicable Permits in conformity with Applicable Laws;
- (b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes, know-how and systems used or incorporated into the Project;
- (c) perform and fulfil its obligations under the Financing Agreements;
- (d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
- (e) make reasonable efforts to obtain environmental clearances required for the purposes of the Agreement. The Authority will provide necessary assistance required for obtaining such clearances;
- (f) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement.



- (g) always act in a manner consistent with the provisions of this Agreement and not cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violate any of the provisions of this Agreement;
- (h) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement; and
- (i) transfer the Project to the Authority upon Termination of this Agreement, in accordance with the provisions of this Agreement.

5.2 Obligations relating to Project Agreements

5.2.1 It is expressly agreed that the Concessionaire shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Concessionaire from its obligations or liability hereunder.

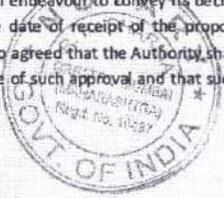
5.2.2 The Concessionaire shall submit to the Authority the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 30 (thirty) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of the Authority to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/ or observation of the Authority and/ or its failure to review and/ or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.



5.2.3 The Concessionaire shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Concessionaire shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the Concessionaire and shall respond to the request for consent no later than 30 days from the receipt of such request from the Concessionaire.

5.2.4 The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Authority and / or Lenders Representative to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination or Suspension (the "Covenant"). Further, it is clarified that in case both the Authority and Lenders' Representative decide to exercise their right to step-in, the Authority shall have the sole right to step into the Project Agreements. For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Concessionaire expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(ies) of each of the Project Agreements, where under such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

5.2.5 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that selection or replacement of the EPC Contractor and an O&M Contractor and execution of the EPC Contract and O&M Contract shall be subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously and no later than 30 days from the date of receipt of the proposal along with the draft agreement by the Authority. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any



manner absolve the Concessionaire or its Contractors from any liability or obligation under this Agreement.

5.3 Obligations relating to Change in Ownership

5.3.1 The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior written approval of the Authority.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that:

- (a) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of 25% (twenty five per cent) or more of the total Equity of the Concessionaire; or
- (b) acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or persons acting in concert with him, shall constitute a Change in Ownership requiring prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Concessionaire without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement.

For the purposes of this Clause 5.3.2:

- (i) the expression "acquirer", "control" and "person acting in concert" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Concessionaire;
- (ii) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Concessionaire; and
- (iii) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies, whether



situate in India or abroad) the Equity of the Concessionaire, not less than half of the directors on the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of 25% (twenty five per cent) or more of the Equity of the Concessionaire shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

5.4 Obligations relating to employment of foreign nationals

The Concessionaire acknowledges, agrees and undertakes that employment of foreign personnel by the Concessionaire 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, if any required, and the obligation to apply for and obtain the same shall and will always be of the Concessionaire and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Concessionaire or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Concessionaire from the performance and discharge of its obligations and liabilities under this Agreement.

5.5 Obligations relating to employment of trained personnel

The Concessionaire 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 function.

5.6 Obligations relating to noise control

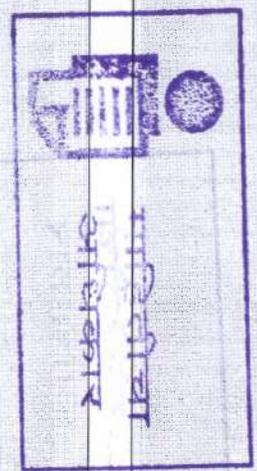
The Concessionaire shall take all such measures as may be necessary in accordance with Applicable Laws and Good Industry Practice to control and mitigate the noise arising from the Project and its impact on Users and the neighbourhood.

5.7 Facilities for differently abled and elderly persons

The Concessionaire shall, in conformity with the guidelines issued from time to time by the Ministry of Social Justice and Empowerment, or a substitute thereof, procure a barrier free environment for the differently abled and for elderly persons using the Project.

5.8 Branding of Project

It is agreed that the Concessionaire may display its own name at a spot where other public notices are displayed for the Users. It is further agreed that the Project shall be known, promoted, displayed and advertised by the name of the Authority (MTDC).



5.9 Sole purpose of the Concessionaire

The Concessionaire having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Concessionaire or any of its subsidiaries shall not, except with the previous written consent of the Authority, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

ARTICLE 6. OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

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

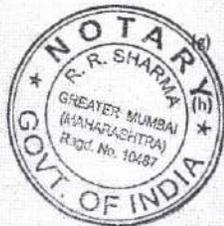
6.1.2 The Authority agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

- (a) upon written request from the Concessionaire, and subject to the Concessionaire complying with Applicable Laws, provide reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Instrumentality for implementation and operation of the Project;
- (b) upon written request from the Concessionaire, provide reasonable assistance to the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;
- (c) procure that no barriers are erected or placed on or about the Project by any Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security or law and order;
- (d) Subject to and in accordance with Applicable Laws, grant to the Concessionaire the authority to regulate use of the Project;
- (e) Assist the Concessionaire in procuring police assistance for regulation of Users, removal of trespassers and security on or at the Project;
- (f) Not do or omit to do any act, deed or thing which may in any manner be violating of any of the provisions of this Agreement;
- (g) support, cooperate with and facilitate the Concessionaire in the implementation and operation of the Project in accordance with the provisions of this Agreement;
- (h) upon written request from the Concessionaire and subject to the provisions of Clause 5.4, provide reasonable assistance to the Concessionaire and any expatriate personnel of the Concessionaire or its Contractors to obtain applicable visas and work permits for discharging their respective obligations under this Agreement and the Project Agreements; and
- (i) upon written request from the Concessionaire provide reasonable assistance to the Concessionaire for obtaining Applicable Permits including environmental clearances.

6.2 Obligations relating to financing

Upon request made by the Concessionaire to this effect, the Authority shall, in conformity with any regulations or guidelines that may be notified by the Government or the Reserve Bank of India, as the case may be, permit and enable the Concessionaire to secure financing on such terms as may be agreed upon between the Concessionaire and the entity providing such financing; provided, however, that the financing hereunder shall always be subject to the prior consent of the Authority, which consent shall not be unreasonably withheld. The Authority shall endeavour to convey its decision on such request of the Concessionaire within 30(thirty) days of receipt of the proposal by the Authority.

The Authority shall issue no objection certificate (NOC) to the Concessionaire. It is hereby clarified that the Concessionaire cannot mortgage the land to the lenders, for the purpose of availing loans / financing. The fixed assets (buildings etc.) can only be mortgaged for maximum term of loan tenure. The Concessionaire can take loan against the development rights and the operations rights which he has been granted for the proposed Project.



ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 Representations and warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

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



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- (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) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.3 and that the Consortium Members, together with their Associates, hold not less than 51% (fifty-one percent) of its issued and paid up Equity as on the date of this Agreement; and that each Consortium Member whose technical and financial capacity was evaluated for the purposes of qualification and award of project in response to the Request for Proposal shall hold at least 26% (twenty six per cent) of Equity during the Construction Period and two years thereafter along with its Associates;

Provided further that any such request made under Clause 7.1(k) and / or Article 42, at the option of the Authority, may be required to be accompanied by a suitable no objection letter from Senior Lenders

- (l) each Consortium Member is duly organized and validly existing under the laws of the jurisdiction of its incorporation or registration, as the case may be, and has requested the Authority to enter into this Agreement with the Concessionaire pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;
- (m) all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it Subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;
- (n) 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 not misleading;
- (o) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;
- (p) all information provided by the Consortium Members in response to the Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects;



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- (q) All undertakings and obligations of the Concessionaire arising from the Request for Proposals or otherwise shall be binding on the Concessionaire as if they form part of this Agreement.

7.2 Representations and warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

- (a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;
- (b) It has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of this Agreement;
- (c) It has the financial standing and capacity to perform its obligations under this Agreement;
- (d) This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- (e) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any material adverse effect on the Authority's ability to perform its obligations under this Agreement;
- (f) It has complied with Applicable Laws in all material respects;
- (g) It has the right, power and authority to manage and operate the Project; and
- (h) It shall procure good and valid right to the Site, and has power and authority to grant a lease in respect thereto to the Concessionaire.

7.3 Disclosure

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



ARTICLE 8. DISCLAIMER

8.1 Disclaimer

8.1.1 The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Request for Proposals, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, physical qualities of ground, subsoil and geology, 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. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Authority in this regard.

8.1.2 The Concessionaire 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 Concessionaire, the Consortium Members and their Associates or any person claiming through or under any of them.

8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement, or render it voidable.

8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire pursuant to this Agreement.

8.1.5 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne by the Concessionaire and the Authority shall not be liable in any manner for such risks or the consequences thereof.



Part III Development and Operations



ARTICLE 9. PERFORMANCE SECURITY

9.1 Performance Security

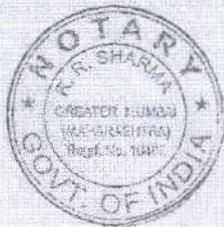
9.1.1 The Concessionaire shall, for the performance of its obligations during the Construction Period hereunder, provide to the Authority on or before the date of signing of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs.4,48,80,000/- (Rupees four crore forty eight lakhs eighty thousand only) in the form set forth in Schedule-F (the "Performance Security"). Until such time the Performance Security is provided by the Concessionaire pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Concessionaire.

9.1.2 Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Concessionaire on or before the date of signing of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages, and thereupon all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

9.2 Appropriation of Performance Security

Upon occurrence of a Concessionaire Default or failure to meet any Condition Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it for and in respect of such Concessionaire Default or for failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to the original level of the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 28.

Provided that upon appropriation on account of Concessionaire's Default the Concessionaire shall replenish the Performance Security and upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Concessionaire shall be entitled to an additional Cure Period of 120 (one hundred and twenty) days for remedying the Concessionaire Default, save and except as provided in Clause 4.5 of this Agreement, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 28.



9.3 Release of Performance Security

The Performance Security shall remain in force and effect throughout the Construction Period and shall be released to the Concessionaire on the date of Commercial Operation Date provided the Concessionaire have submitted on or before Commercial Operation Date Operations Performance Security as mentioned in Clause 9.4; provided, however, that the Performance Security shall not be released and shall be kept alive by the Concessionaire if the Concessionaire is in breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Security along with the particulars which establish satisfaction of the requirements specified in this Clause 9.3, the Authority shall release the Performance Security forthwith.

9.4 Operations Performance Security

For securing the due and punctual performance of obligations of the Concessionaire under this Agreement during the Operations Period, the Concessionaire shall provide to the Authority, on Commercial Operation Date an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs.2,24,40,000/- (Rupees two crore twenty four lakhs forty thousand only) in the form set forth in Schedule-F (the "Operations Performance Security"). Until such time the Operations Performance Security is provided by the Concessionaire pursuant hereto and the same comes into effect, the Performance Security shall remain in force and effect, and upon such provision of the Operations Performance Security pursuant hereto, the Authority shall release the Performance Security to the Concessionaire.

9.5 Appropriation of Operations Performance Security

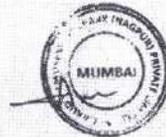
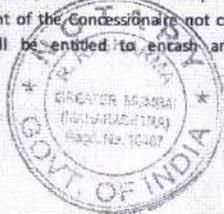
Upon occurrence of a Concessionaire Default during Operations Period, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Operations Performance Security the amounts due to it for and in respect of such Concessionaire Default. Upon such encashment and appropriation from the Operations Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to the original level of the Operations Performance Security, and in case of appropriation of the entire Operations Performance Security provide a fresh Operations Performance Security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 28.

Provided that upon appropriation on account of Concessionaire's Default the Concessionaire shall replenish the Operations Performance Security and upon such replenishment or furnishing of a fresh Operations Performance Security, as the case may be, the Concessionaire shall be entitled to an additional Cure Period of 120 (one hundred and twenty) days for remedying the Concessionaire Default, save and except as provided in Clause 4.5 of this Agreement, and in the event of the Concessionaire not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Operations

Performance Security as Damages, and to terminate this Agreement in accordance with Article 28.

9.6 Release of Operations Performance Security

The Operations Performance Security shall remain in force and effect throughout the Operations Period and shall be released within 3 (three) months from the expiry of Concession Period provided, however, that the Operations Performance Security shall not be released and shall be kept alive by the Concessionaire if the Concessionaire is in breach of this Agreement. Upon request made by the Concessionaire for release of the Operations Performance Security along with the particulars which establish satisfaction of the requirements specified in this Clause 9.6, the Authority shall release the Operations Performance Security forthwith.



ARTICLE 10. HANDING OVER OF THE SITE

10.1 The Site

The site of the Project is described in Schedule-A; which is handed over by the Authority to the Concessionaire as a Concessionaire/ Lessee under and in accordance with this Agreement (the "Site").

10.2 Lease, Access and Site Handover

10.2.1 The Authority hereby grants to the Concessionaire access to the Site for carrying out any surveys, investigations and soil tests that the Concessionaire may deem necessary before Appointed Date, it being expressly agreed and understood that the Authority shall have no liability whatsoever in respect of survey, investigations and tests carried out or work undertaken by the Concessionaire on or about the Site pursuant hereto in the event of Termination or otherwise.

10.2.2 In consideration of the Project, this Agreement and the covenants and warranties on the part of the Concessionaire herein contained, the Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Concessionaire, commencing from the Appointed Date, leasehold rights in respect of all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Site which is described, delineated and shown in Schedule-A hereto (the "Leased Premises"), on an "as is where is" basis, free of any Encumbrances, to develop, operate and maintain the said Leased Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Leased Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever.

10.2.3 It is expressly agreed that the lease granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the lease, upon the Termination of this Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Site by the Concessionaire or its sub-leases, the lease in respect of the Site shall automatically terminate, without any further act of the Parties, upon Termination of this Agreement.

10.2.4 The Concessionaire hereby irrevocably appoints the Authority (acting directly or through a nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the lease granted hereunder at any time after the Concession Period has expired or has been terminated earlier in terms hereof, a

proof of which will be the declaration of any duly authorized officer of the Authority, and the Concessionaire consents to it being registered for this purpose.

10.2.5 It is expressly agreed that trees on the Site are property of the Authority except that the Concessionaire shall be entitled to exercise usufructuary rights thereon during the Concession Period.

10.3 Procurement of the Site

10.3.1 Pursuant to the notice specified in Clause 4.1.2, the Authority Representative and the Concessionaire shall, on a mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site. Signing of the memorandum, in 2 (two) counterparts (each of which shall constitute an original), by the authorized representatives of the Parties shall, subject to the provisions of Clause 10.2.2, be deemed to constitute a valid lease and site handover to the Concessionaire for free and unrestricted use and development of the vacant and unencumbered Site during the Concession Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

10.3.2 On and after signing the memorandum referred to in Clause 10.3.1, and until the Transfer Date, the Concessionaire shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, the Concessionaire shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its cost and expenses.

10.4 Site to be free from Encumbrances

Subject to the provisions of Clause 10.3, the Site shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Concession Period, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the Leased Premises shall not be deemed to be Encumbrances. It is further agreed that the Concessionaire accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.



10.5 Protection of Site from Encumbrances

During the Concession Period, the Concessionaire shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Concessionaire to place or create any Encumbrance or security interest over all or any part of the Site or the Project Assets, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.6 Special/temporary right of way

The Concessionaire shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The Concessionaire shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

10.7 Access to the Authority and the Engineer

The lease and handing over of the Site granted to the Concessionaire hereunder shall always be subject to the right of access of the Authority and the Engineer and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

10.8 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of the lease granted to the Concessionaire under this Agreement and the Concessionaire hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Authority or the concerned Government Instrumentality. The Concessionaire shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the Authority or the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that any reasonable expenses incurred by the Concessionaire hereunder shall be reimbursed by the Authority. It is also agreed that the Authority shall procure that the instructions hereunder are issued by the concerned Government - Instrumentality within a reasonable period so as to enable the Concessionaire to continue its Construction Works with such modifications as may be deemed necessary.

ARTICLE 11. UTILITIES, ASSOCIATED ROADS AND TREES

11.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the Concessionaire shall ensure that the respective entities owning the existing roads, right of way or utilities on, under or above the Site are enabled by it to keep such utilities in continuous satisfactory use.

11.2 Shifting of obstructing utilities

The Concessionaire shall, subject to Applicable Laws and with assistance of the Authority, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only if such utility causes or shall cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such shifting shall be borne by the Concessionaire.

11.3 New utilities and roads

The Concessionaire shall allow, subject to such conditions as the Authority may specify, access to, and use of the Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Concessionaire, it may require the user of the Site to pay compensation or damages as per Applicable Laws.

11.4 Felling of trees

The Authority shall assist the Concessionaire in obtaining the Applicable Permits for felling of trees to be identified by the Authority for this purpose if and only if such trees cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such felling shall be borne by the Concessionaire and in the event of any delay in felling thereof for reasons beyond the control of the Concessionaire; it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. For the avoidance of doubt, the Parties hereto agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate.



ARTICLE 12. CONSTRUCTION OF THE PROJECT

12.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Concessionaire shall:

- (a) submit to the Authority and the Engineer its detailed design, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in Schedule-G;
- (b) appoint its representative duly authorized to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement; and
- (c) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, Applicable Laws and Applicable Permits.

12.2 Drawings

In respect of the Concessionaire's obligations relating to the Drawings of the Project as set forth in Schedule-H, the following shall apply:

- (a) The Concessionaire shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, submit each of all drawings to the Engineer for review.
- (b) By submitting the drawings for review to the Engineer, the Concessionaire shall be deemed to have represented that it has determined and verified that the design and engineering, including the field construction criteria related thereto, are in conformity with the Scope of the Project, Specifications and Standards, Applicable Laws and Good Industry Practice.
- (c) Within 15 (fifteen) days of the receipt of the drawings, the Engineer shall review the same and convey its observations to the Concessionaire with particular reference to their conformity or otherwise with the Scope of the Project and the Specifications and Standards. The Concessionaire shall not be obliged to await the observations of the Engineer on the drawings submitted pursuant hereto beyond the said 15 (fifteen) days period and may begin or continue Construction Works at its own discretion and risk.

If the aforesaid observations of the Engineer indicate that the drawings are not in conformity with the Scope of the Project or the Specifications and Standards, such drawings shall be revised by the Concessionaire and resubmitted to the Engineer for review. The Engineer shall give its observations, if any, within 7 (seven) days of receipt of the revised Drawings.

- (e) No review and/or observation of the Engineer and/or its failure to review and/or convey its observations on any drawings shall relieve the Concessionaire of its

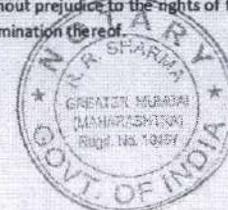
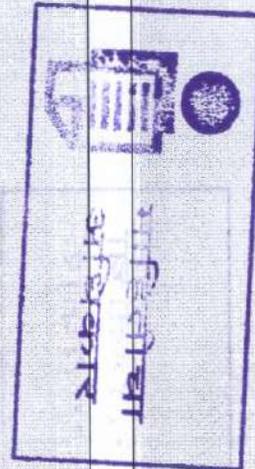
obligations and liabilities under this Agreement in any manner nor shall the Engineer or the Authority be liable for the same in any manner.

- (f) Without prejudice to the foregoing provisions of this Clause 12.2, the Concessionaire shall submit to the Authority for review and comments, its drawings relating to construction of the project, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, within 30 (thirty) days of the receipt of such drawings. The provisions of this Clause 12.2 shall apply mutatis mutandis to the review and comments hereunder.
- (g) Within 90 (ninety) days of COD, the Concessionaire shall furnish to the Authority and the Engineer a complete set of as-built drawings, in 2 (two) hard copies and in its editable digital format or in such other medium or manner as may be acceptable to the Authority, reflecting the Project as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the Project and setback lines, if any, of the buildings and structures forming part of Project Facilities.

12.3 Construction of the Project

12.3.1 On or after the Appointed Date, the Concessionaire shall undertake construction of the Project as specified in Schedule-B and Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D. The [730th (seven hundred and thirty) day] from the Appointed Date shall be the scheduled date for completion of the Project (the "Scheduled Completion Date") and the Concessionaire agrees and undertakes that the Project shall be completed on or before the Scheduled Completion Date.

12.3.2 The Concessionaire shall construct the Project in accordance with the Project Completion Schedule set forth in Schedule-G. In the event that the Concessionaire fails to achieve any Project Milestone within a period of 90 (ninety) days from the date set forth for such Project Milestone in Schedule-G, unless such failure has occurred due to Force Majeure or for reasons attributable to the Authority, it shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Security for delay of each day until such Project Milestone is achieved; provided that if any or all Project Milestones or the Scheduled Completion Date are extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-G shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-G has been amended as above; provided further that in the event COD is achieved on or before the Scheduled Completion Date, the Damages paid under this Clause 12.3.2 shall be refunded by the Authority to the Concessionaire, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 12.3.2 shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.



12.3.3 In the event that the Project is not completed and COD does not occur within 270 (two hundred and seventy) days from the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Authority shall be entitled to terminate this Agreement.

12.4 Maintenance during Construction Period

12.4.1 During the Construction Period, the Concessionaire shall maintain, at its cost, the existing Project Facilities and shall undertake the necessary repair and maintenance works for this purpose; provided that the Concessionaire may, at its cost, interrupt and divert the Users and other persons if such interruption and diversion is necessary for the efficient progress of Construction Works and conforms to Good Industry Practice; provided further that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring safe operation of the Project.

12.4.2 In the event of default by the Concessionaire in discharging the obligations specified in Clause 12.4.1, the Authority may levy and recover Damages equal to 0.2% (zero point two per cent) of the Performance Security for each day of default hereunder.

12.4.3 The Parties expressly agree that pursuant to the provisions of Clause 12.4.1, the Concessionaire shall, about 7 (seven) days prior to the date of this Agreement and with prior notice to the Authority and along with the Authority's Representative, undertake video recording of the condition and status of the Project if required, which recording shall be compiled into a 3 (three)-hour digital video disc or any substitute thereof, and shall provide 3 (three) copies of such recording to the Authority within 2 (two) days of the date of this Agreement. The Authority may, in its discretion, undertake another video recording if required in the presence of the Concessionaire's representative, within 7 (seven) days of the date of this Agreement, and substitute its video recording for the video recording undertaken by the Concessionaire. The Parties further agree that such video recording shall constitute evidence of the status and condition of the Project as on the date of such recording.



ARTICLE 13. MONITORING OF CONSTRUCTION

13.1 Monthly progress reports

During the Construction Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the Engineer a monthly report on physical and financial progress of the Construction Works and shall promptly give such other relevant information as may be required by the Engineer.

13.2 Inspection

During the Construction Period, the Engineer shall inspect the Project at least once a month and make a report of such inspection (the "Inspection Report") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Project Completion Schedule, Scope of the Project and Specifications and Standards. It shall send a copy of the Inspection Report to the Authority and the Concessionaire within 7 (seven) days of such inspection and upon receipt thereof, the Concessionaire shall rectify and remedy the defects or deficiencies, if any, stated in the Inspection Report. Such inspection or submission of Inspection Report by the Engineer shall not relieve or absolve the Concessionaire of its obligations and liabilities hereunder in any manner whatsoever.

13.3 Tests

13.3.1 For determining that the Construction Works conform to the Specifications and Standards, the Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Engineer from time to time, including but not limited to those mentioned in Schedule I, and in accordance with Good Industry Practice for quality assurance. The size of sample for such tests shall, as determined by the Engineer. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions of the Engineer and furnish the results thereof to the Engineer. One half of the costs incurred on such tests, and to the extent certified by the Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire. Provided, however, that the Engineer may, instead of carrying out the tests specified hereunder, at its option decide to witness, or participate in, any of the tests to be undertaken by the Concessionaire for its own quality assurance in accordance with Good Industry Practice, and in such an event, the Concessionaire shall cooperate with, and provide the necessary assistance to, the Engineer for discharging its functions hereunder. For the avoidance of doubt, the costs to be incurred on any test which is undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the Concessionaire.



13.3.2 In the event that results of any tests conducted under this Clause 13.3 establish any defects or deficiencies in the Construction Works, the Concessionaire shall carry out remedial measures and furnish a report to the Engineer in this behalf. The Engineer shall require the Concessionaire to carry out or cause to be carried out tests to determine that such remedial measures have brought the Construction Works into compliance with the Specifications and Standards, and the procedure set forth in this Clause 13.3 shall be repeated until such Construction Works conform to the Specifications and Standards. For the avoidance of doubt, it is agreed that tests pursuant to this Clause 13.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Concessionaire to the Engineer forthwith.

13.4 Delays during construction

Without prejudice to the provisions of Clause 12.3.2, if the Concessionaire does not achieve any of the Project Milestones or the Engineer shall have reasonably determined that the rate of progress of Construction Works is such that the Project is not likely to be completed by the Scheduled Completion Date, it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve CDD.

13.5 Suspension of unsafe Construction Works

13.5.1 Upon recommendation of the Engineer to this effect, the Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, Such work threatens the safety of the Users and pedestrians. Provided, however, that in case of an emergency, the Authority may suo moto issue the notice referred to hereinabove.

13.5.2 The Concessionaire shall, pursuant to the notice under Clause 13.5.1, suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works and the Users. The Concessionaire may by notice require the Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Engineer, the Authority shall either revoke such suspension or instruct the Concessionaire to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 13.5 shall be repeated until the suspension hereunder is revoked.



13.5.3 Subject to the provisions of Clause 28.7, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of suspension (the "Preservation Costs") shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

13.5.4 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Engineer shall determine any extension of the dates set forth in the Project Completion Schedule to which the Concessionaire is reasonably entitled, and shall notify the Authority accordingly whereupon the Authority shall extend such Project Completion Schedule dates in accordance with the recommendations of the Engineer.

13.6 Video recording

During the Construction Period, the Concessionaire shall provide to the Authority if required for every calendar quarter, a video recording, which will be compiled into a 3 (three) hour digital video disc or any substitute thereof, covering the status and progress of Construction Works in that quarter. The first such video recording if required shall be provided to the Authority within 7 (seven) days of the Appointed Date and thereafter, no later than 15 (fifteen) days after the close of each quarter. Such video recording shall be carried out along with the authorized representative of the Authority. Notwithstanding anything to the contrary contained in this document, the Concessionaire shall also develop a Project specific website which shall be accessible to the public and upload the time stamp pictures of the development of Project each week.



ARTICLE 14. COMPLETION CERTIFICATE

14.1 Tests

14.1.1 No later than 30 (thirty) days prior to the likely completion of the Project, the Concessionaire shall notify the Engineer of its intent to subject the Project to Tests. The date and time of each of the Tests shall be determined by the Engineer in consultation with the Concessionaire, and notified to the Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by not less than 10 (ten) days' notice to the Engineer, and in the event the Engineer delays the Tests hereunder, the Authority shall impose exemplary penalties on the Engineer and shall ensure that Tests are completed in time either by the Engineer or any substitute thereof.

14.1.2 All Tests shall be conducted in accordance with Schedule-I at the cost and expense of the Concessionaire. The Engineer shall observe, monitor and review the results of the Tests to determine compliance of the Project with Specifications and Standards and if it is reasonably anticipated or determined by the Engineer during the course of any Test that the performance of the Project or any part thereof does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Concessionaire to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Engineer shall provide to the Concessionaire and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Engineer may require the Concessionaire to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.

14.2 Completion Certificate

Upon completion of Construction Works and the Engineer determining the Tests to be successful, it shall forthwith issue to the Concessionaire and the Authority a certificate substantially in the form set forth in Schedule-I (the "Completion Certificate").

14.3 Completion of Punch List Items

14.3.1 All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) days of written instructions by the Engineer and for any delay thereafter, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover Damages from the Concessionaire to be calculated and paid for each day of delay until all items are completed, at the lower of (a) 0.1% (zero point one per cent) of the

Performance Security, and (b) 0.2% (zero point two per cent) of the cost of completing such items as estimated by the Engineer. Subject to payment of such Damages, the Concessionaire shall be entitled to a further period not exceeding 120 (one hundred and twenty) days for completion of the Punch List items. For the avoidance of doubt, it is agreed that if completion of any item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the completion date thereof shall be determined by the Engineer in accordance with Good Industry Practice.

14.3.2 Upon completion of all Punch List items, the Engineer shall issue the Completion Certificate. Failure of the Concessionaire to complete all the Punch List items within the time set forth in Clause 14.3.1 for any reason, other than conditions constituting Force Majeure or for reasons solely attributable to the Authority, shall entitle the Authority to terminate this Agreement.

14.4 Withholding of Completion Certificate

14.4.1 If the Engineer determines that the Project or any part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in commercial operation, it shall forthwith make a report in this behalf and send copies thereof to the Authority and the Concessionaire. Upon receipt of such a report from the Engineer and after conducting its own inspection, if the Authority is of the opinion that the Project is not fit and safe for commercial service, it shall, within 7 (seven) days of receiving the aforesaid report, notify the Concessionaire of the defects and deficiencies in the Project and direct the Engineer to withhold issuance of the Completion Certificate, as the case may be. Upon receipt of such notice, the Concessionaire shall remedy and rectify such defects or deficiencies and thereupon Tests shall be undertaken in accordance with this Article 14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

14.5 Rescheduling of Tests

If the Engineer certifies to the Authority and the Concessionaire that it is unable to issue the Completion Certificate, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Concessionaire shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.



ARTICLE 15. ENTRY INTO COMMERCIAL SERVICE

15.1 Commercial Operation Date (COD)

The Project shall be deemed to be complete when the Completion Certificate is issued under the provisions of Article 14, and accordingly the commercial operation date of the Project shall be the date on which such Completion Certificate is issued (the "COD"). The Project shall enter into commercial service on COD whereupon the Concessionaire shall be entitled to demand and collect Fees in accordance with the provisions of this Agreement.

15.2 Damages for delay

Subject to the provisions of Clause 12.3, if COD does not occur prior to the 91st (ninety first) day after the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority in 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 COD is achieved.



ARTICLE 16. OPERATION AND MAINTENANCE

16.1 O&M obligations of the Concessionaire

16.1.1 During the Operation Period, the Concessionaire shall operate and maintain the Project in accordance with this Agreement either by itself, or through the O&M Contractor and if required, modify, repair or otherwise make improvements to the Project to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Specifications and Standards and Good Industry Practice. The obligations of the Concessionaire hereunder shall include:

- (a) Procuring and ensuring safe, smooth and uninterrupted use of the Project, including prevention of loss or damage thereto, during normal operating conditions;
- (b) Minimizing disruption in the event of accidents or other incidents affecting the safety and use of the Project by providing a rapid and effective response and maintaining liaison with emergency services of the State;
- (c) Carrying out periodic preventive maintenance of the Project;
- (d) Undertaking routine maintenance including prompt repairs;
- (e) all enclosures and facilities shall be made of materials, which facilitate proper and easy cleaning, disinfection and shall be maintained in good condition as part of regular maintenance program;
- (f) minimizing disruption in the event of accidents or other incidents affecting the safety and use of the Project;
- (g) Undertaking major maintenance such as repairs to structures, and repairs and refurbishment of system and equipment;
- (h) alarms for fire, security, and other safety alerts must be in place and in working order. Routine maintenance records shall be kept, detailing safety checks of the equipment;
- (i) Preventing, with the assistance of concerned law enforcement agencies, any unauthorized use of the Project;
- (j) Preventing, with the assistance of the concerned law enforcement agencies, any encroachments on, or unauthorized entry to the Project;
- (k) Protection of the environment and provision of equipment and materials thereof;
- (l) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the Project and for providing safe, smooth and uninterrupted use of the Project;
- (m) shall make an adequate provision of restrooms for both visitors and staff;



- (n) Maintaining a public relations unit to interface with and attend to suggestions from the Users, government agencies, media and other agencies;
- (o) Maintaining sidewalks and roads; and
- (p) Complying with Safety Requirements in accordance with Article 17.

16.1.2 The Concessionaire shall remove promptly from the Project all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project in a clean, tidy and orderly condition, and in conformity with Applicable Laws, Applicable Permits and Good Industry Practice.

16.1.3 The Concessionaire shall maintain, in conformity with Good Industry Practice, all stretches of approach roads.

16.2 Maintenance Requirements

The Concessionaire shall procure that at all times during the Operation Period; the Project conforms to the maintenance requirements set forth in Schedule K (the "Maintenance Requirements"). The Concessionaire shall repair or rectify any defect or deficiency occurred during Operation & Maintenance of the Project. The obligations of the Concessionaire in respect of maintenance requirements shall include repair and rectification of the defects and deficiencies occurred during operation of the Project.

16.3 Maintenance Program

16.3.1 On or before COD and no later than 45 (forty five) days prior to the beginning of each Accounting Year during the Operation Period, as the case may be, the Concessionaire shall provide to the Authority and the Engineer, its proposed annual program of preventive, urgent and other scheduled maintenance (the "Maintenance Program") to comply with the Maintenance Requirements, Maintenance Manual and Safety Requirements. Such Maintenance Program shall include:

- (a) preventive maintenance schedule;
- (b) arrangements and procedures for carrying out urgent repairs;
- (c) Criteria to be adopted for deciding maintenance needs;
- (d) Intervals and procedures for carrying out inspection of all elements of the Project;
- (e) Intervals at which the Concessionaire shall carry out periodic maintenance;
- (f) Arrangements and procedures for carrying out safety related measures; and
- (g) Intervals for major maintenance works and the scope thereof.



16.3.2 Within 15 (fifteen) days of receipt of the Maintenance Program, the Engineer shall review the same and convey its comments to the Concessionaire with particular reference to its conformity with the Maintenance Requirements, Maintenance Manual and Safety Requirements.

16.3.3 The Concessionaire may modify the Maintenance Program as may be reasonable in the circumstances, and the procedure specified in Clauses 16.3.1 and 16.3.2 shall apply mutatis mutandis to such modifications.

16.4 Safety, breakdowns and accidents

16.4.1 The Concessionaire shall ensure safe conditions for the Users, and in the event of unsafe conditions, closures, diversions, breakdowns and accidents, it shall follow the relevant operating procedures including the setting up of temporary lights and removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

16.5 De-commissioning due to Emergency

16.5.1 If, in the reasonable opinion of the Concessionaire, there exists an Emergency which warrants de-commissioning and closure of the whole or any part of the Project, the Concessionaire shall be entitled to de-commission and close the whole or any part of the Project for so long as such Emergency and the consequences thereof warrant; provided that such de-commissioning and particulars thereof shall be notified by the Concessionaire to the Authority Without any delay, and the Concessionaire shall diligently carry out and abide by any reasonable directions that the Authority may give for dealing with such Emergency.

16.5.2 The Concessionaire shall re-commission the Project or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist or have so abated as to enable the Concessionaire to re-commission the Project and shall notify the Authority of the same without any delay.

16.5.3 Any decommissioning or closure of any part of the Project and the re-commissioning thereof shall, as soon as practicable, be brought to the notice of affected persons by means of public announcements/notice.

16.6 Damages for breach of maintenance obligations

16.6.1 In the event that the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this Agreement and the Authority shall be entitled to recover Damages, to be calculated and paid for each day of delay until the breach is cured, at the higher of (a) 2% (two per cent) of the Operations Performance Security, and (b) 0.1% (zero point one per cent) of the cost of such repair or rectification as estimated by the Engineer.



Recovery of such Damages shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

16.6.2 The Damages set forth in Clause 16.6.1 may be assessed and specified forthwith by the Engineer; provided that the Authority may, in its discretion, demand a smaller sum as Damages, if in its opinion, the breach has been cured promptly and the Concessionaire is otherwise in compliance with its obligations hereunder. The Concessionaire shall pay such Damages forthwith and in the event that it contests such Damages, the Dispute Resolution Procedure shall apply.

16.7 Authority's right to take remedial measures

16.7.1 In the event the Concessionaire does not maintain and/or repair the Project or any part thereof in conformity with the Maintenance Requirements, the Maintenance Manual or the Maintenance Program, as the case may be, and fails to commence remedial works within 15 (fifteen) days of receipt of the O&M Inspection Report or a notice in this behalf from the Authority or the Engineer, as the case may be, the Authority shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover its cost from the Concessionaire. In addition to recovery of the aforesaid cost, a sum equal to 20% (twenty per cent) of such cost shall be paid by the Concessionaire to the Authority as Damages.

16.7.2 The Authority shall have the right, and the Concessionaire hereby expressly grants to the Authority the right, to recover the costs and Damages specified in Clause 16.7.1 as if such costs and Damages were O&M Expenses.

16.8 Overriding powers of the Authority

16.8.1 If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and, in particular, the Maintenance Requirements, and such breach is causing or likely to cause material hardship or danger to the Users, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

16.8.2 In the event that the Concessionaire, upon notice under Clause 17.8.1, fails to rectify or remove any hardship or danger within a reasonable period, the Authority may exercise overriding powers under this Clause 16.8.2 and take over the performance of any or all the obligations of the Concessionaire to the extent deemed necessary by it for rectifying or removing such hardship or danger, 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 hereunder shall be deemed to be O&M Expenses, and the Authority shall be entitled to recover them from the Concessionaire in accordance with the provisions of Clause 16.8 along with the Damages specified therein.

16.8.3 In the event of a national emergency, civil commotion or any other act specified in Clause 28.3, the Authority may take over the performance of any or all the obligations of the Concessionaire to the extent deemed necessary by it, and exercise such control over the Project or give such directions to the Concessionaire as may be deemed necessary; 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 in the circumstances which caused the exercise of such overriding power by the Authority. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisions of Article 28. It is also agreed that the Concessionaire shall comply with such instructions as the Authority may issue in pursuance of the provisions of this Clause 16.8, and shall provide assistance and cooperation to the Authority, on a best effort basis, for performance of its obligations hereunder.

16.9 Restoration of loss or damage to the Project

Save and except as otherwise expressly provided in this Agreement, in the event that the Project or any part thereof suffers any loss or damage during the Concession Period from any cause whatsoever, the Concessionaire shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project conforms to the provisions of this Agreement.

16.10 Modifications to the Project

The Concessionaire shall not carry out any material modifications to the Project, save and except where such modifications are necessary for the Project to operate in conformity with the Specifications and Standards, Maintenance Requirements, Good Industry Practice and Applicable Laws; provided that the Concessionaire shall notify the Engineer of the proposed modifications along with particulars thereof at least 15 (fifteen) days before commencing work on such modifications and shall reasonably consider any suggestions that the Engineer may make within 15 (fifteen) days of receiving the Concessionaire's proposal. For the avoidance of doubt, all modifications made hereunder shall comply with the Safety Requirements, Specifications and Standards, Applicable Laws and the provisions of this Agreement.



16.11 Excuse from performance of obligations

The Concessionaire shall not be considered in breach of its obligations under this Agreement if any part of the Project is not available to Users on account of any of the following for the duration thereof:

- (a) an event of Force Majeure;
- (b) measures taken to ensure the safe use of the Project except when unsafe conditions occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or
- (c) compliance with a request from the Authority or the directions of any Government Instrumentality, the effect of which is to close all or any part of the Project:

Provided, that any such non-availability and particulars thereof shall be notified by the Concessionaire to the Authority and the Engineer without any delay;

Provided further that the Concessionaire shall keep all unaffected parts of the Project open to Users, provided they can be operated safely.

16.12 Installation and operation of CCTV

The Concessionaire shall install and operate a closed circuit television system to monitor such parts of the Project as may be necessary and expedient for a safe, secure and smooth operation thereof.

16.13 Advertising on the Site

The Concessionaire shall have the right to allow and charge for advertisement on the Site as per the prevailing laws. The Concessionaire shall acquire Applicable Permits from respective authorities, including MTDC/any other competent authority. The Concessionaire shall be liable for and bear all taxes, duties, fees and charges levied on such advertisements.



ARTICLE 17. SAFETY REQUIREMENTS

17.1 Safety Requirements

17.1.1 The Concessionaire shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Users. In particular, the Concessionaire shall develop, implement and administer a surveillance and safety program for providing a safe environment on or about the Project, and shall comply with the safety requirements set forth in Schedule-L (the "Safety Requirements").

17.1.2 The Concessionaire shall monitor entry to the Project and shall screen the baggage of the visitors. Separate locker room shall be provided for the visitors who wish to deposit their luggage. All persons, bags, luggage and parcels and any other items is subject to security check at the point of entry to the Project and at such other locations inside the Project area as considered appropriate.

17.1.3 The Concessionaire shall provide multiple exit routes in case of any disaster. The Concessionaire shall demarcate common assembly points near every 700 meters inside the Project area.

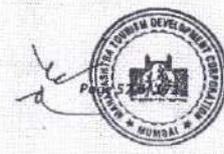
17.1.4 The Concessionaire shall study any flood requirements and how evacuation can be created in safe manner. The Concessionaire shall remove any miscreants, anyone involved in anti-social activities with the help of police and security personnel appointed by the Concessionaire.

17.1.5 The Concessionaire shall provide required fire services, emergency medical aid as per the international standards. The Concessionaire shall provide for public address system to flash emergency warning if needed.

17.1.6 The Concessionaire shall install and operate a closed circuit television system to monitor such parts of the Project as may be necessary and expedient for a safe, secure and smooth operation thereof.

17.1.7 The Concessionaire shall follow safety standards for Amusement Park/Water Park/Adventure Park as mentioned under -

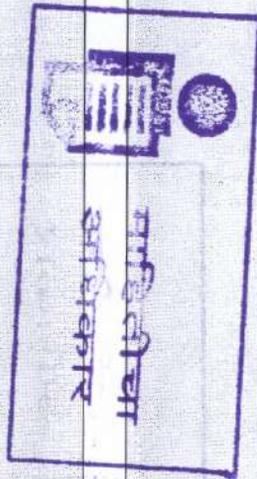
15475 (Part 1) General Information



- 15475 (Part 2) Safety requirements
- 15475 (Part 3) Design, manufacture and erection
- 15475 (Part 4) Selection training and supervision of operators
- 15475 (Part 5) Operation and maintenance procedures
- 15492 (Part 1) General
- 15492 (Part 1) Safety requirements
- 15492 (Part3) Instructions

17.2 Expenditure on Safety Requirements

All costs and expenses arising out of or relating to Safety Requirements shall be borne by the Concessionaire to the extent such costs and expenses form part of the works and services included in the Scope of the Project.



ARTICLE 18. MONITORING OF OPERATION AND MAINTENANCE

18.1 Monthly status reports

18.1.1 During the Operation Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the Authority and the Engineer a monthly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the Maintenance Requirements, Maintenance Program and Safety Requirements, and shall promptly give such other relevant information as may be required by the Engineer or the Authority. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

18.1.2 During the Operation Period, the Concessionaire shall, no later than 10 (ten) days after the close of each month, furnish a monthly management report which shall include a summary of:

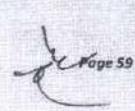
- (a) key performance indicators achieved in the month, along with an analysis of reasons for failures, if any, and proposals to remedy the same;
- (b) key operational hurdles and deliverables in the succeeding month along with strategies for addressing the same and for otherwise improving the Project's operational performance; and
- (c) key financial parameters for the month, as benchmarked against the monthly budget and the reasons for shortfall, if any, and proposals to remedy the same.

18.2 Inspection

The Engineer shall inspect the Project at least once a month. It shall make a report of such inspection (the "O&M Inspection Report") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Requirements, Maintenance Manual, the Maintenance Program and Safety Requirements, and send a copy thereof to the Authority and the Concessionaire within 7 (seven) days of such inspection.

18.3 Tests

For determining that the Project conforms to the Maintenance Requirements, the Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests specified by it in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Engineer and furnish the results of such tests forthwith to the Engineer. One half of the costs incurred on such tests, and to the extent certified by the Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire.



18.4 Remedial measures

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

18.4.2 The Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at its own cost, to determine that such remedial measures have brought the Project into compliance with the Maintenance Requirements and the procedure set forth in this Clause 18.4 shall be repeated until the Project conforms to the Maintenance Requirements. In the event that remedial measures are not completed by the Concessionaire in conformity with the provisions of this Agreement, the Authority shall be entitled to recover Damages from the Concessionaire under and in accordance with the provisions of Clause 16.6.

18.5 Reports of unusual occurrence

The Concessionaire shall, prior to the close of each day, send to the Authority and the Engineer, by facsimile or e-mail, a report stating accidents and unusual occurrences on the Project relating to the safety and security of the Users and the Project. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case maybe. For the purposes of this Clause 18.5, accidents and unusual occurrences on the Project shall include:

- (a) Death or injury to any person;
- (b) Damaged or dislodged fixed equipment;
- (c) Any damage or obstruction on the Project, which results in slow down of the services being provided by the Concessionaire;
- (d) Disablement of any equipment during operation;
- (e) Communication failure affecting the operation of the Project;
- (f) Smoke or fire;
- (g) Flooding of the Project; and
- (h) Such other relevant information as may be required by the Authority or the Engineer.

ARTICLE 19. ENGINEER



19.1 Appointment of the Engineer

The Authority shall appoint concerned Executive Engineer/ Nodal Officer; substantially in accordance with the Terms of Reference set forth in Schedule-M, to be "the Engineer" on behalf of the Authority under this Agreement (the "Engineer").

19.2 Duties and functions

19.2.1 The Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule-M.

19.2.2 The Engineer shall submit regular periodic reports (at least once every month) to the Authority in respect of its duties and functions set forth in Schedule-M.

19.2.3 A true copy of all communications sent by the Authority to the Engineer and by the Engineer to the Authority shall be sent forthwith by the Engineer to the Concessionaire.

19.2.4 A true copy of all communications sent by the Engineer to the Concessionaire and by the Concessionaire to the Engineer shall be sent forthwith by the Engineer to the Authority.



Part IV Financial Covenants



ARTICLE 20. FINANCIAL CLOSE

20.1 Financial Close

20.1.1 The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 150 (one hundred and fifty) days from the date of this Agreement. In the event of delay in achieving the Financial Close, the Concessionaire shall be entitled to a further period not exceeding 120 (one hundred twenty) days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.05% (zero point zero five per cent) of the Performance Security for each day of delay, provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 150 (one hundred and fifty) days shall be granted only to the extent of Damages so paid. In the event of delay in achieving the Financial Close beyond 270 (two hundred and seventy) days from the date of this Agreement, the Concessionaire shall be entitled to a further period not exceeding 95 (ninety five) days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day of delay, provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 270 (two hundred and seventy) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.3.

20.1.2 The Concessionaire shall, upon occurrence of Financial Close, notify the Authority forthwith, and shall have provided to the Authority, at least 2 (two) days prior to the Financial Close, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

20.2 Termination due to failure to achieve Financial Close

20.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 25.6.1, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 20.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

20.2.2 Upon Termination under Clause 20.2.1, the Authority shall be entitled to encash the Bid Security and appropriate the proceeds thereof as Damages; provided, however, that if



Financial Close has not occurred due to Force Majeure, it shall, upon Termination, release the Bid Security or Performance Security, as the case may be. For the avoidance of doubt, it is expressly agreed that if the Bid Security shall have been substituted by the Performance Security, the Authority shall be entitled to encash there from an amount equal to the Bid Security.



ARTICLE 21. CONSIDERATION BY THE CONCESSIONAIRE

21.1 Annual Concession Fee

21.1.1 In Consideration of the grant of Concession, the Concessionaire shall, from the Commercial Operation Date, pay to the Authority, by way of annual concession fee (the "Annual Concession Fee") of Rs. 1,50,51,000/- (Rupees One Crore Fifty Lakhs Fifty One Thousand only) every year which will be an amount as quoted in the Financial Bid of the Request for Proposal and approved by the Authority.

Further the Annual Concession Fee as quoted above in the Financial Bid by the Concessionaire is quoted above bid reserve price of Rs. 1.50 Crores (Rupees one crore fifty lakh only).

21.1.2 The Annual Concession Fee payable, under the provisions of this Article 21 shall be due and payable yearly and the first such payment (In the first year of scheduled operation) shall be on the Commercial Operation Date (COD). Thereafter the Annual Concession Fee shall be increased by 5% (five percent) every year and payment shall be due and payable by the Concessionaire to the Authority every year on the anniversary of the Commercial Operation Date (COD).

21.2 Annual Lease Rental

21.2.1 Subject to the provisions of this Agreement and in consideration of the lease granted to the Concessionaire under the Site Lease Deed and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covenants set forth in this Agreement, the Concessionaire agrees to pay to the Authority Rs.100 per annum as Annual Lease Rental with 5% annual escalation.

21.2.2 The first Annual Lease Rental payment shall be paid with the execution of the Lease Deed in accordance with the Schedule Pand the second Annual Lease Rental payment shall be paid prorata for the period beginning from first anniversary of date of execution of Lease Deed until the completion of the succeeding Accounting Year. Thereafter Annual Lease Rental shall be paid on annual basis for every Accounting Year.



ARTICLE 22. USER FEE

22.1 Collection and Appropriation of Fee

22.1.1 On and from the COD till the Transfer Date, the Concessionaire shall have the sole and exclusive right to demand, collect and appropriate fee from the Users in accordance with this Agreement provided that for ease of payment and collections, such fee shall be rounded off to the nearest 1 (one) rupee.

22.1.2 The Concessionaire acknowledges and agrees that upon payment of Fee, any User shall be entitled to use the Project and the Concessionaire shall not place, or cause to be placed, any restriction on such use, except to the extent specified in any Applicable Law, Applicable Permit or the provisions of this Agreement.

22.1.3 The Concessionaire acknowledges and agrees that any User who is not liable for payment of the Fee shall be entitled to use the Project without any restrictions, except to the extent specified in any Applicable Law, Applicable Permit or the provisions of this Agreement.

22.2 Display of User Fee

22.2.1 The Concessionaire shall, at entry of the Project premises, prominently display the applicable User Fee for information of Users in English, Marathi and Hindi.

22.2.2 The Authority shall, from time to time, inform the Concessionaire of the applicable User Fee. Such information shall be communicated at least 15 (fifteen) days prior to the revision of User Fee.

22.2.3 The Concessionaire shall display direction boards at various places on Site for entrance to the Project and ticket counters. Such instructions shall be visible and shall be in English, Marathi and Hindi.



ARTICLE 23. INSURANCE

23.1 Insurance during Concession Period

The Concessionaire shall effect and maintain at its own cost, during the Construction Period and the Operation Period, such insurances for such maximum sums as may be required under the Financing Agreements, and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Concessionaire shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period.

23.2 Insurance Cover

Without prejudice to the provisions contained in Clause 23.1, the Concessionaire shall, during the Operation Period, procure and maintain Insurance Cover including but not limited to the following:

- (a) Loss, damage or destruction of the Project Assets, including assets handed over by the Authority to the Concessionaire, at replacement value;
- (b) Comprehensive third party liability insurance including injury to or death of personnel of the Authority or others caused by the Project;
- (c) The Concessionaire's general liability arising out of the Concession;
- (d) Liability to third parties for goods or property damage;
- (e) Workmen's compensation insurance; and
- (f) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items(a) to (e) above.

23.3 Notices to the Authority

No later than 45 (forty five) days prior to commencement of the Construction Period or the Operation Period, as the case may be, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 23. Within 30 (thirty) days of receipt of such notice, the Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.



23.4 Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 23 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarized true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or nonrenewal has been delivered by the Concessionaire to the Authority.

23.5 Remedy for failure to insure.

If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances, and pay such premium and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

23.6 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article 23 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.

23.7 Concessionaire's waiver

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

23.8 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

23.9 Compliance with conditions of insurance policies

The Concessionaire expressly acknowledges and undertakes to fully indemnify the Authority from and against all losses and claims arising from the Concessionaire's failure to comply with conditions imposed by the insurance policies affected in accordance with this Agreement.

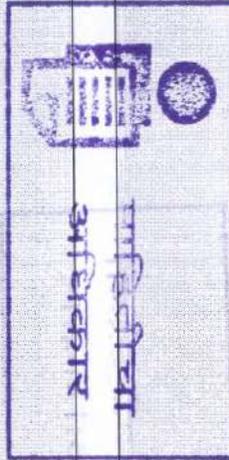


ARTICLE 24. ACCOUNTS AND AUDIT

24.1 Audited accounts

24.1.1 The Concessionaire shall maintain books of accounts recording all its receipt (including all revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, payments, assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Concessionaire shall provide 2(two) copies of its Balance Sheet, and Profit and Loss Account, along with a report thereon by its Statutory Auditors ("Statutory Auditor"). The Authority shall have a right to require copies of relevant extracts of books of accounts, duly certified and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

24.1.2 On the before the 61st day from the end of the each Financial Year, the Concessionaire shall provide to the Authority, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarized information on (a) the people using the Project and liable for payment of Fee therefore, (b) Fee charged and received, realizable fee and other revenues derived from the Project, and (c) such other information as the Authority may reasonable require.



Part V Force Majeure and Termination



ARTICLE 25. FORCE MAJEURE

25.1 Force Majeure

As used in this Agreement, the expression "Force Majeure" or "Force Majeure Event" shall, save and except as expressly provided otherwise, mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 25.2, 25.3 and 25.4 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 (a) is beyond the reasonable control of the Affected Party, and (b) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (c) has Material Adverse Effect on the Affected Party.

25.2 Non-Political Event

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

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the 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 25.3;
- (c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (d) any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- (e) The discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (f) Any event or circumstances of a nature analogous to any of the foregoing.



25.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

- (a) An act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the construction or operation of the Project to be financially unviable or otherwise not feasible;
- (c) 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;
- (d) failure of the Authority to permit the Concessionaire to continue its Construction Works, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;
- (e) Any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (f) Any Indirect Political Event that causes a Non-Political Event; or
- (g) Any event or circumstances of a nature analogous to any of the foregoing.

25.4 Political Event

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

- (a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 34 and its effect, in financial terms, exceeds the sum specified in Clause 35.1;
- (b) Compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;
- (c) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant.



maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

- (d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or
- (e) Any event or circumstance of a nature analogous to any of the foregoing.

25.5 Duty to report Force Majeure Event

25.5.1 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 25 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;
- (d) Any other information relevant to the Affected Party's claim.

25.5.2 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 no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

25.5.3 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 25.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

25.6 Effect of Force Majeure Event on the Concession

25.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 4.1 for fulfillment of Conditions Precedent and in Clause 20.1.1 for achieving Finaland Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

25.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs:

- (a) before COD, the Construction Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or
- (b) After COD, whereupon the Concessionaire is unable to collect Fee despite making best efforts or it is directed by the Authority to suspend the collection thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period equal in length to the period during which the Concessionaire was prevented from collection of fee on account thereof.

25.7 Allocation of costs arising out of Force Majeure

Upon occurrence of any Force Majeure Event, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof. 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.

25.8 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 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.

25.9 Excuse from performance of obligations

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

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



- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- (c) When the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.



ARTICLE 26. COMPENSATION FOR BREACH OF AGREEMENT

26.1 Compensation for default by the Concessionaire

Subject to the provisions of Clause 26.4, in the event of the Concessionaire being in material breach or default of this Agreement, it shall pay to the Authority by way of compensation, all direct costs suffered or incurred by the Authority as a consequence of such material breach or default, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 26.1 for any material breach or default in respect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Authority.

26.2 Compensation for default by the Authority

Subject to the provisions of Clause 26.4, in the event of the Authority being in material breach or default of this Agreement at any time after the Appointed Date, it shall pay to the Concessionaire by way of compensation, all direct costs suffered or incurred by the Concessionaire as a consequence of such material breach or default within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no such compensation shall be payable for any material breach or default in respect of which Damages have been expressly specified in this Agreement. For the avoidance of doubt, compensation payable may include interest payments on debt, O&M Expenses, any increase in capital costs on account of inflation and all other costs directly attributable to such material breach or default but shall not include loss of Annuity Payments, debt repayment obligations or other consequential losses, loss of profit, EPC Contractors claims, and for determining such compensation, information contained in the Financial Package and the Financial Model may be relied upon to the extent it is relevant.

26.3 Compensation to be in addition

Compensation payable under this Article 26 shall be in addition to, and not in substitution for, or derogation of, Termination Payment, if any.

26.4 Mitigation of costs and damage

The Affected Party shall make all reasonable efforts to mitigate or limit the costs and damage arising out of or as a result of breach of Agreement by the other Party.



ARTICLE 27. SUSPENSION OF CONCESSIONAIRE'S RIGHTS

27.1 Suspension upon Concessionaire Default

27.1.1 Upon occurrence of a Concessionaire Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (a) suspend all rights of the Concessionaire under this Agreement, and pursuant hereto, and (b) exercise such rights itself and perform the obligations hereunder or authorize any other person to exercise or perform 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 Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

27.1.2 A separate Escrow Account shall be created which shall be operated by the Authority and any User Fees or revenues collected by the Authority on behalf of the Concessionaire during such suspension shall be deposited in the Escrow Account. During the period of Suspension hereunder, all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement, shall be paid out of the Escrow Account and any expenditure in excess of amount in the Escrow Account shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period.

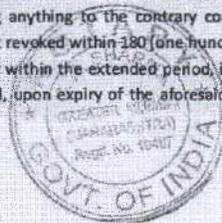
27.2 Revocation of Suspension

Upon the Concessionaire having cured the Concessionaire Default within the suspension period not exceeding 270 (two hundred seventy) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

27.3 Termination during Suspension Period

At any time during the period of Suspension under this Article 27, the Concessionaire may by notice require the Authority to revoke the Suspension and issue a Termination Notice. The Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 27.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have

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 Concessionaire Default.

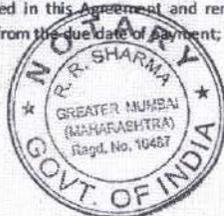


ARTICLE 28. TERMINATION

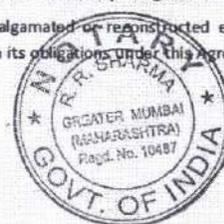
28.1 Termination for Concessionaire Default

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

- (a) the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 15 (fifteen) days;
- (b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Concessionaire fails to meet any Condition Precedent or cure the Concessionaire Default, as the case may be, for which whole or part of the Performance Security was appropriated, within a Cure Period of 120 (one hundred and twenty) days;
- (c) the Operations Performance Security has been encashed and appropriated in accordance with Clause 9.5 and the Concessionaire fails to replenish or provide fresh Operations Performance Security within a Cure Period of 15 (fifteen) days;
- (d) subsequent to the replenishment or furnishing of Operations fresh Performance Security in accordance with Clause 9.5, the Concessionaire fails to cure the Concessionaire Default, for which whole or part of the Operations Performance Security was appropriated, within a Cure Period of 120 (one hundred and twenty) days;
- (e) the Concessionaire does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-G and continues to be in default for 120 (one hundred and twenty) days;
- (f) The Concessionaire abandons or manifests intention to abandon the construction or operation of the Project without the prior written consent of the Authority;
- (g) COD does not occur within the period specified in Clause 12.3.3;
- (h) the Concessionaire is in breach of the Maintenance Requirements or the Safety Requirements, as the case may be;
- (i) the Concessionaire has failed to make any payment to the Authority within the period specified in this Agreement and remains in default for a period of 90 (ninety) days from the due date of payment;



- (j) upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified hereinabove;
- (k) a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;
- (l) the Concessionaire creates any Encumbrance in breach of this Agreement;
- (m) the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;
- (n) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;
- (o) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect;
- (p) an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;
- (q) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;
- (r) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;
- (s) a resolution for winding up of the Concessionaire is passed, or any petition for winding up of the Concessionaire is admitted by a court of competent jurisdiction and a provisional liquidator or receiver is appointed and such order has not been set aside within 90 (ninety) days of the date thereof or the Concessionaire is ordered to be wound up by a court except for the purpose of amalgamation or reconstruction; provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; 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 the Project Agreements;
 - (ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements



and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and

- (ii) Each of the Project Agreements remains in full force and effect;
- (t) any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof;
- (u) the Concessionaire submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;
- (v) the Concessionaire has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement;
- (w) the Concessionaire issues a Termination Notice in violation of this Agreement; and
- (x) the Concessionaire commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on the Authority.

28.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire 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 28.1.3.



28.1.3 The Authority shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 28.1.2 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event the Authority receives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Senior Lenders' right of substitution in accordance with the Substitution Agreement.

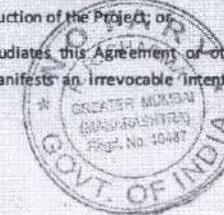
Provided that the Lenders' Representative may, instead of exercising the Senior Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Authority shall withdraw its notice referred to above and restore all the rights of the Concessionaire.

Provided further that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as the Authority may deem appropriate.

28.2 Termination for Authority Default

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

- (a) The Authority commits a material default in complying with any of the provisions of this Agreement and such default has a Material Adverse Effect on the Concessionaire;
- (b) The Authority has failed to make any payment to the Concessionaire within the period specified in this Agreement;
- (c) The Authority fails to provide, within a period of 180 (one hundred and eighty) days from the Appointed Date, the Site handover and other statutory clearances required for construction of the Project; or
- (d) 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.



29.5 Divestment costs etc.

29.5.1 The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Concessionaire in the Project Assets in favour of the Authority upon Termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such Divestment shall be borne by the Authority.

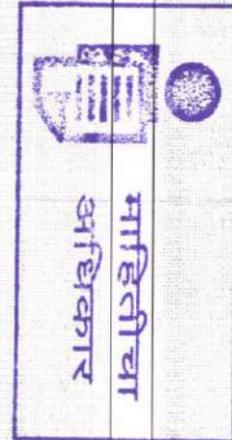
29.5.2 In the event of any Dispute relating to matters covered by and under this Article 29, the Dispute Resolution Procedure shall apply.



ARTICLE 30. DEFECTS LIABILITY AFTER TERMINATION

30.1 Liability for defects after Termination

The Concessionaire shall be responsible for all defects and deficiencies in the Project for period of 120 (one hundred and twenty) days after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Engineer in the Project during the aforesaid period. In the event that the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Concessionaire's risk and cost so as to make the Project conform to the Maintenance Requirements. All costs incurred by the Authority hereunder shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receipt demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same by invoking the Operations Performance Security.



28.2.2 Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Concessionaire 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 Termination Notice.

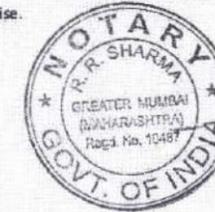
28.3 Termination Payment

28.3.1 Upon Termination on account of a Concessionaire Default during the Operation Period, an independent valuer shall assess the depreciated asset value. The termination payment shall be made by the Authority equivalent to the amount that any other selected bidder is ready to quote for the constructed facility after deducting any expenses and damages incurred by the Authority and such termination payment shall not be more than the depreciated asset value as determined by the independent valuer. Such amount shall be deposited with the Senior Lenders for appropriation.

28.3.2 Upon Termination on account of an Authority Default, in case the Lenders are not able to provide a new concessionaire under the Substitution Agreement, the Authority will pay the Termination Payment to the Concessionaire; for an amount calculated so as to compensate for the project returns (Project IRR) envisaged under financial proposal during bid submission. Audited accounts will be used for calculation of actual investment of the Concessionaire including loans taken.

28.3.3 Termination Payment shall become due and payable to the Concessionaire within 15 (fifteen) days of a demand being made by the Concessionaire to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at a rate equal to 3% (three per cent) above the daily average Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

28.3.4 The Concessionaire expressly agrees that Termination Payment under this Article 28 shall constitute a full and final settlement of all claims of the Concessionaire on account of Termination of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.



28.4 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

- (a) Be deemed to have taken possession and control of the Project forthwith;
- (b) Take possession and control of all materials, stores, implements, construction plants and equipment on or about the Site;
- (c) Be entitled to restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Site or any part of the Project;
- (d) Require the Concessionaire to comply with the Divestment Requirements set forth in Clause 29.1; and
- (e) succeed upon election by the Authority, without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Authority elects to succeed to the interests of the Concessionaire. For the avoidance of doubt, the Concessionaire acknowledges and agrees that all sums claimed by such Contractors as being -due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors, 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 such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

28.5 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, including Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.



Part VI Other Provisions



ARTICLE 31. ASSIGNMENT AND CHARGES

31.1 Restrictions on assignment and charges

31.1.1 Subject to Clauses 31.2 and 31.3, this Agreement shall not be assigned by the Concessionaire 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.

31.1.2 Subject to the provisions of Clause 31.2, the Concessionaire 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 or any Project Agreement to which the Concessionaire is a party, except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

31.2 Permitted assignment and charges

The restraints set forth in Clause 31.1 shall not apply to:

- (a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;
- (b) mortgages/pledges/hypothecation of goods/assets other than Project Assets and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project;
- (c) Lease of any part of land or constructed property on lease basis for the development of any of the Project component and complying part of scope of work; for a period not more than the Concession Period;
- (d) Lease /assignment of any part of the project components for the period not more than the Concession period;
- (e) assignment of rights, interest and obligations of the Concessionaire to or in favour of the Lenders' Representative as nominee and for the benefit of the Senior Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and
- (f) Liens or encumbrances required by any Applicable Law.

31.3 Substitution Agreement

31.3.1 The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Concessionaire pursuant to the agreement for substitution of the



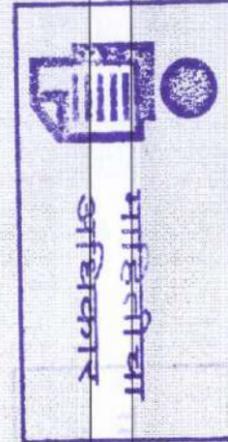
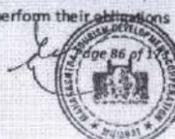
ARTICLE 29. DIVESTMENT OF RIGHTS AND INTEREST

29.1 Divestment Requirements

29.1.1 Upon Termination, the Concessionaire shall comply with and conform to the following Divestment Requirements:

- (a) Notify to the Authority forthwith the location and particulars of all Project Assets;
- (b) deliver forthwith the actual or constructive possession of the Project, free and clear of all Encumbrances, save and except to the extent set forth in the Substitution Agreement;
- (c) cure all Project Assets, so that the Project is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;
- (d) deliver and transfer relevant records, reports, Intellectual Property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmers and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date. For the avoidance of doubt, the Concessionaire represents and warrants that the Intellectual Property delivered hereunder shall be adequate and complete for the design, engineering, construction, operation and maintenance of the Project and shall be assigned to the Authority free of any Encumbrance;
- (e) Transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;
- (f) 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 Concessionaire in the Project Assets, including manufacturers' warranties in respect of any plant or equipment and the right to receive outstanding insurance claims to the extent due and payable to the Authority, absolutely unto the Authority or its nominee; and
- (g) Comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the Project, free from all Encumbrances, absolutely unto the Authority or to its nominee

29.1.2 Subject to the exercise by the Authority of its rights under this Agreement or under any of the Project Agreements to perform or procure the performance by a third party of any of the obligations of the Concessionaire, the Parties shall continue to perform their obligations



under this Agreement, notwithstanding the issuance of any Termination Notice, until the Termination of this Agreement becomes effective in accordance with its terms.

29.2 Inspection and cure

Not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to the effective date of such Termination, the Engineer shall verify, after giving due notice to the Concessionaire specifying the time, date and place of such verification and/or inspection, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire at its cost and the provisions of Article 30 shall apply, mutatis mutandis, in relation to curing of defects or deficiencies under this Article 29.

29.3 Cooperation and assistance on transfer of Project

29.3.1 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the Users, other members of the public or the lawful occupiers of any part of the Site.

29.3.2 The Parties shall provide to each other, 9 (nine) months prior to the Transfer Date in the event of Termination by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the Authority, its concessionaire or agent may reasonably require for operation of the Project until the expiry of 6 (six) months after the Transfer Date.

29.4 Vesting Certificate

The divestment of all rights, title and interest in the Project shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule-N (the "Vesting Certificate"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the Project on the footing that all Divestment Requirements have been complied with by the Concessionaire.



Concessionaire (the "Substitution Agreement") to be entered into amongst the Concessionaire, the Authority and the Lenders' Representative, on behalf of Senior Lenders, substantially in the form set forth in Schedule-O.

31.3.2 Upon substitution of the Concessionaire under and in accordance with the Substitution Agreement, the Nominated Company substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations of the Concessionaire under this Agreement as if it were the Concessionaire; provided that where the Concessionaire is in breach of this Agreement on the date of such substitution, the Authority shall by notice grant a Cure Period of 120 (one hundred and twenty) days to the Concessionaire for curing such breach.

31.4 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Concessionaire, assign and/or transfer 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.



ARTICLE 32. CHANGE IN LAW

32.1 Increase in costs

If as a result of Change in Law, the Concessionaire suffers an increase in costs or reduction in net after-tax return or other financial burden, the Authority and the Concessionaire may in mutual consultation, agree upon such changes/amendments to this agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid.

32.2 No claim in the event of recovery from users

Notwithstanding anything to the contrary contained in this Agreement, the Authority shall in any manner be liable to reimburse to the Concessionaire any sums on account of a Change in Law if the same are recoverable from the users.

32.3 No claim in the event of change in tax regulations and developmental control regulations

Notwithstanding anything to the contrary contained in this Agreement, it is hereby clarified, that the Authority shall in any manner be liable to reimburse to the Concessionaire any sums on account of a change in taxation regulations/rates of any taxes and any change in developmental control regulations for both land use and building regulations and the same shall not constitute a Change in Law for the purposes of this Agreement.



ARTICLE 33. LIABILITY AND INDEMNITY

33.1 General indemnity

33.1.1 The Concessionaire shall indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the "Authority Indemnified Persons") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to the Authority or to any User, or from any negligence of the Concessionaire under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

33.1.2 The Authority shall indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of (a) defect in title and/or the rights of the Authority in the land comprised in the Site, and/or (b) 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 Concessionaire of its obligations under this Agreement, save and except that 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 Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

33.2 Indemnity by the Concessionaire

33.2.1 Without limiting the generality of Clause 33.1, the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

- (a) Failure of the Concessionaire to comply with Applicable Laws and Applicable Permits;
- (b) Payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or
- (c) Non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors.

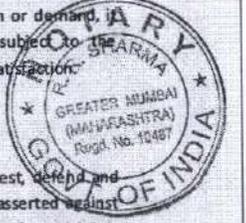
33.2.2 Without limiting the generality of the provisions of this Article 33, the Concessionaire shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified 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 Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Authority a lease, at no cost to the Authority, authorizing continued use of the infringing work. If the Concessionaire is unable to secure such lease within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process, or modify the same so that it becomes non-infringing.

33.3 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 33 (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.

33.4 Defense of claims

33.4.1 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 35, the Indemnifying Party shall be entitled, at its option, to assume and control



the defense of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through 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 defense. 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.

33.4.2 If the Indemnifying Party has exercised its rights under Clause 33.3, 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).

33.4.3 If the Indemnifying Party exercises its rights under Clause 33.3, 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 authorized in writing by the Indemnifying Party;
- (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 defense of such action;
- (c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defense of such action and shall have been so notified by the Indemnified Party; or
- (d) The Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
 - (i) that there may be specific defenses 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 33.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defense 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.

33.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 33, 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.

33.6 Survival on Termination

The provisions of this Article 33 shall survive Termination.



ARTICLE 34. RIGHTS AND TITLE OVER THE SITE

34.1 Lessee rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Site as a lessee subject to and in accordance with this Agreement, and to this end; it may regulate the entry and use of the Project by third parties in accordance with and subject to the provisions of this Agreement.

34.2 Access rights of the Authority and others

34.2.1 The Concessionaire shall allow free access to the Site at all times for the authorized representatives, Senior Landers, and the Engineer, and for the persons duly authorized by any Government Instrumentality to inspect the Project and to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

34.3 Property taxes

Payment of property taxes and stamp duty payment for the site and any of the property constructed shall be the sole responsibility of the Concessionaire.

34.4 Restriction on sub-leasing

The Concessionaire shall not sub-lease or sub-let the whole or any part of the Site (Project Land), however the Concessionaire shall have the right to lease or sub-lease the constructed/ developed components at the project site. Save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

ARTICLE 35. DISPUTE RESOLUTION

35.1 Dispute resolution

35.1.1 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 35.2.

35.1.2 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.

35.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Engineer or without the intervention of the Engineer, either Party may require such Dispute to be referred to the [Chairman] of the Authority and the Chairman/Director of the Concessionaire 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) days 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 35.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 35.3.



35.3 Arbitration

35.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 35.2, shall be finally decided by reference to arbitration by an arbitral tribunal constituted in accordance with Clause 35.3.2. Such arbitration shall be held in accordance with the Rules of Mumbai Centre for International Arbitration (Government Resolution No. संकीर्ण -२०१६/प्र.क्र.२०/कन-१९ dated 4th March, 2017), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The place of such arbitration shall be Mumbai and the language of arbitration proceedings shall be English.

OR

There shall be an arbitral tribunal comprising three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

35.3.2 The arbitral tribunal shall make a reasoned award (the "Award"). Any Award made in any arbitration held pursuant to this Article 35 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Authority agree and undertake to carry out such Award without delay.

35.3.3 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

35.3.4 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.

35.4 Adjudication by Regulatory Authority or Commission

In the event of constitution of a statutory Regulatory Authority or Commission with powers to adjudicate upon disputes between the Concessionaire and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 35.3, be adjudicated upon by such Regulatory Authority or Commission in accordance with the Applicable Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has been decided by an appellate tribunal or High Court, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

ARTICLE 36. DISCLOSURE

36.1 Disclosure of Specified Documents

The Concessionaire shall make available for inspection by any person, copies of this Concession Agreement, the Maintenance Program, the Maintenance Requirements and the Safety Requirements (hereinafter collectively referred to as the "Specified Documents"), free of charge, during normal business hours on all working days at the Site and the Concessionaire's Registered Office. The Concessionaire shall prominently display at the Site, public notices stating the availability of the Specified Documents for such inspection, and shall provide copies of the same to any person upon payment of copying charges on a 'no profit no loss' basis.

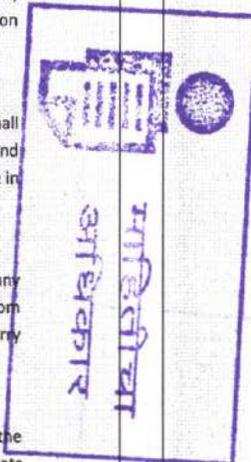
36.2 Disclosure of Documents relating to safety

The Concessionaire shall make available for inspection by any person copies of all Documents and data relating to safety of the Project, free of charge, during normal business hours on all working days, at the Concessionaire's Registered Office. The Concessionaire shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.

36.3 Notwithstanding the provisions of Clauses 36.1 and 36.2, the Authority shall be entitled to direct the Concessionaire, from time to time, to withhold the disclosure of Protected Documents (as defined herein below) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 36.1 and 36.2, or portions thereof, the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005.



ARTICLE 37. REDRESSAL OF PUBLIC GRIEVANCES

37.1 Complaints Register

37.1.1 The Concessionaire shall maintain a public relations office at the Site where it shall keep a register (the "Complaint Register") open to public access at all times for recording of complaints by any person (the "Complainant"). Information relating to the availability of and access to the Complaint Register shall be prominently displayed by the Concessionaire at each the Site so as to bring it to the attention of all Users.

37.1.2 The Complaint Register shall be securely bound and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by the Concessionaire. Immediately after a complaint is registered, the Concessionaire shall give a receipt to the Complainant stating the date and complaint number.

37.1.3 Without prejudice to the provisions of Clauses 37.1.1 and 37.1.2, the Authority may, in consultation with the Concessionaire, specify the procedure for making complaints in electronic form and for responses thereto.

37.2 Redressal of complaints

37.2.1 The Concessionaire shall inspect the Complaint Register every day and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by the Concessionaire to the Complainant under a certificate of posting.

37.2.2 Within 7 (seven) days of the close of each month, the Concessionaire shall send to the Authority and to the Engineer a true photocopy each of all the pages of the Complaint Register on which any entry has been recorded during the course of such month, and upon perusal thereof, the Authority may, in its discretion, advise the Concessionaire to take such further action as the Authority may deem appropriate for a fair and just redressal of any grievance. The Concessionaire shall consider such advice and inform the Authority of its decision thereon, and if the Authority is of the opinion that the Complainant is entitled to further relief, the Authority may advise the Complainant to seek appropriate remedy under the Consumer Protection Act, 1986, at his own risk and cost.

ARTICLE 38. MISCELLANEOUS

38.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in Mumbai shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

38.2 Waiver of immunity

Each Party unconditionally and irrevocably:

- (a) Agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) 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;
- (c) 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
- (d) consents generally in respect of the enforcement of any judgment 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 judgment that may be made or given in connection therewith).

38.3 Depreciation

For the purposes of depreciation under Applicable Laws, the property representing the capital investment made by the Concessionaire in the Project shall be deemed to be acquired and owned by the Concessionaire. For the avoidance of doubt, the Authority shall not in any manner be liable in respect of any claims for depreciation to be made by the Concessionaire under Applicable Laws.

38.4 Delayed payments

38.4.1 The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. Unless otherwise specified in this Agreement, in the event of delay

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beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 4% (four per cent) above the daily average Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

38.4.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

38.5 Waiver

38.5.1 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 authorized representative of the Party; and
- (c) Shall not affect the validity or enforceability of this Agreement in any manner.

38.5.2 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.

38.6 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement

- (a) no review, comment or approval by the Authority or the Engineer of any Project Agreement, Document or Drawing submitted by the Concessionaire nor any observation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, Applicable Laws and Applicable Permits; and
- (b) The Authority shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.



38.7 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.

38.8 Survival

38.8.1 Termination shall:

- (a) Not relieve the Concessionaire 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.

38.8.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

38.9 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless 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. For the avoidance of doubt, the Parties hereto agree that any obligations of the Concessionaire arising from the Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.

38.10 Severability

If for any reason whatsoever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing 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.

38.11 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.

38.12 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 including any Concessionaire's Contractor.

38.13 Successors and assigns

This Agreement shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assigns.

38.14 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:

- (a) in the case of the Concessionaire, be given by facsimile or e-mail 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 Concessionaire may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the Nagpur may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Concessionaire may from time to time designate by notice to the Authority.

[Attention: Mr. Vinay Wavdhane

Designation: Executive Engineer – Maharashtra Tourism Development Corporation Limited

Address: Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K.C. College, Church gate, Mumbai-400020, Maharashtra



Fax No: 022 22044040

Email: works@maharashtratourism.gov.in

- (b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand at the address given below and be addressed to the person named below with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in the Nagpur it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier.

{Name: Mr. Virendra Agarawal

Designation: M/s. Garuda Amusement Parks (Nagpur) Pvt. Ltd.

Address: 201, A-wing, Fortune 2000, C-3 G Block, BKC, Bandra (E), Mumbai - 400051

Fax No: 022 26530174/64/63

Email: garudaamusements@gmail.com

; and

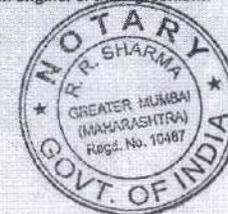
- (c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery, provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

38.15 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.

38.16 Counterparts

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



ARTICLE 39. DEFINITIONS

39.1 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 as set forth in Clause 25.1;

"Agreement" or "Concession Agreement" means this Agreement, its Recitals, and 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 GOI or the State Government including rules, regulations and notifications made thereunder, and judgments, 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, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project during the subsistence of this Agreement;

"Appointed Date" means the date on which Financial Close is achieved and every Condition Precedent is satisfied, in accordance with the provisions of this Agreement, and such date shall be the date of commencement of the Concession Period;

"Associate" or "Affiliate" means, in relation to either Party and/or Consortium Members, a person who controls, is controlled by, or is under the common control with such Party or Consortium Member (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person

which is not a company or corporation, the power to direct the management and Policies of such person, whether by operation of law or by contract or otherwise);

"Authority" shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;

"Authority Default" shall have the meaning as set forth in Clause 28.2.1;

"Authority Indemnified Persons" shall have the meaning set forth in Clause 33.1.1;

"Authority Representative" means such person or persons as may be authorized 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;

"Annual Concession Fee" shall have meaning set forth in Clause 21.1;

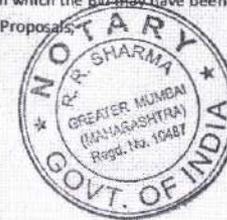
"Annual Lease Rent" shall have meaning set forth in Clause 21.2;

"Bank" means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior Lender has an interest;

"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 Consortium in response to the Request for Proposals in accordance with the provisions thereof and "Bids" shall mean the bids submitted by any and all pre-qualified bidders;

"Bid Date" means the last date on which the Bid may have been submitted in accordance with the provisions of the Request for Proposals;



"Bid Security" means the security provided by the Concessionaire to the Authority along with the Bid, in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security;

"COD" or "Commercial Operation Date" shall have the meaning as set forth in Clause 15.1;

"Change in Law" means the occurrence of any of the following after the Bid Date:

- (a) The enactment of any new Indian law;
- (b) The repeal, modification or re-enactment of any existing Indian law;
- (c) The commencement of any Indian law which has not entered into effect until the Bid Date;
- (d) a change in the interpretation or application of any Indian law by a judgment 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 Date; or
- (e) Any change in the rates of any of the Taxes that have a direct effect on the Project;

"Change in Ownership" means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the Consortium Members, together with their Associates, in the total Equity to decline below 51% (fiftyone per cent) thereof during Construction Period and two years thereafter; provided that any material variation (as compared to the representations made by the Concessionaire during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or bid, as the case may be,) in the proportion of the equity holding of the any Consortium Member to the total Equity, if it occurs prior to completion of a period two years after COD, shall constitute Change in Ownership;

"Company" means the company acting as the Concessionaire under this Agreement;

"Completion Certificate" shall have the meaning as set forth in Clause 14.2;

"Concession" shall have the meaning as set forth in Clause 3.1.1;

"Concessionaire" shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;

"Concession Period" means the period starting on and from Appointed Date and ending on the Transfer Date. For avoidance of doubt it is clarified that the Concession Period shall include the Construction Period of 2 years plus a fixed period of 27years of Operation & Maintenance Period from the COD;

"Concessionaire Default" shall have the meaning as set forth in Clause 28.1.1;

"Conditions Precedent" shall have the meaning as set forth in Clause 4.1.1;

"Consortium" shall have the meaning as set forth in Recital (D);

"Consortium Member" means a company specified in Recital (D) as a member of the Consortium;

"Construction Period" means the period beginning from the Appointed Date and ending on COD;

"Construction Works" means all works and things necessary to complete the Project in accordance with this Agreement;

"Contractor" means the person or persons, as the case may be, with whom the Concessionaire has entered into any of the EPC Contract, the O&M Contract or any other material agreement or contract for construction, operation and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance to the Concessionaire;

"Consideration" means the total benefits to be given to the Authority by the Concessionaire in lieu of concession and lease granted by the authority;

"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 Concessionaire requires any reasonable action by the Concessionaire that must be approved by the Authority or the Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Engineer to accord their approval;

"DBFOT" or "Design, Build, Finance, Operate and Transfer" shall have the meaning as set forth in Recital (A);

"Damages" shall have the meaning as set forth in Sub-clause (w) of Clause 1.2.1;

"Development Period" means the period from the date of this Agreement until the Appointed Date;

"Dispute" shall have the meaning as set forth in Clause 35.1.1;

"Dispute Resolution Procedure" means the procedure for resolution of Disputes as set forth in Article 35;

"Divestment Requirements" means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 29.1;

"Document" or "Documentation" means documentation in printed or written form, or in tapes, discs, drawings, computer programmers, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"Drawings" means all of the drawings, calculations and documents pertaining to the Project as set forth in Schedule-H, and shall include 'as built' drawings of the Project;

"EPC Contract" means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the Project in accordance with the provisions of this Agreement;

"EPC Contractor" means the person with whom the Concessionaire has entered into an EPC Contract;



"Emergency" means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"Encumbrances" means, in relation to the Project any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities referred to in Clause 11.1;

"Equity" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component;

"Estimated Project Cost" shall be the cost estimated by the Authority for development of the Project and provided in the Request for Proposal Volume -I - Instructions to Bidders;

"Engineer" shall have the meaning as set forth in Clause 19.1;

"Fee" means charge levied on and payable for using the project or a part thereof in accordance with this Agreement;

"Financial Close" means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Agreements which shall be communicated by the Lender's Representative to the Authority in writing. Such communication from Lender's Representative shall be treated as date on which the Financial Close is achieved;

"Financial Default" shall have the meaning as set forth in Schedule-O;

"Financial Model" means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis



financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"Financial Package" means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements and Subordinated Debt, if any;

"Financing Agreements" means the agreements executed by the Concessionaire in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.3;

"Force Majeure" or "Force Majeure Event" shall have the meaning ascribed to it in Clause 25.1;

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

"Government" means the Government of the India;

"Government Instrumentality" means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;

"Indemnified Party" means the Party entitled to the benefit of an indemnity pursuant to Article 33;

"Indemnifying Party" means the Party obligated to indemnify the other Party pursuant to Article 33;

"Indirect Political Event" shall have the meaning as set forth in Clause 25.3;

"Insurance Cover" means the aggregate of the maximum sums insured under the Insurances taken out by the Concessionaire pursuant to Article 23, and includes all insurances required to be taken out by the Concessionaire under Clause 23.2 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;

"Intellectual Property" means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programs and manuals, drawings, copyright (including rights in computer software), database rights, semi-conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"LOA" or "Letter of Award" means the letter of award referred to in Recital (D);

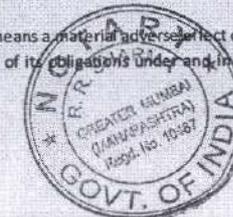
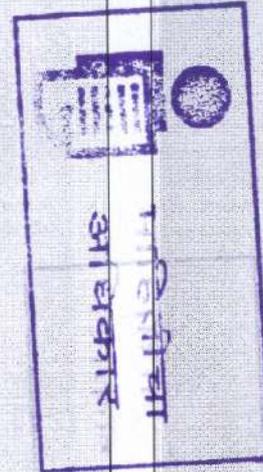
"Lenders' Representative" means the person duly authorized by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"Leased Premises" shall have the meaning as set forth in Clause 10.2.2;

"Maintenance Program" shall have the meaning as set forth in Clause 16.4.1;

"Maintenance Requirements" shall have the meaning as set forth in Clause 16.2;

"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;



this Agreement and which act or event causes a material financial burden or loss to either Party;

"Nominated Company" means a company selected by the Lenders' Representative and proposed to the Authority for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;

"Non-Political Event" shall have the meaning as set forth in Clause 25.2;

"O&M" means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance, and provision of services and facilities, in accordance with the provisions of this Agreement;

"O&M Contract" means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of the O&M obligations;

"O&M Contractor" means the person, if any, with whom the Concessionaire has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;

"O&M Expenses" means expenses incurred by or on behalf of the Concessionaire or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premium for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

"Operation Period" means the operation and maintenance period commencing from COD and ending on the Transfer Date (i.e. end of Concession Period);

"Operations Performance Security" shall have the meaning as set forth in Clause 9.4;

"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually.



"Performance Security" shall have the meaning as set forth in Clause 9.1.1;

"Project" means the construction, operation and maintenance of the Project in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project. And its subsequent development and augmentation in accordance with this Agreement;

"Project Agreements" means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, and any other material agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Substitution Agreement, or any agreement for procurement of goods and services involving a consideration of up to Rs.25 crore (twenty five crore);

"Project Assets" means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of lease, Site handover or otherwise; (b) tangible assets such as civil works and equipment including foundations, (c) Project Facilities situated on the Site; (d) all rights of the Concessionaire under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Permits and authorizations relating to or in respect of the Project;

"Project Completion Schedule" means the progressive Project Milestones set forth in Schedule-G for completion of the Project on or before the Scheduled Completion Date;

"Project Facilities" means all the amenities and facilities situated on the Site, as described in Schedule-C;

"Project Milestones" means the project milestones as set forth in Schedule-G;

"RBI" means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;

"Re.", "Rs." or "Rupees" or "Indian Rupees" means the lawful currency of the Republic of India;



"Reference Exchange Rate" means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Nagpur by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Nagpur by the Bank of India and the Bank of Baroda;

"Reference Index Date" means, in respect of the specified date or month, as the case may be, that last day of the preceding month with reference to which the Price Index or any constituent thereof is revised and in the event such revision has not been notified, the last such Price Index or any constituent thereof shall be adopted provisionally and used until the Price Index or such constituent thereof is revised and notified;

"Request for Proposal" or "RFP" shall have the meaning as set forth in Recital (B);

"Safety Requirements" shall have the meaning as set forth in Clause 17.1.1;

"Scheduled Completion Date" shall have the meaning as set forth in Clause 12.3.1;

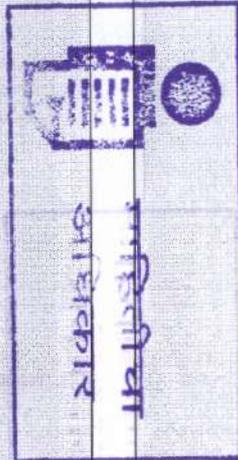
"Scope of the Project" shall have the meaning as set forth in Clause 2.1;

"Senior Lenders" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold paripassu charge on the assets, rights, title and interests of the Concessionaire;

"Site" shall have the meaning as set forth in Clause 10.1;

"Specifications and Standards" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule-D, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the Concessionaire to, and expressly approved by, the Authority;

"State" means the State Maharashtra and "State Government" means the government of that State;



"Statutory Auditors" means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act, 2013, including any re-enactment or amendment thereof, for the time being in force, and appointed in accordance with Clause 24.1.1;

"Substitution Agreement" shall have the meaning as set forth in Clause 31.3.1;

"Suspension" shall have the meaning as set forth in Clause 27.1.1;

"Taxes" means any Indian taxes including excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part of the Project 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;

"Termination" means the expiry or termination of this Agreement and the Concession hereunder;

"Termination Notice" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"Termination Payment" means the amount payable by the Authority to the Concessionaire under and in accordance with the provisions of this Agreement, upon Termination;

"Tests" means the tests set forth in Schedule-1 to determine the completion of the Project in accordance with the provisions of this Agreement;

"Total Project Cost" means the total cost of development of the project, the cost as mentioned in the financing agreements or as certified by the Authority/the Engineer;

"Transfer Date" means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;



Concession Agreement for Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis

"User" means a person who uses or intends to use the Project or any part thereof in accordance with the provisions of this Agreement and Applicable Laws;

"Vesting Certificate" shall have the meaning as set forth in Clause 29.4; and

"WPI" means the Wholesale Price Index for all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration hereunder;

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 THE AUTHORITY by:

Signature

Designation : Executive Engineer

Name : Mr. Vinay Wavdhare



THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the [15th Nov, 2019] hereunto affixed in the presence of [Mr. Vijay Kashinath Shinde] Director, who has signed these

Presents in token thereof and, Company Secretary/Authorized Officer who has countersigned the same in token thereof:

Signature

Designation : - VP, Admin

Name : Mr. Virendra Agarwal



ATTESTED BY ME

R. R. SHARMA

B.Sc. (Hon.) LL.B.
ADVOCATE HIGH COURT &
NOTARY, GOVT. OF INDIA
-LAT No. 2 C WING, BLDG. No. 2
THREE SAI COMPLEX CHS., BANDOODH
N/A COMPOUND, OPP. S.T. BUS DEPOT,
SAVANI ROAD MUMBAI 400 024.

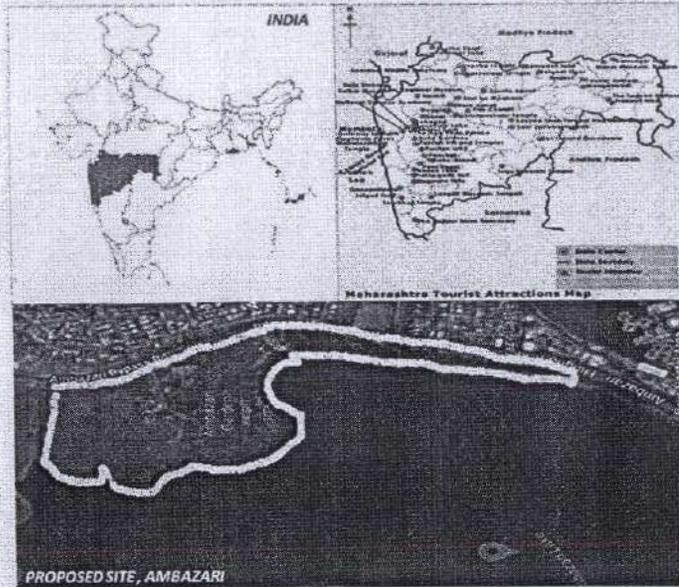
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SCHEDULES



SCHEDULE A. SITE OF THE PROJECT



- The site identified for development of Recreational / Leisure / Entertainment / Green Zone / Gardens by Maharashtra Tourism Development Corporation is located in Ambazari. The total area spans about 42.42 Acres and falls under the boundary limits of Nagpur Municipal Corporation.
- Presently, Garden area is spread over an area of 18.42 Acres which is maintained by Nagpur Municipal Corporation and remaining 24 Acres is open land.
- The garden area has existing structures like (i) IAF Hunter Aircraft, (ii) Open Gym, (iii) Children Play Area (iv) Laxmanhula Point (v) Sitting Space (vi) Ambedkar Hall which is a G+2 structure (vii) Two-Toilet Blocks (viii) Walkways & Pathways (ix) Pump House.



SCHEDULE B. DEVELOPMENT OF THE PROJECT

1. Development of the Project

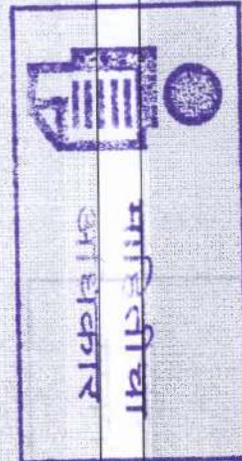
Development of the Project shall include construction of the Project as described in this Schedule - B and in Schedule-C.

2. Project Facilities

Project facilities shall be constructed in conformity with the Schedule -C.

3. Specification and Standards

The Project shall be constructed in conformity with the Specifications and Standards specified in Schedule-D.



ANNEX 1 (SCHEDULE B): Description of the Project

(See Clause 2.1)

Project Area : Ambazari Garden , Nagpur

Description : Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis.

The Concessionaire shall design and develop the tourism related activities for development of Ambazari garden along with associated amenities & facilities and the operation and maintenance thereof in conformity with Schedule -C. The Concessionaire shall be free to adopt his own concept and designs.



SCHEDULE C. PROJECT FACILITIES

1. Project Facilities

The Concessionaire shall construct the Project Facilities in accordance with the provision of this Agreement. The Project Facilities developed by the Concessionaire shall be as per applicable Development Control Regulations. Such Project Facilities shall include but not limited to the following:-

MANDATORY COMPONENT

Tourism Activities

- Urban Haat (50 Shops) - The proposed Urban Haat shall comprise of shops/stalls for handicrafts and products that shall promote culture and heritage of Maharashtra in specific and from other state of India/Countries.
- Amphitheatre (1000-2000 persons)
- Exhibition Center (Open/Closed)
- Food Court
- Theme Park/Garden (Herbal Gardens & Botanical Garden)
- Amusement Parks

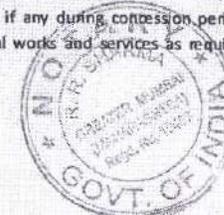
SUGGESTIVE COMPONENTS

- Recreational Club
- Community/Banqueting facilities
- Amusement Activities
- Public Recreational Zones
- Theme gardens
- Any Another Recreational/Commercial Activity as permissible in the By-Laws.

The Concessionaire shall get prior approval of the Master Plan of the proposed Project from the Authority before the commencement of construction. The Concessionaire can develop additional facilities permissible under the applicable Development Control Regulations during the concession period. However, the Concessionaire shall get prior approval from the Authority for development of such additional facilities.

The fully functional and operational Project shall be transferred back to the Authority after the expiry of Concession Period or in case of premature termination for any reason whatsoever.

It is clarified herewith that in addition to the above-stated "Scope of Work" and construction of Project facilities/additional facilities if any during concession period, the Concessionaire shall be required to carry out any incidental works and services as required and to comply with all the



provisions of the Concession Agreement, the Schedules to the Concession Agreement and as per the requirements of applicable byelaws/ norms etc., while completing the development of the Project.

ANNEX 1 (SCHEDULE C): Additional Facilities

1. Additional Facilities

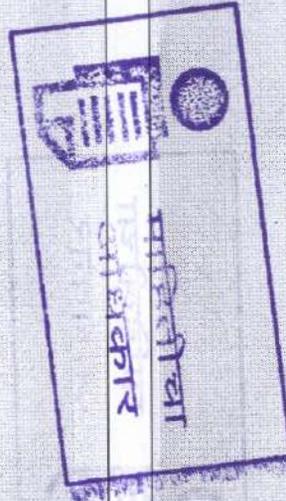
Additional Facilities shall mean the following:

a. Ancillary Services

During the operation period, the Concessionaire shall have the right to develop ancillary services and to collect revenues and maintenance charges for undertaking activities in the ancillary services. The Concessionaire shall have the right to enter into agreements with third party for allowing permitted usage of the facilities. In the case where a conflict arises, this Agreement shall prevail over any such third party agreements.

b. Advertisement Rights

The Concessionaire shall have the right to allow and charge for advertisement on the Project Site as per the prevailing laws. The Concessionaire shall acquire Applicable Permits from respective authorities, including MTDC and any other competent authority. The Concessionaire shall be liable for and bear all taxes, duties, fees and charges levied on such advertisements.



SCHEDULE D. SPECIFICATIONS AND STRUCTURES

1. Specification and Standards

The building shall be designed in accordance with the latest Indian Standard Codes and shall be designed to resist wind and seismic forces RCC Structures shall be designed as per IS 456: 2000. Steel Structures shall be designed in accordance with the provision of IS 800-1984. Structural steel shall conform to IS 2062. Tubular section shall conform to IS 4923

- ❖ Architectural design norms as per NBC (National Building Code)
- ❖ Structural Design norms as per NBC and BIS (Bureau of Indian Standards)

2. Development Norms – Other Facilities

a. Signage

The Concessionaire shall provide illuminated signs in accordance with National Building Codes (NBC/ Any other Applicable Laws and Standards at suitable locations within the project area.

b. Generator Backup

The Concessionaire shall provide power back-up adequate for 100% of the designed power load of the Project area. The generator shall be installed in a separate sound proof enclosure.

c. Drainage

The Concessionaire shall design and implement drainage facilities in such a manner that there is no stagnation of water at the project facility. The internal drainage system shall be connected to the main common drain at an appropriate location in accordance with the approved drawings.

d. Worker Amenities

The Concessionaire shall provide worker/employee amenities in accordance with Good Industry practices.



e. Safety Barriers

The Concessionaire shall provide safety barriers at appropriate locations, to effectively manage pedestrian and vehicular traffic.

f. Codes/Standards and Approvals

The Concessionaire shall follow the applicable codes/standards, building bylaws, Development Control Regulations for Construction of the Project Facility and all other Applicable Laws.

g. General Guidelines

The Concessionaire shall incorporate guidelines while preparing drawings/designs for the facility such as Location and size of components, Entry & Exit areas, function of each component, fire safety, Accessibility for Maintenance, etc.



SCHEDULE E. APPLICABLE PERMITS

1. Applicable Permits

1.1 The Concessionaire shall obtain, as required under the Applicable Laws, the following Applicable Permits / Noc's/ Clearances from necessary agencies / authorities on or before the Appointed Date, save and except to the extent of a waiver granted by the Authority in accordance with Clause 4.1.3 of the Agreement. The Concessionaire shall adhere to norms set out by those agencies/ Authorities with regards to implementation of the Project. Some of the Agencies/Authorities are listed below. The Authority shall extend administrative support in this regard and shall facilitate the assistance to the Concessionaire for getting approval/Clearance from the agencies/ authorities.

*The clearance list is indicative and not exhaustive

Sr. No	Item	Agency
1	Water connection	Nagpur Municipal Corporation
2	Shifting of Services and utilities	Maharashtra Tourism Development Corporation Ltd.
3	Traffic Management during operation	Traffic Police
4	Application for PAN, sales tax and other tax registrations etc.	Concerned departments of Government of Maharashtra and GOI
5	Electricity connection	Maharashtra State Electricity Distribution Company Ltd/other concerned electricity distributor company in Nagpur
6	Clearance & Registration for employing labour-Primary employer, Contract Employment, etc.	Labour Commissioner
7	Clearance for blasting and use of explosives as applicable under the mines act.	Commissioner of Explosives and Police Department, Government of Maharashtra
8	Employment of migrant labour	Labour Commissioner
9	Cutting of Trees	Maharashtra Tourism Development Corporation Ltd
10	Use of water and discharge into water park	Nagpur Municipal Corporation
11	Activities in Amusement Park	International Association of Amusement Parks and Attractions (IAAPA) Norms
12	Fire safety equipment	City and Industrial Corporation of Maharashtra Limited, Concerned departments of Government of Maharashtra
13	Drains and sewers	Water & Sanitation Department Government of Maharashtra
14	Licence for other related Activities, Noise pollution, air pollution & other environment related permissions	Concerned departments of Nagpur Municipal Corporation, State pollution control board, etc.
15	Working in Night Shifts	Police Department, Nagpur Municipal Corporation, Maharashtra Tourism Development Corporation Ltd.



Sr. No	Item	Agency
16	Re-routing of vehicles	Traffic Police
17	Storage of sludge/Silt	Maharashtra Tourism Development Corporation Ltd.

1.2 The Authority shall on a best effort (upon request of the Concessionaire in respect thereof) facilitate the Concessionaire in obtaining, as required under applicable laws the permits detailed in clause 1.1 above. It is however clarified that the responsibility of obtaining all the Applicable Permits, in terms hereof, shall vest with the Concessionaire. It is further clarified that the Concessionaire shall not hold the Authority responsible for procurement/ non-procurement of any of the Applicable Permits.



SCHEDULE F. PERFORMANCE SECURITY

Performance Security

(See Clause 9.1)

The _____
Maharashtra Tourism Development Corporation Ltd.
Apeejay House, 4th Floor, 3 DinshawVachha Road,
Near K.C College, Churchgate, Mumbai-400 020.

WHEREAS:

(A.) _____ (the "Concessionaire") and _____, Maharashtra Tourism Development Corporation Ltd. (the "Authority") have entered into a Concession Agreement dated _____ (the "Agreement") whereby the Authority has agreed to the Concessionaire undertaking Development and Operation/Maintenance of Ambazari Garden in Nagpur, (the "Project") through Public Private Partnership (PPP) on design, build, finance, operate and transfer ("DBFOT") basis, subject to and in accordance with the provisions of the Agreement.

(B.) The Agreement requires the Concessionaire to furnish a Performance Security to the Authority in a sum of Rs. _____ (Rupees _____ only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).

(C.) 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 Concessionaire's obligations during the Construction 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 Concessionaire, such sum or sums upto 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 not below the rank of _____ in the Maharashtra Tourism Development Corporation Ltd., that Authority that the Concessionaire 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 Concessionaire is in default in due and faithful performance of its obligations during the Construction Period under the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire, 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 Concessionaire 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 Concessionaire 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 until the Commercial Operation Date or compliance of the conditions specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no 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 on Commercial Operation Date upon submission of Operations Performance Security by the Concessionaire.

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 and effect for the entire Concession Period.

Signed and sealed this day of, 20..... at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

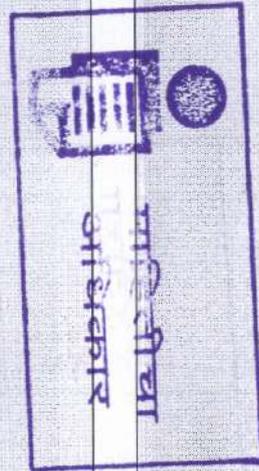
(Signature)

(Name)

(Designation)

(Code Number)

(Address)



NOTES:

- (i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
- (ii) 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.



Operations Performance Security

(See Clause 9.4)

The _____
Maharashtra Tourism Development Corporation Ltd.
Apeejay House, 4th Floor, 3 Dinshaw Wacha Road,
Near K.C. College, Church gate, Mumbai-400 020.

WHEREAS:

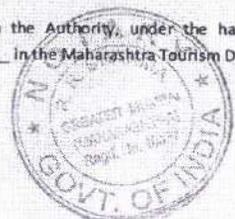
(A) _____ (the "Concessionaire") and _____ Maharashtra Tourism Development Corporation Ltd. (the "Authority") have entered into a Concession Agreement dated _____ (the "Agreement") whereby the Authority has agreed to the Concessionaire undertaking Development and Operation/Maintenance of Ambazari Garden in Nagpur, (the "Project") through Public Private Partnership (PPP) on design, build, finance, operate and transfer ("DBFOT") basis, subject to and in accordance with the provisions of the Agreement.

(B) The Agreement requires the Concessionaire to furnish the Operations Performance Security to the Authority in a sum of Rs. _____ (Rupees _____ only) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Operations Period (as defined in the Agreement).

(C) We, _____ through our Branch at _____ (the "Bank") have agreed to furnish this Bank Guarantee by way of Operations 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 Concessionaire's obligations during the Operations 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 Concessionaire, 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 not below the rank of _____ in the Maharashtra Tourism Development Corporation Ltd., that Authority



that the Concessionaire 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 Concessionaire is in default in due and faithful performance of its obligations during the Operations Period under the Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire 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 Concessionaire, 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 Concessionaire 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 Concessionaire under the Agreement.

12. 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 until the earlier of the 3rd (third) month after the end of Concession Period or compliance of the conditions specified in paragraph 8 below and unless a demand or claim in writing is made by the Authority on the Bank under this Guarantee, no 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.

7. The Performance Security shall cease to be in force and effect earlier of the 3rd (third) month after the end of Concession Period.

8. 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.

9. 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.

10. This Guarantee shall come into force with immediate effect and shall remain in force and effect for the entire Concession Period.

Signed and sealed this day of, 20..... at

SIGNED, SEALED AND DELIVERED

For and on behalf of

the BANK by:

(Signature)

(Name)

(Designation)

(Code Number)

(Address)

NOTES:



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(ii) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

(iv) 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 G. PROJECT COMPLETION SCHEDULE

1. Project Construction Completion Schedule

During Construction Period, the Concessionaire shall comply with the requirements set forth in this Schedule-G for each of the Project Milestones and the Scheduled Completion Date (the "Project Completion Schedule"). Within 15 (fifteen) days of the date of each Project Milestone, the Concessionaire shall notify the Authority of such compliance along with necessary particulars thereof.

2. Project Milestone-I

- 2.1 Project Milestone-I shall occur on the date falling on the [365th (three hundred and sixty five)] day from the Appointed Date (the "Project Milestone-I").
- 2.2 Prior to the occurrence of Project Milestone-I, the Concessionaire shall have expended not less than 30% (thirty per cent) of the total capital cost set forth in the Financial Package.
- 2.3 Prior to the occurrence of Project Milestone -I, the Concessionaire shall have commenced construction of the Project and achieved 30% Physical Progress.

3. Project Milestone-II

- 3.1 Project Milestone-II shall occur on the date falling on the [540th (five hundred and forty)] day from the Appointed Date (the "Project Milestone-II").
- 3.2 Prior to the occurrence of Project Milestone-II, the Concessionaire shall have expended not less than 65% (sixty five per cent) of the total capital cost set forth in the Financial Package. Provided, however, that at least 65% (sixty five percent) of the expenditure referred to hereinabove shall have been incurred on physical works which shall not include advances of any kind to any person or expenditure of any kind on plant and machinery.
- 3.3 Prior to the occurrence of Project Milestone -II, the Concessionaire shall have commenced construction of the Project and achieved 65% Physical Progress.

4. Project Milestone-III

- 4.1 Project Milestone-III shall occur on the date falling on the [730th (seven hundred and thirty)] day from the Appointed Date (the "Project Milestone-III").
- 4.2 Prior to the occurrence of Project Milestone-III, the Concessionaire shall have commenced [construction of all Project Facilities and expended not less than 100% (hundred per cent)] of the total capital cost set forth in the Financial Package.
- 4.3 Prior to the occurrence of Project Milestone -III, the Concessionaire shall have commenced construction of the Project and achieved 100% Physical Progress.



5. Scheduled Construction Completion Date

- 5.1 The Scheduled Construction Completion Date shall be the [730th (seven hundred and thirty)] day from the Appointed Date.
- 5.2 On or before the Scheduled Completion Date, the Concessionaire shall have completed the Project in accordance with this Agreement.

6. Extension of period

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.



SCHEDULE H. DRAWINGS

1. Drawings

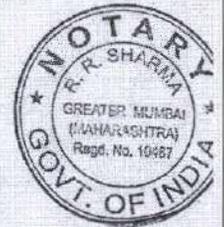
In compliance of the obligations set forth in Clause 12.2 of this Agreement, the Concessionaire shall furnish to the Engineer, free of cost, all Drawings listed in Annex-I of this Schedule-H.

2. Additional drawings

If the Engineer determines that for discharging its duties and functions under this Agreement, it requires any drawings other than those listed in Annex-I, it may by notice require the Concessionaire to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the Concessionaire shall promptly prepare and furnish such drawings to the Engineer, as if such drawings formed part of Annex-I of this Schedule-H.

Annex - I (Schedule-H) List of Drawings

The Concessionaire shall develop a master plan for the proposed development in consultation with the Authority and provide relevant details drawings for all the components to be developed at the Site.



SCHEDULE I. TESTS

1. Schedule for Tests

1.1 The Concessionaire shall, no later than 30 (thirty) days prior to the likely completion of the Project, notify the Engineer and the Authority of its intent to subject the Project to Tests, and no later than 7 (seven) days prior to the actual date of Tests, furnish to the Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of the Project.

1.2 The Concessionaire shall notify the Engineer of its readiness to subject the Project to Tests at any time after 7 (seven) days from the date of such notice, and upon receipt of such notice, the Engineer shall, in consultation with the Concessionaire, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conducted in accordance with Article 14 and this Schedule-I.

2. Tests

2.1 In pursuance of the provisions of Clause 14.1.2 of this Agreement, the Engineer shall determine, conduct, or cause to be conducted, the Tests as required for the Project in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.

2.2 Environmental audit: The Engineer shall carry out a check to determine conformity of the Project with the environmental requirements set forth in Applicable Laws and Applicable Permits.

2.3 Safety review: Safety audit of the Project shall have been undertaken by the Concessionaire in accordance with Safety Requirement.

2.4 Testing and Approval of Plants, Equipment's and Materials: All plants and equipment used for preparing, testing and production of materials for incorporation into the permanent works shall be in accordance with manufacturer's specifications and shall be approved by the Authority and Engineer before use. If witnessing at the manufacturer's facility is required for plant and equipment by the Authority or the Engineer, then the Concessionaire shall make all the necessary arrangements. The Authority reserves the right of third party testing and approval of Plants, Equipment's and Materials etc.

2.5 Testing and Approval of Works: All works executed by Developer / Contractor, including but not limited to Architectural, Civil, Structural, Painting, Façade, Woodwork and Joinery, MEP,

Landscape, Roads and Pathways / Walkways / Driveways etc. shall be tested and they must comply and pass the tests as per relevant IS codes, CPWD codes and other applicable codes / provisions. Employer reserves the right of third party testing and approval of all works carried-out by Developer / Contractor.

[Note: The Authority, in consultation with the Engineer shall hereunder describe all the tests that are to be performed, once the project plan of the successful bidder is final].

3. Agency for conducting Tests

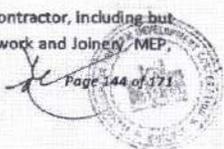
All Tests set forth in this Schedule-I shall be conducted by the Engineer or such other agency or person as it may specify in consultation with the Authority.

4. Completion Certificate

Upon successful completion of Tests, the Engineer shall issue the Completion Certificate, in accordance with the provisions of Article 14.

5. Tests during construction

Without prejudice to the provisions of this Schedule-I, tests during construction shall be conducted in accordance with the provisions of Clause 13.3.1.



SCHEDULE J. COMPLETION CERTIFICATE

(See Clause 14.2)

COMPLETION CERTIFICATE

- I/We, _____ (Name of the Engineer), acting as the Engineer, under and in accordance with the Concession Agreement dated _____ (the "Agreement"), Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra through Public Private Partnership (PPP) (the "Project") on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis, through _____ (Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-I of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I/We am/are satisfied that the Project can be safely and reliably placed in commercial service of the Users thereof.
- It is certified that, in terms of the aforesaid Agreement, all works forming part of the Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the **** day of **** 20**.

SIGNED, SEALED AND DELIVERED

For and on behalf of
ENGINEER by:

(Signature)
(Name)
(Designation)
(Address)



SCHEDULE K. MAINTENANCE REQUIREMENT

(See Clause 16.2)

1. Maintenance Requirements

- The Concessionaire shall, at all times, operate and maintain the Project in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Concessionaire shall, at all times during the Operation Period, conform to the maintenance requirements set forth in this Schedule-K (the "Maintenance Requirements").
- The Concessionaire shall repair or rectify any defect or deficiency set forth in Paragraph 2 of this Schedule-K within the time limit specified therein and any failure in this behalf shall constitute a breach of the Agreement. Upon occurrence of any breach hereunder, the Authority shall be entitled to recover Damages as set forth in Clause 16.8 of the Agreement, without prejudice to the rights of the Authority under the Agreement, including Termination thereof.

2. Repair/rectification of defects and deficiencies

- The obligations of the Concessionaire in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies specified time to time by the Authority and the Engineer within the time limit set forth therein.
- The Concessionaire shall at all times maintain an adequate inventory of spares and consumables to meet the Maintenance Requirements.

3. Other defects and deficiencies

In respect of any defect or deficiency not specified in this Schedule-K, the Concessionaire shall undertake repair or rectification in accordance with Good Industry Practice and within the time limit specified by the Engineer.

4. Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-K, if the nature and extent of any defect or deficiency justifies more time for its repair or rectification than the time specified herein, the Concessionaire shall be entitled to additional time in conformity with the Good Industry Practice. Such additional time shall be determined by the Engineer and conveyed to the Concessionaire and the Authority with reasons thereof.

5. Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Schedule-K, if any defect, deficiency or deterioration in the Project poses a hazard to safety or risk of damage to property, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.



6. Daily Inspection by the Concessionaire

The Concessionaire shall, through its engineer, undertake a daily visual inspection of the Project and maintain a record thereof in a register to be kept in such form and manner as the Engineer may specify. Such record shall be kept in safe custody of the Concessionaire and shall be open to inspection by the Authority and the Engineer at any time during office hours.

7. Divestment Requirements

All defects and deficiencies specified in this Schedule-K shall be repaired and rectified by the Concessionaire so that the Project conforms to the Maintenance Requirements on the Transfer Date.

8. Display of Schedule - K

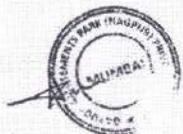
The Concessionaire shall display copy of this Schedule -K at the site along with the complaint register stipulated in Article 38.

9. O&M Requirements

All works, executed by Concessionaire / Developer, including but not limited to Architectural, Civil & Structural, Painting, Façade, Woodwork and Joinery, MEP, Landscape, Roads and Pathways / Walkways / Driveways etc. shall be Operated & Maintained by him. The Concessionaire shall implement an Operations and Maintenance (O&M) program. The Developer / Contractor shall also provide complete, thorough and effective Operations and Maintenance (O&M) of all equipment, components and systems installed and Works executed under this contract at all sites. This O&M program shall be provided for the entire concession period. The Developer shall ensure that all times during the O&M period, the project works conforms to the maintenance requirements set forth in the Employer's (MTDC's) requirements.

Annex - I (Schedule-K) Repair/Rectification of Defects and Deficiencies

(To be listed out based on the Project Plan of the Concessionaire in Consultation with the Authority and the Engineer)



SCHEDULE L SAFETY REQUIREMENTS

(See Clause 17.1.1)

1. Guiding principles

- 1.1 Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents on or about the Project, irrespective of the person(s) at fault.
- 1.2 Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.
- 1.3 Safety Requirements include measures associated with traffic management and management of the users of the facility.

2. Obligations of the Concessionaire

The Concessionaire shall abide by the following in so far as they relate to safety of the Users:

- (a) Provisions of this Agreement; and
- (b) Good Industry Practice.
- (c) Applicable Laws and Applicable Permits;
- (d) Relevant Standards/Guidelines.

(To be listed out based on the Project Plan of the Concessionaire in Consultation with the Authority and the Engineer)

SCHEDULE M. TERMS OF REFERENCES FOR THE ENGINEER

(See Clause 19.1)

Concerned Executive Engineer/ Nodal Officer shall be the "The Engineer" on behalf of the Authority.

The Engineer shall be responsible for preparing and initiating requisitions for formation of various committees as mentioned in the Concession Agreement viz. design approval committee, rate fixing committee, maintenance committee etc.

The Engineer shall be responsible for vetting all the documents/plans/ applications prepared by the concessionaire before submitting for approvals to the committees and/or to respective departments for various approvals required for development of the project.

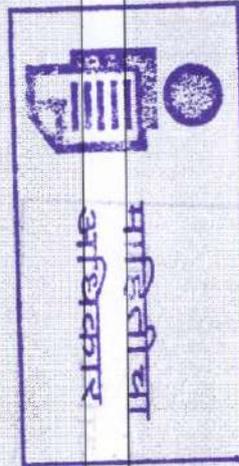
The Engineer shall also be responsible for organising meetings of the committee/ or any other meetings in respect of the project execution and delivery.

The Engineer shall, in principle, be responsible for review of construction, monitor the progress of the project.

The tenure of the Engineer shall be till the end of the Term of Agreement, when the Concessionaire receives the Completion Certificate.

The Engineer shall undertake the following functions:

1. The Engineer shall upload the reports submitted by the Concessionaire once every month or more frequently as the situation may warrant on the progress of implementation of the Project on the Project Monitoring Software/Application.
2. For the purposes of determining that construction works are being undertaken in accordance with agreement conditions with Specifications and Standards/Good Industry Practice and for quality assurance, Engineer shall require the Concessionaire to carry out such Tests at such time and frequency and in such manner as may be necessary in accordance with Good Industry Practice. The expenses for such tests shall be borne by the concessionaire.
3. Ensure that the Concessionaire submits to the Engineer with due regard to the Project Implementation Schedule and Scheduled Construction Completion Date, its design, engineering & construction time schedule and shall formulate and provide Critical Path Method (CPM)/ Project Evaluation and Review Technique (PERT) charts for the completion of the said activities.
4. Provide supervision to ensure that the Concessionaire carries out with due diligence the Tests in accordance with the Engineer's instructions. The Engineer shall monitor the results of the Tests to determine the compliance of the Project with the Specifications and Standards and shall provide to the Competent Authority of all Test data including detailed Test results.
5. The Engineer shall furnish the results of Tests and Tests Data to the Competent Authority within the specified period in the Term of Agreement and shall keep record of the same.



6. Recommend to the Competent Authority/MTDC the suspension of the whole or any part of the Construction Works.
7. Inspect and check the quality and quantity of the materials and their storage in compliance with the Concession Agreement.
8. The Engineer shall inspect periodically or at random the records, documents and data etc. of the Concessionaire and verify the samples or take measurements as per the Concession Agreement.
9. Inspect the project site during the Construction Period at all reasonable times and upon reasonable notice to the Concessionaire and have access to all parts of the project site as per the Agreement.
10. Perform such functions as may be provided in the Agreement or authorized by DDA during the Construction Period from time to time.
11. To monitor progress of the Works and compliance by the Concessionaire with the PERT charts, CPM and the project milestones set forth in the Project Implementation Schedule.
12. To seek explanations from the Concessionaire for delays or non-compliance with the quality control parameters;
13. To notify Competent Authority/MTDC of delays and non-compliances and the explanations relating thereto for any remedial measures to be taken in this behalf.



SCHEDULE N. VESTING CERTIFICATE

(See Clause 29.4)

VESTING CERTIFICATE

1. The _____, Maharashtra Tourism Development Corporation Ltd. (the "Authority") refers to the Concession Agreement dated ***** (the "Agreement") entered into between the Authority and ***** (the "Concessionaire") for Draft Concession Agreement for Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra through Public Private Partnership (PPP) (the "Project") on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis.
2. The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Clause 29.1 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 Concessionaire 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 Concessionaire to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Concessionaire in any manner of the same.

Signed this **** day of ****, 20 at [****]

AGREED, ACCEPTED AND SIGNED, SEALED AND DELIVERED

For and on behalf of CONCESSIONAIRE by:
(Signature)

(Name)

(Designation)

(Address)

In the presence of:

1.

AGREED, ACCEPTED AND SIGNED, SEALED AND DELIVERED

for and on behalf of AUTHORITY by:
(Signature)

(Name)

(Designation)

(Address)

2.



SCHEDULE O. SUBSTITUTION AGREEMENT

(See Clause 31.3)

THIS SUBSTITUTION AGREEMENT is entered into on this the **** day of **** 20**

AMONGST

1. Maharashtra Tourism Development Corporation Ltd, represented by the _____ and having its principal office at Apeejay House, 4th Floor, 3 Dinshaw Wacha Road, Near K.C College, Church gate, Mumbai-400 020, Maharashtra, India which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);
2. **** Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at **** (Hereinafter referred to as the "Concessionaire" which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);
3. ***** (insert name and particulars of Lenders' Representative) and having its registered office at ****, acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative", which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes)

WHEREAS:

- (A) The Authority has entered into a Concession Agreement dated **** With the Concessionaire (the "Concession Agreement") for Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra (the "Project" on design, build, finance, operate and transfer basis (the "DBFOT"), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
- (B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
- (C) Senior Lenders have requested the Authority to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Nominated Company in accordance with the provisions of this Agreement and the Concession Agreement.
- (D) In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Authority has agreed and undertaken to transfer and assign



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the Concession to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

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

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

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

"Agreement" means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

"Financial Default" means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Concessionaire for a minimum period of 3 (three) months;

"Lenders' Representative" means the person referred to as the Lenders' Representative in the foregoing Redtals;

"Nominated Company" means a company, incorporated under the provisions of the Companies Act, 1956, including any re-enactment or amendment thereof, selected by the Lenders' Representative, on behalf of Senior Lenders, and proposed to the Authority for assignment/transfer of the Concession as provided in this Agreement;

"Notice of Financial Default" shall have the meaning ascribed thereto in Clause 3.2.1; and

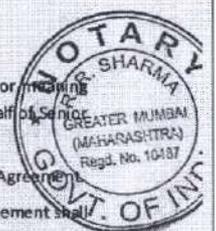
"Parties" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually.

1.2. Interpretation

1.2.1. References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.



1.2.4. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. ASSIGNMENT

2.1. Assignment of rights and title

The Concessionaire hereby agrees to assign the rights, title and interest in the Concession to, and in favour of, the Lenders' Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

3. SUBSTITUTION OF THE CONCESSIONAIRE

3.1. Rights of substitution

3.1.1. Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders' Representative shall be entitled to substitute the Concessionaire by a Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2. The Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Nominated Company selected by the Lenders' Representative in accordance with this Agreement. For the avoidance of doubt, the Senior Lenders or the Lenders' Representative shall not be entitled to operate and maintain the Project as Concessionaire either individually or collectively.

3.2. Substitution upon occurrence of Financial Default

3.2.1. Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice to the Concessionaire (the "Notice of Financial Default") along with particulars thereof, and send a copy to the Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2. Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3. At any time after the Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project in accordance with the provisions of Article 30 of the Concession Agreement, and upon receipt of such notice, the Authority shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The

aforsaid Suspension shall be revoked upon substitution of the Concessionaire by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority may extend the aforsaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, the Authority expressly agrees and undertakes to terminate the Concession Agreement forthwith, upon receipt of a written request from the Lenders' Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

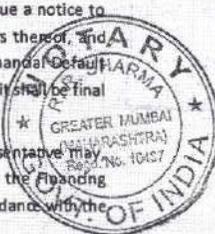
3.3. Substitution upon occurrence of Concessionaire Default

3.3.1. Upon occurrence of a Concessionaire Default, the Authority shall by a notice inform the Lenders' Representative of its Intention to issue a Termination Notice and grant 15 (fifteen) days' time to the Lenders' Representative to make a representation, stating the intention to substitute the Concessionaire by a Nominated Company.

3.3.2. In the event that the Lenders' Representative makes a representation to the Authority within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Authority shall either withhold Termination or undertake Suspension for the aforsaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforsaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days; provided further that the Lenders' Representative may at any time withdraw its representation hereunder and upon such withdrawal, the Authority may terminate this Agreement in accordance with the provisions hereof.

3.4. Procedure for substitution

3.4.1. The Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Authority under Clause 3.3.2, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Concession to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Concessionaire towards the Authority



under the Concession Agreement and towards the Senior Lenders under the Financing Agreements.

3.4.2 To be eligible for substitution in place of the Concessionaire, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for short listing the bidders for award of the Concession; provided that the Lenders' Representative may represent to the Authority that all or any of such criteria may be waived in the interest of the Project, and if the Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.

3.4.3 Upon selection of a Nominated Company, the Lenders' Representative shall request the Authority to:

- (a) Accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Concession Agreement;
- (b) Endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and
- (c) Enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.

3.4.4 If the Authority has any objection to the transfer of Concession in favour of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Authority, the Nominated Company shall be deemed to have been accepted. The Authority shall thereupon transfer and endorse the Concession within 15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Authority, the Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated Company in place of the Concessionaire.

3.4.5 The transfer of Concession hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Concession Agreement, be undertaken by transfer of no less than 75% (seventy five per cent) of the equity of the Concessionaire to the Nominated Company, and upon such transfer hereunder, the Concessionaire shall be deemed to be the Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.



3.5. Selection to be binding

The decision of the Lenders' Representative and the Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Senior Lenders or the Authority taken pursuant to this Agreement including the transfer/assignment of the Concession in favour of the Nominated Company. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Authority or the Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders' Representative.

4. PROJECT AGREEMENTS

4.1. Substitution of Nominated Company in Project Agreements

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Nominated Company's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

5. TERMINATION OF CONCESSION AGREEMENT

5.1. Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination under and in accordance with the provisions of Article 31 of the Concession Agreement.

5.2. Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Authority is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.



6. DURATION OF THE AGREEMENT

6.1. Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

- (a) Termination of the Agreement; or
- (b) No sum remains to be advanced and no sum are outstanding to the Senior Lenders, under the Financing Agreements.

7. INDEMNITY

7.1. General indemnity

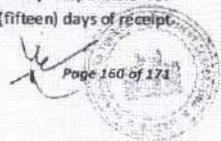
7.1.1. The Concessionaire will indemnify, defend and hold the Authority and the Lenders' Representative harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

7.1.2. The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.

7.1.3. The Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

7.2. Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt.



of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8. DISPUTE RESOLUTION

8.1. Dispute resolution

8.1.1. Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to arbitration to a Board of Arbitrators comprising one nominee each of the Authority, Concessionaire and the Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the Mumbai Centre For International Arbitration, Mumbai (the "Rules") or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

8.1.2. The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be the capital of the State and the language of arbitration shall be English.

9. MISCELLANEOUS PROVISIONS

9.1. Governing law and jurisdiction

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

9.2. Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

- (a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
- (b) 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 Authority with respect to its assets;



(c) 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

(d) consents generally in respect of the enforcement of any judgment 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 judgment that may be made or given in connection therewith).

9.3. Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

9.4. Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized representatives of the Parties.

9.5. Waiver

9.5.1. Waiver by any Party of a default by another 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 authorized representative of the Party; and

(c) Shall not affect the validity or enforceability of this Agreement in any manner.

9.5.2. 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 another Party shall be treated or deemed as a waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

9.6. No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

9.7. Survival



9.7.1. Termination of this Agreement:

(a) Shall not relieve the Parties 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, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

9.7.2. All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

9.8. Severability

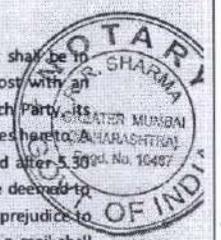
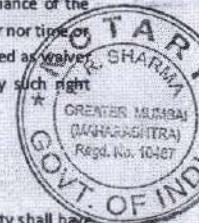
If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall 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 dispute resolution under Clause 8 of this Agreement or otherwise.

9.9. Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

9.10. Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereof. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of



9.11. Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

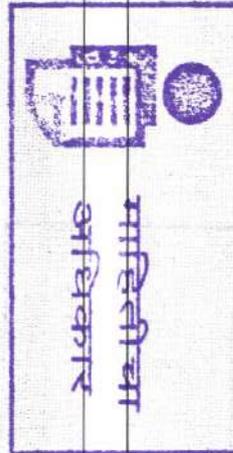
9.12. Authorized representatives

Each of the Parties shall by notice in writing designate their respective authorized representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorized representative by similar notice.

9.13. Original Document

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

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



THE COMMON SEAL OF CONCESSIONAIRE has SIGNED, SEALED AND DELIVERED
been affixed pursuant to the resolution passed by For and behalf of THE AUTHORITY by:

the Board of Directors of the Concessionaire at its meeting held on the 15th day of the Nov, 2019 here unto affixed in to the presence of Mr. Vijay Shinde the Director, who has signed these presents In token thereof, Company Secretary /Authorized Officer who has countersigned the same in token thereof¹

(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
(Fax No.)	(Fax No.)
(E-mail address)	(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of SENIOR LENDERS by

Lenders' Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

In the presence of:

1

2



¹To be affixed in accordance with the articles of association of the Concessionaire and the resolution passed by its Directors

SCHEDULE P. SITE LEASE DEED

SITE LEASE DEED made on the _____ day of _____ 20** by and among

BETWEEN

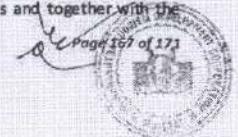
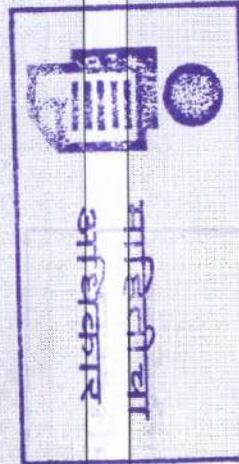
1. Maharashtra Tourism Development Corporation Ltd, represented by the _____ and having its principal office at Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K.C College, Church gate, Mumbai-400 020, Maharashtra, India (Hereinafter referred to as the "Authority" or the "Lessor" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns); And
2. M/S _____, a Special Purpose Vehicle (SPV) incorporated under the Companies Act, 2013 and having its registered office at _____ (hereinafter referred to as the "Concessionaire" or the "Lessee", which expression shall, unless the context otherwise requires, includes its successors and permitted assigns);

WHEREAS

- A. The Authority has vide the Concession Agreement dated _____ (hereinafter "Concession Agreement") granted concession to _____ the Concessionaire or the Lessee herein to implement the Project at Site, involving development, financing, design, construction, operation and maintenance of Project on the Design-Build- Finance-Operate-Transfer Basis (DBFOT) in accordance with the provisions of the Concession Agreement.
- B. Pursuant to and under the Concession Agreement the Lessor is required to vest with the Lessee the land comprising the Site and all Lease rights relating thereto for a period co-terminus with the term of the Concession Agreement under a valid and binding Site Lease Deed for the purpose of implementing the Project.
- C. The Site has been leased by the _____ Maharashtra Tourism Development Corporation Ltd, being the holding the lawful possession of the Site with a good title thereto as per the terms and conditions mentioned herewith, the Authority is desirous of sub-lease the Site unto the Lessee and vesting unencumbered possession thereof with the Lessee, on the terms and conditions hereinafter contained.

NOW THIS Lease Deed WITNESSETH AS FOLLOWS:

1. The words and expressions used in this Deed but not defined shall, unless the context otherwise requires, have the meaning as defined/assigned to them respectively in the Concession Agreement.
2. The Interpretation Clause 1.2 of the Concession Agreement shall be deemed to be incorporated in this Deed in extenso mutatis mutandis.
3. The following words and expressions shall, except where the context otherwise requires, have the meaning as hereunder:
 - (a) "Site Lease Deed" or "Deed" means this Site Lease Deed;
 - (b) "Concession Agreement" shall mean the Concession Agreement dated 22nd Nov, 2019 entered into between the Authority and Concessionaire;
 - (c) "Term of the Agreement" means the period specified under Article 3 of the Concession Agreement;
 - (d) "Premises" means all the lands comprising the Site, more particularly delineated in Schedule A of this document and demarcated on the site plan attached thereto;
 - (e) "Parties" shall mean Lessor and Lessee herein, and where the context admits or requires, the Selected Bidder / Consortium;
 - (f) "Authority" means the Maharashtra Tourism Development Corporation Ltd.;
 - (g) "Concessionaire" means Selected Bidder/Consortium;
 - (h) "Annexure" means any of the Annexure, supplements and documents annexed to this Agreement.
4. The Authority hereby leases the Premises unto the Concessionaire as a "vacant possession" under the terms of this Deed from the _____ day of 2019 for a period of which period shall be co-terminus with the term of the Concession Agreement (concession period) and shall be extended or terminated at a prior date to coincide with the term of the Concession Agreement. The Authority hereby undertakes that it shall not terminate this Deed, except upon the due and valid termination of the term of the Concession Agreement.
5. In accordance with the Concession Agreement signed between the Authority and the Concessionaire, the consideration of the Annual Lease Rental herein reserved and the covenants on the part of the Concessionaire, the Authority hereby leases unto the Concessionaire the Premises without interruption or interference, free from Encumbrances and together with the



full and free right and liberty of way and passage, the easementary rights and other rights in relation thereto with delivery of vacant possession thereof.

6. In consideration of the Authority leasing the Site to the Concessionaire/Lessee, the Concessionaire/Lessee shall simultaneously with the execution of the Site Lease Deed, pay to the Authority, the Annual Lease Rent at of Rs 100/- (Rupees one hundred only) per annum with 5% annual escalation for the duration of the Term of the Agreement. The first Annual Lease Rental payment shall be paid with the execution of this Lease Deed and the second Annual Lease Rental payment shall be paid prorata for the period beginning from first anniversary of date of execution of Lease Deed until the completion of the succeeding Accounting Year. Thereafter Annual Lease Rental shall be paid on annual basis for every Accounting Year. The Lessor hereby vests the Premises with the Concessionaire along with all easementary rights, free from any Encumbrance. Any liability arising out of providing the Premises free of Encumbrances shall be borne solely by the Authority.

7. The Authority hereby vests the Premises with the Concessionaire under this Deed for the purpose of implementing the Project, including the design, finance, construction, and operation and maintenance of the Project Facility thereat in accordance with the terms and conditions of the Concession Agreement.

8. The Concessionaire shall not sub-lease the whole or any part of the land comprising the Site, leased to it by Authority under this Deed, to any person in any form or under any arrangement, device or method, provided that the Concessionaire shall be entitled to:

(a) enter into Contractual Arrangements, including the sub-leasing, subletting, sub-licensing, franchising or similar arrangements in respect of the built up area, which, however, shall not involve the transfer of the leasehold rights therein or thereof

(b) appoint Subcontractors for the implementation of the Project at the Premises in accordance with the provisions of the Concession Agreement.

provided that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

9. The Authority hereby agrees that for the purpose of raising financial assistance for the Project, the Concessionaire may assign all its rights, title, interest and benefits under the Concession Agreement, limited to the extent of such rights therein, to or in favour of the Lenders in accordance with the provisions of the Concession Agreement, provided that:

(a) in the event of the termination of the Concession Agreement such assignment shall stand extinguished.

(b) the Concessionaire shall have the right and authority to mortgage, encumber or create any security interest whatsoever on the leasehold rights of the Site, the Project Facility or any other built up area thereat or therein, in full or part, in favour of the Lenders.

10. In the event of termination of the Concession Agreement by efflux of time or otherwise, this Deed shall be terminated and the lease of the Premises and all rights in relation thereto shall be determined, the Concessionaire, the Transferees and Persons claiming through or under it/them shall hand over the vacant possession of the Premises to the Authority and forthwith vacate the Premises without any demur or delay.

11. The Authority hereby covenants with the Concessionaire as under:

(a) That it shall not increase the Annual Lease Rent due and payable by the Concessionaire subject to Clause 6 hereof;

(b) That the Annual Lease Rent, is paid by the Concessionaire to the Authority as per Article 22 of the Concession Agreement;

(c) That it shall not interfere with or impede in any manner or otherwise limit, restrict or impose conditions in relation to: (i) the complete, free and full enjoyment of the Premises by the Concessionaire for the purpose of the implementation of the Project and all rights related thereto; (ii) the design, construction, operation and maintenance of the Project Facility; (iii) the implementation of the Project by the Concessionaire; and (iii) the possession, control and use by the Concessionaire of the Premises, the Project Facility constructed thereon and any other facilities developed in the course of implementation of the Project; provided that the same are in compliance with the terms and conditions of the Concession Agreement and this Deed.

(d) That it shall not terminate this Deed, except upon the due and valid termination of the Concession Agreement in accordance with the terms thereof;

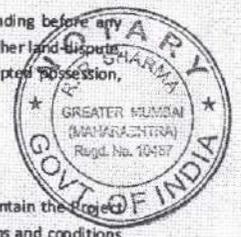
(e) That there are no litigations, claims, demands or any proceedings pending before any authority in respect of acquisition of the Premises or in respect of any other land disputes, and that the Concessionaire shall have complete, lawful and uninterrupted possession, control and use of the Premises.

12. The Lessee hereby covenants with the Authority as follows:

(a) That it shall develop, establish, design, construct and operate and maintain the Project Facility/Project at the Premises as per its obligations under and the terms and conditions of the Concession Agreement;

(b) That it shall operate and maintain the Project Facility or cause it to be operated and maintained in accordance with the Concession Agreement;

(c) That it shall observe and perform all terms, covenants, conditions and stipulations of this Deed and the Concession Agreement; and



(d) That it shall keep the Premises free from encroachments during the Term of the Concession Agreement and carry out its maintenance and repairs in accordance with the provisions of the Concession Agreement.

13. Each Party hereto represents and warrants that:

- (a) It has full power and authority to execute, deliver and perform its obligations under this Deed and to carry out the transactions contemplated hereby;
- (b) It has taken all necessary actions to authorize the execution, delivery and performance of this Deed; and
- (c) This Deed constitutes its legal, valid and binding obligations that shall be enforceable against it in accordance with the terms hereof.

14. The Parties agree that

- (a) The failure of the Concessionaire to perform its obligations under this Deed and any breach of covenants or undertakings given and provided for in this Deed by the Concessionaire shall amount to a Concessionaire's Event of Default under the Concession Agreement.
- (b) Any dispute, controversy or claim arising out of or in relation to this Deed or the interpretation of any of its provisions shall be settled in accordance with the provision of Article 38 of the Concession Agreement.
- (c) The stamp duty and registration charges for the execution and registration of this Deed shall be borne by the Lessee in accordance with the provisions of the Applicable Laws.
- (d) In case of ambiguities, conflicts or discrepancies between the Concession Agreement and this Deed, the Concession Agreement shall prevail.
- (e) All notices under the terms of this Deed shall be sent either by hand, facsimile or courier to the following addresses:

Authority:

Concessionaire:



IN WITNESS WHEREOF the Parties have executed and delivered this Deed by their duly authorized representative on the date first above written:

SIGNED ON BEHALF OF AUTHORITY

Signature :

Name

Designation :

SIGNED, SEALED AND DELIVERED

Concessionaire by the hand of its authorized representatives

Signature :

Name

Designation :

Pursuant to Resolution dated _____ of its Board of Directors

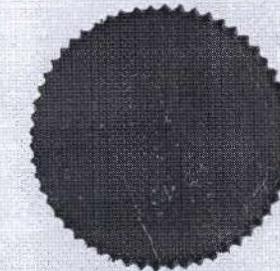
In the presence of Witness:

1

Date:

Place:

2



ATTESTED BY ME

R. R. SHARMA

B.Sc. (Hon.), LL.B.
ADVOCATE HIGH COURT &
NOTARY GOVT. OF INDIA
FLAT No. 2, C WING, BLDG No. 2
SHREE SAI COMPLEX CHS., DANDOOK
VALA COMPOUND, OPP. S.T. BUS DEPOT,
SAVANI ROAD MUMBAI - 400 024



25 NOV 2019



181/CS

Maharashtra Tourism Development Corporation Ltd.

(A Government of Maharashtra Undertaking)

Head office : C. D. O. Humeris, Opp. L.I.C. Building (Yogakshema), Madame Cama Road, Mumbai - 400 020.

TEL. : (9122) 2284 5678, 2204 4040 • Fax No. : (91-22) 2285 2182, 2202 4521.

WEBSITE : www.maharashtratourism.gov.in • E-mail : info@maharashtratourism.gov.in

CIN - U99999MH1975SGC018086

MTD/C/Works/Ambazari/Nagpur/2018/3407

Date :- 23 JAN, 2018

To,

M/s. Darashaw & Company Private Ltd.

6th Floor, Express Building,

14th "E" Road, Near Government Law College,

Churchgate (West), Mumbai 400 020.

Tel. 022 4302 2300

Fax. 022 4302 2366

Email: team-consultancy@darashaw.com



Sub :- Appointment of Consultant for conducting feasibility, Study and Transaction Advisory Services for Development of Ambazari Garden in Nagpur on PPP Basis

Power Point Presentation to be done at MTD/C, Mumbai on 25/01/2018.

Ref :- Your Submitted Bids.

This office is in receipt of your E-bid for above subject work. (Total 06 (Six) tenders have submitted this offers). In this regards, this is to convey that, MTD/C has decided to have a presentation in regarding to point "P" (Page 14) of the tender document, at MTD/C's head office APPEJAY HOUSE, 4th Floor, 3rd Dinshaw Wadia Road, Churchgate, Mumbai - 400 020 on Thursday, 25th Jan, 2018 at 11:30 hrs. Hence, you are requested to kindly make it convenient to remain present for the presentation on "Detailed Approach-Methodology and Concept Plan Presentation", for which 10 minutes will be given to each tenderer.

Thanking you,

(Shalendra Borse)

Executive Engineer

M.T.D.C Ltd., Mumbai.



माहितीचा
अभिकार
Letter of Intent

MTDC/Works/Lol/Ambazari-Nag/2018 /3513

Date :- 16/02/2018.

16 FEB 2018

To,
M/s Darashaw & Company Pvt. Ltd.,
6th Floor, Express Building,
14th "E" Road,
Near Government Law College,
Churchgate (West),
Mumbai 400 020.
Tel: 022 4302 2300 ; Fax: 022 4302 2366.

**Sub :- APPOINTMENT OF CONSULTANT FOR CONDUCTING
FEASIBILITY STUDY AND TRANSACTION ADVISORY SERVICES
FOR DEVELOPMENT OF AMBAZARI GARDEN IN NAGPUR ON
PPP BASIS.**

Ref :- E-Tender submitted by you for the above subject work.

This office is in receipt of your e-tender submitted by you for the above subject work. E-tenders were opened online and after evaluation of the e-tender (i.e. after evaluation of Technical and Financial bid, both), it is found that your agency has secured highest marks, i.e. 82.5 out of 100. However, your offer of Rs. 47,18,820/- is found on higher side. In this connection, you are requested to submit your negotiated offer/attend MTDC Head Office, Mumbai (4th Floor, APEEJAY House, Dinshaw Waccha Road, Churchgate, Mumbai), latest by 23Feb. 2018 (by 3 pm) for negotiation of your offer, failing to which this office shall consider that you are not interested in executing the above subject work and shall decide further course of action.



Received
As per
Executive Engineer
MTDC Ltd., Mumbai

Copy submitted to Hon'ble Managing Director, MTDC, Mumbai, for information please.

22nd, February, 2018

To,
The Executive Engineer,
Maharashtra Tourism Development Corporation Ltd.
4th Floor, Apeejay House, Dinshaw Waccha Road
Churchgate, Mumbai.



Subject: - Appointment of consultant for conducting Feasibility Study and transaction Advisory Services for Development of Ambazari Garden in Nagpur on PPP basis.

Reference: - Letter of Intent (letter no. MTDC/Works/Lol/Ambazari - Nag/2018/3513) dated 16th February, 2018.

Respected Sir,

In reference to the Letter of Intent received from your office regarding our bid submitted for "Appointment of consultant for conducting Feasibility Study and Transaction Advisory Services for Development of Ambazari Garden in Nagpur on PPP basis" and submission of negotiated offer.

We would like to bring to your kind notice that the financial offer submitted by us is based on detailed analysis of the Request for Proposal document and the scope of work to be delivered by the consultant. The offer takes into consideration the cost of Expert Personal to be deployed, cost for various surveys and investigations to be carried out for the project, travelling expenses etc. Also, the financial offer will take care of the above expenses and we are looking forward to make the project successful and our main inclination is towards the success fees from the project.

We are pleased to submit our revised financial offer of Rs. 46,89,320/- (Forty Six Lakh Eighty Nine Thousand Three Hundred and Twenty Only) including taxes. We request you to, kindly consider the same and issue us the Work Order.

Assuring you of our best services.

For Darashaw & Company Pvt. Ltd.

Authorised Signatory



Handwritten notes:
M. S. / e. Shikharan
per my for further
12/2/18
22/2/18

DARASHAW & COMPANY PRIVATE LIMITED

CIN-U67120MH1994PTCO76656

Registered Office: 1205-06 Regent Chambers, 208 Nariman Point, Mumbai 400 021

Correspondence Office: 6th Floor, Express Building, 14-E Road, Churchgate, Mumbai 400 020

Website: www.darashaw.com, Email: team-consultancy@darashaw.com

Tel no: +91 22 4302 2300 Fax no: +91 22 4302 2399/366



महाराष्ट्र MAHARASHTRA

© 2017 ©

AG 490118



CONTRACT AGREEMENT

FOR

Name of Work : Appointment of Consultant for conducting Feasibility Study and Transaction Advisory Services for development of Ambazari garden in Nagpur, Maharashtra on PPP basis.

E-Tender : Dated 22nd November, 2018.

Consultancy Amount: Rs. 46, 89, 320/- (including applicable taxes)

This agreement is made on the 23rd of February, 2018 between MAHARASHTRA TOURISM DEVELOPMENT CORPORATION LTD., 4th Floor, Aapejay House, 3, Dinshaw Wachaw/Road, Churchgate, Mumbai. (Hereinafter called the "M.T.D.C." as the one part) and DARASHAW & CO. PVT. LTD. having their office at 6th Floor, Express Building, Churchgate, Mumbai-400020 (hereinafter called the "Consultant" of the other part).

प्रधान मुद्रांक कार्यालय, मुंबई
प.सु.वि.क. ८०००००६
- 2 FEB 2018
सहस्र अधिकारी

श्रीमती. एम. पी. भोसले



EXECUTIVE ENGINEER
M.T.D.C. LTD. MUMBAI

HPM

009 AIC 415

DARASHAW & CO. PVT. LTD.
6TH FLOOR, EXPRESS BLDG
145, Park Road, New Market,
Lahore, Pakistan. Only for Agents.

गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____

गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____



00001304

81109A 0A

गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____



गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____

गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____

गुप्त विद्या सेवाएँ एवं _____
गुप्त विद्या सेवाएँ विदेशी एवं _____
गुप्त विद्या सेवाएँ और वही अर्थात् _____

REFUNDING SERVICES
LABRUM, DTJ, D.T.M

Whereas the M.T.D.C. is desirous of carrying out work of "Conducting Feasibility Study and Transaction Advisory Services for development of Ambazari Garden in Nagpur, Maharashtra on PPP basis" and desires to have the services of PROJECT DEVELOPMENT CONSULTANT and other required services to complete the work from the Consultant.

For the purpose of this agreement

AND WHEREAS the Consultant has agreed to render the required professional Services as Project Development Consultants to the M.T.D.C. for the said work.

NOW IT HEREBY AGREED AS FOLLOWS:

I. WHEREAS the M.T.D.C. intends to do the work of "Appointment of Consultant for conducting Feasibility Study and Transaction Advisory Services for development of Ambazari garden in Nagpur, Maharashtra on PPP basis" and is in the need of the professional services of Project Development Consultation for the said purpose.



II. WHEREAS the Consultant have offered to render service to the M.T.D.C. in accordance with terms of M.T.D.C. (by way of submitting/filing the e-tender/RFP document which shall form of this agreement) and that the M.T.D.C. have accepted their offer and conditions herein contained have been mutually agreed upon between the parties.

III. NOW THESE PRESENTS WITNESS that M.T.D.C. hereby engage the services of Darashaw & Co. Pvt. Ltd. in connection with the work of "Appointment of Consultant for conducting Feasibility Study and Transaction Advisory Services for development of Ambazari garden in Nagpur, Maharashtra on PPP basis", upon the terms and conditions herein contained.

Definition

- Engineer-In-Charge means the Executive Engineer, MTDC Ltd., who shall be incharge of the project regarding all technical matters.
- Deputy Engineer/ Manager (Works) means representative of the MTDC.
- Architect/Consultants means the Agencies, who are assigned the job of providing the services for the project as stipulated in this agreement.



EXECUTIVE ENGINEER
M.T.D.C. LTD. MUMBAI

HPN



Scope and Terms and Conditions

The services to be rendered by the Consultants for the project, fees payable and other terms and conditions of the agreement shall be as stipulated in the Request for Proposal document issued by MTDC, Addendum/Corrigendum/ Common set of deviations, bid submitted by the consultant and/or any other information issued by MTDC regarding the said work shall form part of this agreement.

IN WITNESS WHEREOF THE PARTIES hereto have executed these presents in the presence of witness attesting hereunder:

Signature with stamps:

(1) Consultancy Firm

Shrawan



(2) Executive Engineer

H. S. N.

MTDC Ltd., Mumbai.

EXECUTIVE ENGINEER
M.T.D.C. LTD. MUMBAI



(3) Witness with address:-

[Signature]

Junior Engineer
MTDC, Head Office,
Mumbai

Place: MUMBAI

Date: 23/02/2018



Name of Work: Development of Ambazari garden in Nagpur, Maharashtra on PPP basis

M/s Darashaw and Company Pvt. Ltd, Mumbai has been appointed as consultant for conducting Feasibility Study and Transaction Advisory Services by Maharashtra Tourism Development Corporation (MTDC) for the captioned work.

M/s Darashaw and Company Pvt. Ltd, Mumbai is hereby authorized to conduct a Market Demand Assessment Survey, Topographical Survey and any other similar surveys for above mentioned project. Hence, all the concerned Government / Semi-Government Departments & Stakeholders in Tourism are requested to extend their cooperation & assistance to M/s Darashaw and Company Pvt. Ltd, Mumbai in this regard.

No. MTDC/Works/Ambazari PPP/ 2018/

Date:


११/०३/१८


Executive Engineer
MTDC Ltd. Mumbai.

Issued To,

Darashaw & Company Pvt Ltd

6th Floor, Express Building,
14th, "E" Road, Near Government Law College,
Churchgate (West),
Mumbai- 400020.



Received

As directed



महाराष्ट्र
अर्थिक लेटर ऑफ असेप्टेन्स

o/c

No. MTDC/Works/HO/WO/Ambazari/2018/3540

Date: 22/02/2018.

22 FEB 2018

To,
Darashaw & Company Pvt Ltd
6th Floor, Express Building,
14th, "E" Road, Near Government Law College,
Churchgate (West),
Mumbai- 400020

Sub: Appointment of Consultant for Conducting Feasibility Study and Transaction Advisory Services for Development of Ambazari Garden in Nagpur on PPP Basis.

Ref: 1. Your final negotiated offer submitted you vide your letter dtd. 22/02/2018.

With respect to above subject, your final negotiated offer of Rs. 46,89,320/- (Rs. Forty Six Lac Eighty Nine Thousand Three Hundred Twenty Only) including all the statutory taxes for "Conducting Feasibility Study and Transaction Advisory Services for Development of Ambazari Garden in Nagpur on PPP Basis" is accepted by competent authority of MTDC.

As per Section-2, (Terms of References), Clause No. 7 you shall execute an agreement on a Non-Judicial Stamp of appropriate value and deposit Performance Security at 4% of accepted offer i.e. Rs.1,87,573/- in the form of Demand Draft / Pay order from nationalized / scheduled bank in the name of Maharashtra Tourism Development Corporation, payable at Mumbai within 30 days from the date of issue of this letter.

Executive Engineer
MTDC, Mumbai.

Received
As per

For o/c

22/02/18

for Darashaw

Anurag Kumar

9819458896



महाराष्ट्र
अधिकार WORK ORDER

MTDC/works/WO/Ambazari/2018/8/8692

Date: - 22 MAR 2018

To,
Darashaw & Company Pvt. Ltd.
6th Floor, Express Building,
14th, "E" Road, Near Government Law College,
Churchgate (West),
Mumbai- 400020.

Sub: - Conducting Feasibility Study and Transaction Advisory Services for
Development of Ambazari Garden in Nagpur on PPP Basis.

Ref :- 1) E-Tender submitted for above subject work.
2) This office letter No. MTDC/ Works/ HO/ WO/ Ambazari/ 2018/ 3540
dtd.22/02/2018.

Your final negotiated offer for the work mentioned in the above subject, at Rs. 46,89,320/- (Rs. Forty Six Lac Eighty Nine Thousand Three Hundred Twenty Only) including all the statutory taxes, is accepted by the competent authority of MTDC vide letter under reference 2.

Now, You have paid the Initial Security Deposit of Rs. Rs.1,87,573/- as mentioned in
LoA as follows:

XVide Receipt No. B-125815, dt. 21/03/2018 : Rs. 1,87,573/-
Total :-Rs. 1,87,573/-

As you have paid the initial Security Deposit and Signed the Contract agreement, you ~~are hereby given~~ ^{the} Work Order ^{is being raised with this letter.} In accordance with the tender provisions/stipulation/scope of work, you shall execute the work considering time and quality of work as an essence of ~~the~~ contract.

You may contact Manager (Works), MTDC Mumbai & Assistant Engineer, Gr-1, MTDC Ltd, R.O. Nagpur for any assistance required regarding the subjected work .



[Signature]
Executive Engineer
MTDC Ltd., Mumbai.

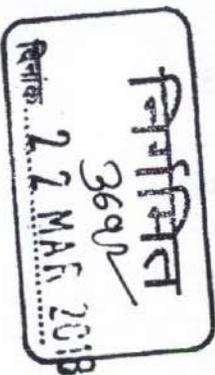
C/C to: - 1) Chief Account Officer, MTDC Ltd, H.O. Mumbai for information.

2) Sr. Regional Manager, MTDC Ltd, R.O. Nagpur for information.

3) Assistant Engineer, Gr-1, MTDC Ltd, R.O. Nagpur for information and necessary action taken.

[Signature]
Executive Engineer,
MTDC Ltd., Mumbai.

[Signature]
21/5/18



ConBom/I/0087/2019-20

Date: 29/03/2019

To
Executive Engineer,
Maharashtra Tourism Development Corporation
Churchgate,
Mumbai-400020.



Subject: Submission of RFP bid evaluation report for the Project "CONDUCTING FEASIBILITY STUDY AND TRANSACTION ADVISORY SERVICES FOR DEVELOPMENT OF AMBAZARI GARDEN IN NAGPUR ON PPP BASIS"

Ref: LOA dated 22/03/2018

Dear Sir,

With reference to the captioned project, please find enclosed two copies of RFP bid evaluation report for the project "CONDUCTING FEASIBILITY STUDY AND TRANSACTION ADVISORY SERVICES FOR DEVELOPMENT OF AMBAZARI GARDEN IN NAGPUR ON PPP BASIS" for your perusal.

Assuring you of our best services at all times.

Yours Sincerely

For Darashaw & Co Pvt. Ltd



Mr. Abhijit Choudhari
Associate Vice President
Darashaw & Co. Pvt. Ltd

DARASHAW & COMPANY PRIVATE LIMITED

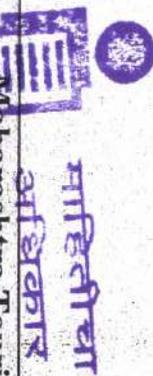
CIN-U67120MH1994PTC076656

Registered Office: 1205-06 Regent Chambers, 208 Nariman Point, Mumbai 400 021

Correspondence Office: 6th Floor, Express Building, 14-E Road, Churchgate, Mumbai 400 020

Website: www.darashaw.com, Email: consultancy@darashaw.com

Tel no: +91 22 4302 2300 Fax no: +91 22 4302 2399



महाराष्ट्र पर्यटन विकास निगम
Maharashtra Tourism Development Corporation Ltd.,
Apeejay House 4th Floor 3 Dinshaw Wacha Road, Church Gate
Mumbai 400 020

Tel:- 91-22-22044040, Fax :- 91-22-22852182.

Corrigendum No.3

Name of Work	E-Tender Notice
Development of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis.	MTDC/E-Tender/2018-19 Works/Ambazari/RFP/33

Further to E-Tender Notice published in the News Paper and Website (www.maharashtratourism.gov.in / www.mahatenders.gov.in) for the above works, corrigendum is issued for the following:

- Extended date of Submission : 27/02/2019, 15:00 Hrs.
- Extended date of submission of Hard Copy : 28/02/2019, 13:00 Hrs.
- Extended date of Bid opening : 28/02/2019, 15:00 Hrs.(if possible)

All other terms and conditions remain unchanged.

Please note that this corrigendum and all the other corrigendum's issued by MTDC shall form the part of contract agreement.

Sd/-
Executive Engineer
MTDC, Mumbai.



Development and Operation/Maintenance of Ambazari Garden in
Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer
(DBFOT) Basis

MAHARASHTRA TOURISM DEVELOPMENT CORPORATION

Submitted On 01/03/2019 By:-

Darashaw & Co. Pvt. Ltd.

DARASHAW
1926
ALL ABOUT TRUST



Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance,
Operate and Transfer (DBFOT) Basis



दाराशाव
अभियंकार

Disclaimer

DARASHAW
ESTD 1925
ALL RIGHTS RESERVED

This report has been prepared by Darashaw & Company Private Limited (DCPL) for Maharashtra Tourism Development Corporation (MTDC) and contains proprietary and confidential information for evaluation of "Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis". This report has been prepared by DCPL based on the requisites of the RFP issued for this Project and the Applications submitted by the Applicants for the Project, as provided to us by MTDC. In the evaluation of the RFP, DCPL has taken into consideration of the information provided by the bidder in their submission to the authority and the work performed by DCPL is not in the nature of audit or due-diligence. This report is furnished on strictly confidential basis and is for the sole use of the person/organization to which it is addressed. Neither this report, nor the information contained herein, may be reproduced or passed to any other person or used for any other purpose other than stated above and the same should be read along with the RFP issued for this Project for full understanding.

It is hereby clarified that in no event, DCPL be responsible for any unauthorized use of this document or be liable for any loss or damage, whether direct, indirect or consequential, that may be suffered or incurred by any party other than MTDC, arising out of or in connection with the same.

This report is provided on the basis that it is for the use of MTDC only and that it will not be copied or disclosed to any third party or otherwise quoted or referred to, in whole or in part. Furthermore, DCPL will not be bound to discuss, explain, or reply to queries raised by any agency other than the intended recipient of this report.



A. S. Khurana



महाराष्ट्र
साहित्य
अकादमी

DARASHAW
1926
ALL INDIA
RASHTRIYA

I. Prologue

Maharashtra Tourism Development Corporation (MTDC – herein after referred to as the "Authority") established under the companies act, 1956 in the year 1975 for systematic development of tourism in the State of Maharashtra. The state Government of Maharashtra has entrusted all commercial and promotional tourism activities of the state to MTDC. In lieu of the above the Government of Maharashtra has handed over approx. 42.42 acres land to MTDC for development of tourism related activities. MTDC invites Global Request For Proposal (RFP) from Developers / Investors / Operators of Tourism Destinations of National/ International repute/ consortium of applicants to plan, design, finance, construct, operate, maintain and manage the proposed project.

Darashaw & Company Private Limited, Mumbai has been appointed by the Authority as the consultant for the project. The Authority has adopted a two stage two part system (referred to as the "Bidding Process") for selection of the Bidder for award of the Project. Under this process, the bid shall be invited under two parts. Eligibility and qualification of the Bidder will be first examined based on the details submitted under first part (Technical Bid) with respect to eligibility and qualifications criteria prescribed in this RFP. (The "Bidder", which expression shall, unless repugnant to the context, include the members of the Joint Venture). The Financial Bid under the second part shall be opened of only those Bidders whose Technical Bids are responsive to eligibility and qualification requirements as per this RFP.

The Authority has invited applications for the project and has received 2 (Two) applications as on 27th February, 2019 the Bid Due Date. This report contains DCPL review of technical bids received from the Bidders, on the basis of the criteria as mentioned in the published RFP document. The report has been prepared to assist the Authority in evaluating the financial bids.

Ashturkar



महितीचा
अधिकार

DARASHAW
ALL 1925
संस्था

Response to RFP

The Request for Proposal (RFP) was floated and accordingly, the Authority has received 2 (Two) bids comprising sole applicants, as on the last date i.e. 27th February, 2019 till 1500 hours (Proposal Due Date)

Sl. No	Name of the Applicant	Type of Applicant (Single Entity/Consortium)
1	M/s. P.K Hospitality Services Pvt Ltd – Pravin Ratanlaji Jain (JV)	Joint Venture
2	M/s. Vidarbha Infotech Pvt Ltd	Single Entity

Qualification requirements:

Sl. No.	Name of the Applicant	Amount (Rs in Crores)
A	Threshold Technical Capacity	Rs. 89.76 Crore
	Financial Capacity	Rs. 22.44 Crore
B	The Threshold Technical Capacity and Financial Capacity of all the Members of Joint Venture would be taken into account for satisfying the above conditions of eligibility .In case of a Joint Venture these condition shall also be adhered to	
	In case of Lead Member Amount (Rs in Crores)	
	100% Threshold Technical Capacity	Rs. 89.76 Cr
	100% Financial Capacity- Net Worth	Rs 22.44 Cr
In case of Other Member- Amount (Rs in Crores)		
30% Financial Capacity- Net Worth		Rs. 6.73 Cr

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Technical Capacity (Clause 2.2.2.A of RFP)

For demonstrating technical capacity and experience (the "Technical Capacity"), the Bidder shall, over the past 10 (ten) financial years preceding the Bid Due Date, have experience in development of similar kind of projects such that the sum total of the project cost of similar projects is not less than Rs. 89.76 crore (Rs. Eighty nine crore and seventy six lakhs only) (the "Threshold Technical Capacity"). Provided that the project cost of the similar project for which experience is claimed should be more than 10% of the amount specified as the Estimated Project Cost.

For the purposes of this RFP "Similar Project" shall mean, experience in development of Residential/Commercial Complexes/Amusement Parks/Convention centers/ Exhibition centers/Tourism infrastructure/hospitality projects.

Financial capacity (Clause 2.2.2.B of RFP)

For demonstrating financial capacity (the "Financial Capacity"), the Bidder (in case of consortium all the consortium members) shall have:

- (i) Net-worth of Rs. 22.44 crore (Rupees Twenty Two Crores and Forty Four Lakhs only) at the close of the preceding financial year
- (ii) Positive Net Cash Accruals in the last two financial year.

In case of a Consortium, the Lead Member shall satisfy the requirement of Technical Capability and any one member of the consortium can satisfy the requirement of Financial Capacity however other Members of the Consortium shall meet at least 30% requirement of Financial Capability.

Submission Requirement (Clause 3.2.1 of RFP)

The Bidder shall submit the following documents:

- (a) Technical Bid is received online as per the format at Appendix-IA including Annex I to IV;
- (b) Documents listed at clause 2.13.3 of the RFP are received physically;
- (c) Technical Bid is accompanied by the Bid Security
- (d) Technical Bid is accompanied by the Power of Attorney

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- (e) Technical Bid is accompanied by Power of Attorney for Lead Member of Consortium and the Joint Bidding Agreement
- (f) Technical Bid contain all the Information
- (g) Technical Bid does not contain any condition or qualification
- (i) The bid is not non-responsive in terms hereof

The Bidder shall submit the Technical BID & Financial Bid online through e-tendering portal <https://www.mahatenders.gov.in>. Comprising of the following documents along with supporting documents as appropriate:

II. Bid Evaluation Process

The bid received within the proposal due date was opened by the Authority and has been evaluated in two steps. The first step will be to test the responsiveness of the bids received. Next step will be detailed scrutiny of the financial bids of the bidders whose submissions are found to be responsive.

The Authority reserves the right to reject any Technical 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.

Result of test of responsiveness.

During the evaluation of the bids, all the submitted bids had been found to be responsive to the requirement of RFP. The detailed chart showing the test of responsiveness of the bidders is also mentioned in the report.

A. Evaluation of Technical Bids

Technical Evaluation of the bids has been carried out keeping in mind all the requirements of RFP. Technical Sheets of the applicants have been enclosed with this report as part of annexure and the eligibility of the applicants have been mentioned as below;

As shown



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Criteria for Qualification	Amount in Rs. (Crores)	Type of Applicant
Threshold Technical Capacity	Rs. 89.76 Crore	In case of single entity
Financial Capacity	Rs. 22.44 Crore.	applicant
100% Threshold Technical Capacity- Lead Member		In case applicant is Joint Venture
100% Financial Capacity- Lead Member		
30% Financial Capacity- Member	Other	
	Rs. 6.73 Cr	

Qualification of Bidders

After determining the eligibility of the bidders as per the requirement of RFP, qualification requirement also needs to be looked into to check whether the bidders meet the qualification criteria of RFP or not. Qualification requirements of the bidders are checked into two parts

1. Technical Capacity;

As per clause 2.2.2.A of RFP, Bidders will be qualified only if their Threshold Technical Capacity is more than the requirement of RFP. Detailed qualification criteria in this regard are mentioned in above para.

iii. Observations:

Documents as submitted by the applicants have been evaluated on the basis of parameters and requirement of RFP which has been made available to the applicants which specifically laid out the requirement which needs to be fulfilled and describe how the evaluation has to be done.

Results of the Qualification of the bidders as required in clause 2.2.2.A of RFP are mentioned as below;

Technical Capacity

M/s. P.K Hospitality Services Pvt Ltd – Pravin Ratanlalji Jain (JV)

Sr No	Projects Name	Type of Project	Project Cost
1	Artemis Complex	Commercial Complex	37 Crores
2	Golden Chariot Vasai Hotel & Spa	Hospitality	35 Crores

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3	Golden Charlot (The Boutique Hotel)	Hospitality	18 Crores
4	Sea Queen Beach Resort	Hospitality	12.5 Crores
Total Technical Capacity (Claimed)			Rs 102.5 Crores

M/s. Vidarbha Infotech Pvt. Ltd

Sr No	Projects Name	Type of Project	Project Cost
1	Construction of IT Park on DBOT Basis at Khasra No 43-51, 53 and 96 Mouza Parsodi Near Software Complex Nagpur-440022	Commercial	Rs 124.90 Cr
Total Technical Capacity (Claimed)			Rs 124.90 Crores

Financial Capacity

Sr No	Name of the Applicant	Threshold Capacity (Rs. 22.40 Crore)	Financial Capacity	Positive Net Cash Accruals in the last two financial year
1	M/s. P.K Hospitality Services Pvt Ltd - Pravin Ratanlalji Jain (JV)	M/s. P.K Hospitality Services Pvt Ltd- Rs 82.68 Cr Pravin Ratanlalji Jain- Rs 29.63 Cr	M/s. P.K Hospitality Services Pvt Ltd 2017- Rs 7.99 Cr 2018- Rs 9.57 Cr Pravin Ratanlalji Jain 2017- Rs 25.86 Lacs 2018- Rs 30.37 Lacs	M/s. P.K Hospitality Services Pvt Ltd 2017- Rs 6.81 Cr 2018- Rs 7.09 Cr
2	M/s. Vidarbha Infotech Pvt. Ltd	Rs 23.17 Cr		

Asst. Manager



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Details of Annexure:

Annexure I: Details of Authorized Signatory and Holder of Digital Signatures;

Sr. No	Name of the Bidder	Authorized Signatory (as per POA)	Holder of Digital Signatures	Remarks
1	M/s. P.K Hospitality Services Pvt Ltd – Pravin Ratanlalji Jain (JV)	Mr Pravin Kumar Agrawal	Mr Pravin Kumar Agrawal	-
2	M/s. Vidarbha Infotech Pvt. Ltd. -	Ms Chanda Sinhababu	Ms Chanda Sinhababu	-

A.S. Kumar

Annexure II: Test of Responsiveness

Sr. No.	Checklist	M/s. P.K Hospitality Services Pvt Ltd – Pravin Ratanlalji Jain (JV)	M/s. Vidarbha Infotech Pvt. Ltd. -
1	Technical Bid is received online as per the format at Appendix-IA including Annex I to IV	Submitted	Submitted
2	Documents listed at clause 2.13.3 are received physically	Submitted	Submitted
3	Technical Bid is accompanied by the Bid Security	Submitted	Submitted
4	Technical Bid is accompanied by the Power of Attorney	Submitted	Submitted
5	Technical Bid is accompanied by Power of Attorney for Lead Member of Consortium and the Joint Bidding Agreement	Submitted	Submitted
6	Technical Bid contain all the information	Submitted	Submitted
7	Technical Bid does not contain any condition or qualification	Submitted	Submitted
8	it is not non-responsive in terms hereof	Submitted	Submitted



A.S. Kumar



Observation & Recommendation

Darashaw & Co. Pvt. Ltd. has done the evaluation of the documents submitted by the applicants in response to the Request of Proposal (RFP) as floated by MTDC and found that all the applicant have submitted their bid within the time as stipulated by MTDC, paid the requisite cost of the document, as per the requirement of Request of Proposal.

Details of the technically responsive bidders are mentioned as below;

Sr. No	Name of the Applicant	Type of Applicant (Single Entity/Joint Venture)	Remarks
1	M/s. P.K Hospitality Services Pvt Ltd – Pravin Ratanlaji Jain (JV)	Joint Venture	The bidder satisfies the technical and financial capacity as mentioned in the RFP document. Hence the bidder is technically qualified.
2	M/s. Vidarpha Infotech Pvt. Ltd.	Single Entity	The bidder satisfies the technical and financial capacity as mentioned in the RFP document. Hence the bidder is technically qualified.

Recommendation:-

Darashaw & Company Pvt Ltd has scrutinized the technical proposal submitted by the bidders and have found that both bidders fulfill the technical and financial criteria as mentioned in the RFP document. Thus we recommend the Authority may open the financial proposal of the bidders.

Handwritten signature
 EXECUTIVE ENGINEER
 M.T.D.C. LTD. MUMBAI

Handwritten signature
 For Chief Accounts Officer
 MTDC Ltd., Mumbai-20.



महाराष्ट्र CHALLAN
अभिकारकर्ता Form Number-6



SRN: MH008923196201920E BARCODE: MH008923196201920E Date: 29/11/2019-14:28:39 Form ID: 25.1

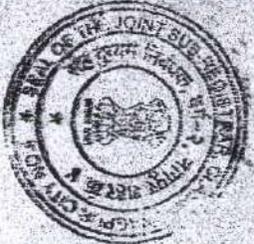
Department: Inspector General Of Registration		Payer Details	
Stamp Duty		TAX ID (if Any)	
Registration Fee		PAN No.(if Applicable)	
Office Name: NGR4_JT NAGPUR NO 4 SUB REGISTRAR		Full Name: MS GARUDA AMUSEMENT PARK NAGPUR PRIVATE LIMITED	
Location: NAGPUR		Flat/Block No.	
Year: 2019-2020 One Time		Premises/Building	
Account Head Details		Road/Street: MOUZA AMBAZARI	
2030046401 Stamp Duty		Area/Locality: NAGPUR	
2030063301 Registration Fee		Town/City/District: NAGPUR	
		PIN: 4 4 0 0 1 0	
		Remarks (if Any):	
		SecondPartyName=MAHARASHTRA TOURISM DEVELOPMENT CORPORATION LIMITED~	
Total		Amount In Words	Eighteen Lakh Twenty Five Thousand Two Hundred Rup ees Only
Payment Details		FOR USE IN RECEIVING BANK	
IDBI BANK		Bank CIN	Ref. No. 69103332019112913508 242230029
Cheque/DD No.		Bank Date	RBI Date 29/11/2019-14:29:38
Name of Bank		Bank-Branch	IDBI BANK
Name of Branch		Scroll No. , Date	Not Verified with Scroll

Department ID: Mobile No.: 9822577050
 NOTE:- This challan is valid for document to be registered in Sub Registrar office only. Not valid for unregistered document.
 सादर चलान काचल दस्तावेज निलंबित कार्यालयाला नोंदणी करायलायला दस्तावेजाची सादर चलान सादर नाला

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SITE SUB-LEASE DEED made on the 29th day of November 2019 by and among

BETWEEN

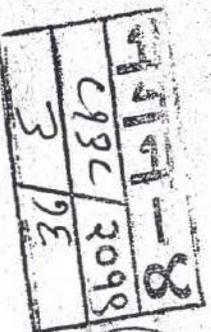
1. Maharashtra Tourism Development Corporation Limited, represented by the Executive Engineer in-charge and having its principal office at Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K.C College, Church gate, Mumbai-400 020, Maharashtra, India (Hereinafter referred to as the "Authority" or the "Lessor" which expression shall unless repugnant to the context or meaning thereof include its administrator, successors and assigns);

And

2. M/s Garuda Amusement Park (Nagpur) Private Limited, a Special Purpose Vehicle (SPV) Incorporated under the Companies Act, 2013 with Corporate Identity Number (CIN) U92419MH2019PTC325474 and having its registered office at 201, A wing, Fortune 2000, C-3, G Block, Bandra Kurla Complex, Bandra (East), Mumbai- 400 051 (hereinafter referred to as the "Concessionary Sub-Lessee", which expression shall, unless the context otherwise requires, includes its successors and permitted assigns);

WHEREAS

- A. The Authority has vide the Concession Agreement dated: 22nd November 2019 (hereinafter "Concession Agreement") granted concession to M/s. Garuda Amusement Park (Nagpur) Private Limited, the Concessionaire Sub-Lessee herein to implement the Project at the Site, involving development, financing, design, construction, operation and maintenance of Project on the Design-Build-Finance-Operate-Transfer basis (DBFOT), the estimated cost of the project is Rs. 89.76 Crore as mentioned in the Request for Proposal and in accordance with the provisions of the Concession Agreement.
- B. Pursuant to and under the Concession Agreement the Lessor is required to vest with the Sub-Lessee the land comprising the Site and all Lease rights relating thereto for a period co-terminus with the term of the Concession Agreement under a valid and binding Site Sub- Lease Deed for the purpose of implementing the Project.
- C. The Site has been leased by the Government of Maharashtra (GOM) to the Authority; being holding the lawful possession of the Site with a good title thereto as per the terms and conditions set forth herewith, the Authority is desirous of sub-leasing the Site unto the Concessionaire Sub-Lessee and vesting





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Unencumbered possession thereof with the Concessionaire Sub-lessee, on the terms and conditions hereinafter contained.

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NOW THIS SUB-LEASE DEED WITNESSETH AS FOLLOWS:

1. The words and expressions used in this Deed but not defined shall, unless the context otherwise requires, have the meaning as defined/assigned to them respectively in the Concession Agreement.
2. The interpretation Clause 1.2 of the Concession Agreement shall be deemed to be incorporated in this Deed in extenso mutatis mutandis.
3. The following words and expressions shall, except where the context otherwise requires, have the meaning as defined hereunder:
 - (a) "Site Sub-Lease Deed" or "Deed" means this Site Sub-Lease Deed;
 - (b) "Concession Agreement" shall mean the Concession Agreement dated 22nd November 2019 entered into between the Authority and Concessionaire;
 - (c) "Term of the Agreement" means the period specified under Article 3 of the Concession Agreement;
 - (d) "Premises" means all the lands comprising the Site, more particularly delineated in Schedule A of this document and demarcated on the site plan attached thereto;
 - (e) "Parties" shall mean Lessor and Concessionaire Sub-Lessee herein, and where the context admits or requires, the Selected Bidder/ Consortium;
 - (f) "Authority" means Maharashtra Tourism Development Corporation Ltd.;
 - (g) "Concessionaire Sub-Lessee" means M/s. Garuda Amusement Park (Nagpur) Private Limited;
 - (h) "Annexure" means any of the Annexure, supplements and documents annexed to this Agreement;

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4. The Authority hereby leases the Premises unto the Concessionaire Sub-Lessee as a "vacant possession" under the terms of this Deed from the 29th day of November 2019 for a period, which shall be co-terminus with the term of the Concession Agreement and shall be extended or terminated at a prior date to coincide with the term of the Concession Agreement.
5. In accordance with the Concession Agreement signed between the Authority and the Concessionaire Sub-Lessee, the consideration of the Annual Lease Rental herein reserved and the covenants on the part of the Concessionaire Sub-Lessee, the Authority hereby perpetual leases unto the Concessionaire Sub-Lessee the Premises without interruption or interference, free from Encumbrances and together with the full and free right and liberty of way and passage, the easementary rights and other rights in relation thereto with delivery of vacant possession thereof.
6. In consideration of the Authority perpetual leasing the Site to the Concessionaire Sub-Lessee, the Concessionaire Sub-Lessee shall simultaneously with the execution of the Site Sub-lease Deed, pay to the Authority, the Annual Lease Rent at of Rs.100/- (Rupees one hundred only) per annum with 5% annual escalation every year for the duration of the term of the Agreement. The first Annual Lease Rental payment shall be paid with the execution of this Site Sub-Lease Deed and the second Annual Lease Rental payment shall be paid prorata for the period beginning from first anniversary of date of execution of Site Sub-Lease Deed until the completion of the succeeding accounting year. Thereafter Annual Lease Rental shall be paid on annual basis for every accounting year. The Lessor hereby vests the premises with the Concessionaire Sub-Lessee along with all easementary rights, free from any encumbrance. Any liability arising out of providing the Premises free of Encumbrances shall be borne solely by the Authority.
7. The Authority hereby vests the premises with the Concessionaire Sub-Lessee under this Deed for the purpose of implementing the Project, including the design, finance, construction, and operation and maintenance of the Project Facility thereat in accordance with the terms and conditions of the Concession Agreement.
8. The Concessionaire Sub-Lessee shall not re sub-lease whole or equivalent any part of the land comprising the Site, leased to it by the Authority under this Deed, to any person in any form or under any arrangement, device or method, provided that the Concessionaire Sub-Lessee shall be entitled to:
- (a) enter into Contractual Arrangements, including the subletting, sub-licensing, franchising or similar arrangements in respect of the built up area, which, however, shall not involve the transfer of the leasehold rights therein or thereof.

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(b) appoint subcontractors for the implementation of the Project at the Premises in accordance with the provisions of the Concession Agreement, provided that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire Sub-Lessee to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

9. The Authority hereby agrees that for the purpose of raising financial assistance for the Project, the Concessionaire Sub-Lessee may create by way of charge to benefits under the Concession Agreement, limited to the extent of such rights therein, to or in favour of the lenders in accordance with the provisions of the Concession Agreement, provided that:

- (a) In the event of the termination of the Concession Agreement such interest or charge stand extinguished.
- (b) the Concessionaire Sub-Lessee shall have the right and authority to hypothecation, encumber or create any security interest whatsoever on the development right, the Project Facility or any other built up area for it or therein, in full or part, in favour of the lenders.



10. In the event of termination of the Concession Agreement by efflux of time or otherwise, this Deed shall be terminated and the lease of the Premises and all rights in relation thereto shall be determined, the Concessionaire Sub-Lessee, the Transferees and Persons claiming through or under it/them shall hand over the possession of the Premises to the Authority as per the terms of the Concession Agreement and forthwith vacate the Premises without any demur or delay.

11. The Authority hereby covenants with the Concessionaire Sub-Lessee as under:

- (a) That it shall not increase the Annual Lease Rent due and payable by the Concessionaire Sub-Lessee subject to Clause 6 hereof;
- (b) That the Annual Lease Rent is paid by the Concessionaire Sub-Lessee to the Authority as per Article 21 of the Concession Agreement;
- (c) That it shall not interfere with or impede in any manner or otherwise limit, restrict or impose conditions in relation to: (i) the complete, free and full enjoyment of the Premises by the Concessionaire Sub-Lessee for the purpose of the implementation of the Project and all rights related thereto; (ii) the design, construction, operation and maintenance of the Project Facility; (iii) the implementation of the Project by the Concessionaire; and (iii) the possession, control and use by the Concessionaire Sub-Lessee of the Premises, the Project Facility constructed thereon and any other facilities developed in the course of implementation of the Project; provided that the same are in compliance with the terms and conditions of the Concession Agreement and this Deed.

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- (d) That there are no litigations, claims, demands or any proceedings pending before any authority in respect of acquisition of the Premises or in respect of any other land-dispute, and that the Concessionaire Sub-Lessee shall have complete, lawful and uninterrupted possession, control and use of the Premises.

12. The Concessionaire Sub-Lessee hereby covenants with the Authority as follows:

- (a) That it shall develop, establish, design, construct and operate and maintain the Project Facility/Project at the Premises as per its obligations under and the terms and conditions of the Concession Agreement;
- (b) That it shall operate and maintain the Project Facility or cause it to be operated and maintained in accordance with the Concession Agreement;
- (c) That it shall observe and perform all terms, covenants, conditions and stipulations of this Deed and the Concession Agreement; and
- (d) That it shall keep the Premises free from encroachments during the Term of the Concession Agreement and carry out its maintenance and repairs in accordance with the provisions of the Concession Agreement.

13. Each Party hereto represents and warrants that:

- (a) It has full power and authority to execute, deliver and perform its obligations under this Deed and to carry out the transactions contemplated hereby;
- (b) It has taken all necessary actions to authorize the execution, delivery and performance of this Deed; and
- (c) This Deed constitutes its legal, valid and binding obligations that shall be enforceable against it in accordance with the terms hereof.

14. The Parties agree that

- (a) The failure of the Concessionaire Sub-Lessee to perform its obligations under this Deed and any breach of covenants or undertakings given and provided for in this Deed by the Concessionaire Sub-Lessee shall amount to a Concessionaire's Event of Default under the Concession Agreement.
- (b) Any dispute, controversy or claim arising out of or in relation to this Deed or the interpretation of any of its provisions shall be settled in accordance with the provision of Article 35 of the Concession Agreement.
- (c) The stamp duty and registration charges for the execution and registration of this Deed shall be borne by the Concessionaire Sub-Lessee in accordance with the provisions of the Applicable Laws.
- (d) In case of ambiguities, conflicts or discrepancies between the Concession Agreement and this Deed, the Concession Agreement shall prevail.
- (e) All notices under the terms of this Deed shall be sent either by hand or post to the following addresses:

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Maharashtra Tourism Development Corporation Limited
Apeejay House, 4th Floor, 3 Dinshaw Vachha Road,
Near K.C College,
Church gate, Mumbai-400 020

Concessionaire : M/s Garuda Amusement Park (Nagpur) Private Limited
Sub-lessee : 201, A wing, Fortune 2000, C-3,
G Block, Bandra Kurla Complex,
Bandra (East), Mumbai-400 051

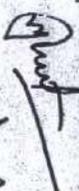
IN WITNESS WHEREOF the Parties have executed and delivered this Deed by their duly
authorized representative on the date first above written:

SIGNED, SEALED AND DELIVERED ON SIGNED, SEALED AND DELIVERED ON BEHALF OF
BEHALF OF AUTHORITY THE CONCESSIONAIRE SUB-LESSEE

Signature :  Signature : 
Name VIKAS KAPUR HANE Name Name
Designation Ex. Engineer Designation : PRAVIN JAIN.
MTD, Mumbai-400 051



In the presence of Witness:

1 
Name: Manish A. Patel



Date: 29/11/13
Place: Nagpur

2 
Name: Swapnil G. Mendhe



Date: 29/11/13
Place: Nagpur



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SCHEDULE I SITE DESCRIPTION

Attand bearing khasara number 1/1/1; city survey number 1, Mouza Ambazari; having area of about 42.42 Acres; falls within the boundary limits of Nagpur Municipal Corporation; located towards the western side of the city on Ambazari bypass road and adjacent to Ambazari Lake and is accessible from Ring Road on the southern side and well connected to all the major destinations of the city, Dr Babashahab International Airport (7.5 Kms), Main Railway Station (9.5 kms) and Ajni Railway Station (6 Kms).

Location: Within boundary limits of Nagpur Municipal Corporation

Owner: Government of Maharashtra (site provided to Maharashtra Tourism Development Corporation on lease)

Lessor: Maharashtra Tourism Development Corporation Limited

Concessionalre/Sub-Lessee: M/s Garuda Amusement Park (Nagpur) Private Limited

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Maharashtra Tourism Development Corporation Ltd.

(A Government of Maharashtra Undertaking)

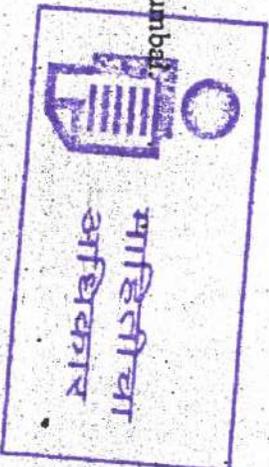
Head Office: Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K. C. College,
Churchgate, Mumbai - 400 020.
Tel: (9122) 2284 5678, 2204 4040 • Fax No.: (9122) 2285 2182 2202 4521.
Website: www.maharashtratourism.gov.in • E-mail: info@maharashtratourism.gov.in
CIN - U99999MH1975SCC018086

To Whomsoever It may Concern

In exercise of the power vested in the Managing Director by the Board of Directors vide resolution dtd.30/03/1976, I, A. R. Kale, Managing Director MTDC do hereby authorize Shri. Vinay G. Wavdhane, Executive Engineer, MTDC, Mumbai to sign the Lease Deed and do the further necessary actions registration of lease deed, hand over procedure of land to concessionaire, etc. pertaining to "Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis".

(A.R. Kale)
Managing Director
MTDC Ltd., Mumbai.

Date:
Place: Mumbai



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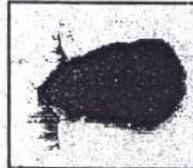


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सरकार -
GOVERNMENT OF INDIA



मनीष अशोकराव राऊत
Manoj Ashokrao Raut
जन्म तारीख/DOB: 07/07/1989
पुरुष/ MALE
Mobile No: 8806889230

8425 6921 0113
VID: 9121 7197 1697 5646



माझे आधार, माझी ओळख



सरकार -
GOVERNMENT OF INDIA



स्वापील गौतमराव भेंडे
Swapnil Gautamrao Mendhe
जन्म तारीख / DOB : 24/01/1988
पुलिंती / MALE

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आधार - सामान्य माणसाचा अधिकार

भारत सरकार
GOVERNMENT OF INDIA



विनाय गिरिधर वावधाने
Vinay Giridhar Wavdhane
जन्म तारीख/ DOB: 12/09/1965
पुरुष / MALE

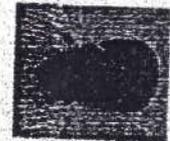


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सरकार -
GOVERNMENT OF INDIA



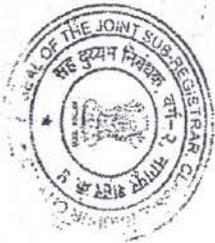
प्रवीण रामेश्वरराव ज्ञान
Pravin Rameshwaru Jan
जन्म तारीख / Year of Birth : 1973
पुरुष / Male



3059 9406 9546

आधार - सामान्य माणसाचा अधिकार

पंजीन - 8
493C / 309R
792 / 9E





भारतीय गणराज्य
संघीय लोकतान्त्रिक गणतन्त्र

पता: S/O: रामेश्वरजी शर्मा, सॉफ्ट
Address: S/O Rameshwarji, P.O. 1401
अ. ०३, विजयवाडी, गुजरात, भारत
A3 CHINTAMANJI APARTMENTS NEAR
MAHATMA EYE BANK, RAJEEV NAGAR,
सोमनाथ रोड, सोमनाथ नगर,
SOMALWADA, Khemta, Nagpur
महाराष्ट्र, भारत, मराठवाडा, महाराष्ट्र, 440025
Meharashtra, 440025

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भारतीय गणराज्य
संघीय लोकतान्त्रिक गणतन्त्र

पता: S/O: Giridhar Wanchhara, E-203, Pooja
Address:
End use, Old Charokop Link Road,
यावधानी, ई-503, पूजा
Near Atreya College, Kandivali
एनकरोवड, ओल्ड चारकोप
(West), Mumbai, Mumbai,
मिहाराष्ट्र - 400067
Maharashtra - 400067

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Aadhaar-Aam Adml ka Adhikar



भारतीय गणराज्य
संघीय लोकतान्त्रिक गणतन्त्र

पता: ram nagar ground, 203 ram
Address:
नगर, महाराष्ट्र, 440010
Nagar III road, Shankar Nagar,
S.O. Nagar, Maharashtra,
440010



भारतीय गणराज्य
संघीय लोकतान्त्रिक गणतन्त्र

पता: S/O: Ashokrao Raut, NEAR HANUMAN
Address:
नगर, महाराष्ट्र, 440010
MANDIR, PANDHARAODI, Shankar Nagar,
Meharashtra - 440010.



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दस्तावेज क्रमांक-2

नाम 4 95-98
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दस्तावेज क्रमांक: नगन/4/8138/2019

दस्तावेजा प्रकार: नॉटिफिकेशन



अनु क्र.	पक्षकाराचे नाव व पत्ता	पक्षकाराचा प्रकार	क्रयाविवरण	संगठनाचा ठसठा
1	नाम: महाराष्ट्र दुरीक्षण डेव्हलपमेंट कॉर्पोरेशन लिमिटेड तर्फे सही करणार श्री. विनय बाबधणे. पत्ता: "....." अजीबय हाऊस, चवथा माळा, 3 दिनाशाव बाबा रोड, के.टी कॉलेज, चर्च गेट, मुंबई. संदर्भ वॉलंटियर, MAHARASHTRA, MUMBAI, Non-Government	लिहून देणार वय :- 54 स्वाभावटी:-		
2	नाम: मे. गरडा अभ्युत्थमेट पार्क (नागपूर) प्रायव्हेंट लिमिटेड तर्फे संभावक श्री. प्रविण रत्नलाल जैन. पत्ता: "....." प्लॉट नं. ए3, चिंतामणी अग्रामंट, महाराष्ट्र आईज व्ही जवळ, राजीव नगर, सोमलवाडा, नागपूर, जम्मल, MAHARASHTRA, NAGPUR, Non-Government	लिहून देणार वय :- 45 स्वाभावटी:-		

दलील दस्तऐवज करून देणार तयारकीत नॉटिफिकेशन पार करून देणक करून दिव्याचे कडुल करतात.
शिक्का क्र.3 वी वेळ: 29 / 11 / 2019 04 : 13 : 22 PM

शेळख:-
दस्तऐवज निष्कारनाचा कडुलीजबाब देणाऱ्या सर्व पक्षकारांची शेळख संसती-आधारित - आधार प्रणालीद्वारे शहर प्रथम घाली आहे.
त्याबाबत प्राप्त माहिती पुढीलप्रमाणे आहे.

Sr. No.	Type of Party & Name	Date & Time of Verification with UIDAI	Information received from UIDAI (Name, Gender, UID, Photo)	
1	लिहून देणार महाराष्ट्र दुरीक्षण डेव्हलपमेंट कॉर्पोरेशन लिमिटेड तर्फे सही करणार श्री. विनय बाबधणे.	29/11/2019 04:13:58 PM	विनय प्रविण बाबधणे M XXXX XXXX 4105	
2	लिहून देणार मे. गरडा अभ्युत्थमेट पार्क (नागपूर) प्रायव्हेंट लिमिटेड तर्फे संभावक श्री. प्रविण रत्नलाल जैन.	29/11/2019 04:14:15 PM	प्रविण रत्नलालजी जैन M XXXX XXXX 9546	

शिक्का क्र.4 वी वेळ: 29 / 11 / 2019 04 : 14 : 16 PM

शिक्का क्र.5 वी वेळ: 29 / 11 / 2019 04 : 14 : 29 PM नोंदणी पुस्तक 1 मध्ये

NGP4
सर्व दुरीक्षण डेव्हलपमेंट कॉर्पोरेशन
नागपूर शहर क्र. 8

8f. Employment Number
1 MH008923185201920E
2 2911201908586

Defacement Number
000458446201920
2911201908586



1. Verify Scanned Document for correctness through Jumbhall (4 pages on a sheet) without any signature.
2. Get print immediately after registration.
For feedback, please write to us at feedback.jaic@nagpूर.gov.in
नागपूर शहर क्र. 1

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Friday, November 29, 2019
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Original/Duplicate

नोंदणी क्र.: 39म
Regn.: 39M

पावली क्र.: 9930 दिनांक: 29/1/2019

गावाचे नाव: अंबाभारी

दस्तावेजाचा अद्युक्ततांक: नाना4-8138-2019

दस्तावेजाचा प्रकार : ऑर्टि कॅन्सर

सादर करणाऱ्याचे नाव: शे. गावडा अमृतमोहन पार्क (नागपूर) ग्रामव्हॅट विनीटिड सर्वे संजालक श्री. राधिका रघुनाथन धन .

नोंदणी क्र.

₹. 30000.00

दस्तऐवजाच्या कि

₹. 320.00

पुढील संख्या: 18

एकूण:

₹. 30320.00

DELIVERED

आपणाला मूळ दस्त, संवनेल मिटे, सुधी: २ अंबाभारी
4:32 PM म्हा वेळेस मिळेल.

नागपूर शहर क्र. ४

गाजार मूल्य: ₹.0/-

नोंदवदला रु.897600000/-

परत्वेले मुद्रांक शुल्क : ₹. 1795200/-

1) देयकाचा प्रकार: eChallan रकम: ₹.30000/-

श्री/श्री/वनादेश/से ऑर्टि क्रमांक: MH008923195201920E दिनांक: 29/1/2019

दोकेचे नाव व पत्ता:

2) देयकाचा प्रकार: DHG रकम: ₹.320/-

श्री/श्री/वनादेश/से ऑर्टि क्रमांक: 2911201908586 दिनांक: 29/1/2019

दोकेचे नाव व पत्ता:

००

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Maharashtra Tourism Development Corporation Ltd.

(A Government of Maharashtra Undertaking)

Head Office: Apeejay House, 4th Floor, 3 Dinshaw Vachha Road, Near K. C. College,
Churchgate, Mumbai - 400 020.

Tel: (9122) 2284 5678, 2204 4040 • Fax No.: (9122) 2285 2182 2202 4521.

Website: www.maharashtratourism.gov.in • E-mail: info@maharashtratourism.gov.in

CIN - U99999MH1975SGCC018086

No.MTDC/Ambazari/2019/

Dtg/11/2019



To,
M/s. Garuda Amusement Park (Nagpur) Private Limited
201, A wing, Fortune 2000,
C-3, G Block,
Bandrakurla Complex,
Bandra (East), Mumbai- 400 051

Subject: - Site Handover to M/s. Garuda Amusement Park (Nagpur) Private Limited for Development and Operation/Maintenance of Ambazari Garden in Nagpur, Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis".

Reference: - Concession Agreement signed between Maharashtra Tourism Development Corporation Ltd. and M/s. Garuda Amusement Park (Nagpur) Private Limited dated 22nd Nov, 2019

Sir,

With reference to the above mentioned subject the Concession Agreement had been signed between M/s. Garuda Amusement Park (Nagpur) Private Limited and Maharashtra Tourism Development Corporation Ltd. (herein after MTDC) on 22nd November 2019 and further the Site Sub-Lease Deed has been executed on 29th November 2019.

We hereby handover you the possession of the land bearing khasara number 1/1/1; city survey number 1, Mouza Ambazari; having area of 42.42 Acres (171662.698 Sq.mt.) for peaceful enjoyment of your development rights for the Concession Period as mentioned in the Concession Agreement, you are required to develop the project as per terms and conditions mentioned in the Concession Agreement and the site Sub-lease Deed executed with you.

MTDC shall also inform Nagpur Municipal Corporation to vacate the garden area and other allied activities currently operated and maintained by them on the site within a period of 30 days.

For Maharashtra Tourism Development Corporation Limited

Handed over by
M/s. Garuda Amusement Park (Nagpur) Private Limited

29/11/19

Signature

29/11/19

SUSHANT KULKARNI

Received original copy

Witness



माहितीचा
अधिकार

ताबा पावती

833-C

विषय :- मौजा अंबाझरी, जिल्हा नागपूर येथील, खसरा कं 1 न.मु.कं 1, मधील एकुण 44 एकर शासकिय जमीन पर्यटन विकास व देखभाली करीता महाराष्ट्र जमीन पर्यटन विकास व देखभालीकरीता महाराष्ट्र पर्यटन विकास महामंडळ मर्यादित यांना भाडेपट्टयावर दिल्यामुळे जमीनीचा ताबा देणेबाबत.

संदर्भ :-1) महसुल व वनविभाग महाराष्ट्र शासन मंत्रालय निर्णय कं जमिन-2015/प्र.कं 289/ज-8/दि 21.07.2017.
2) मा.जिल्हाधिकारी, नागपूर यांचे आदेश कं अ.का/नझुल/म.प.वि.म/कावि-491/2017 आदेश पारीत दिनांक 20/09/2017.

मा.जिल्हाधिकारी, नागपूर यांचे आदेश कं अ.का/नझुल/म.प.वि.म/कावि-491/2017 आदेश पारीत दिनांक 20/09/2017. अन्वये मौजा अंबाझरी, जिल्हा नागपूर येथील, खसरा कं 1 न.मु.कं 1, मधील एकुण 44 एकर शासकिय जमीन पर्यटन विकास व देखभाली करीता महाराष्ट्र जमीन पर्यटन विकास व देखभालीकरीता महाराष्ट्र पर्यटन विकास महामंडळ मर्यादित यांना भाडेपट्टयावर देण्याबाबत उक्त नमुद आदेशानुसार सदर जमीनीचा ताबा स्थावर अधिकारी, महानगर पालिका नागपूर यांचेकडून घेवून वरीष्ठ प्रादेशिक व्यवस्थापक, महाराष्ट्र पर्यटन विकास महामंडळ, नागपूर यांना महाराष्ट्र जमीन महसुल (शासकिय जमीनीची विल्हेवाट) नियम 1971 मधील तरतुदीनुसार ज्या स्थितीत आहे त्याच स्थितीत नगर भुमापन अधिकारी नागपूर यांचेकडील मोजणी अंती निश्चित झालेली एकुण क्षेत्रफळ 171662.698 चौ.मी. (42.42 एकर) जमीनीचा ताबा दिनांक 31/01/2018 रोजी देण्यात आला.

ताबा देणार,

तहसिलदार नागपूर शहर

ताबा घेणार

वरीष्ठ प्रादेशिक व्यवस्थापक,

महाराष्ट्र शासकिय महामंडळ, नागपूर

म.प.वि.म., नागपूर.

श. आ. देठे
मंडळ अधिकारी नागपूर शहर
नागपूर (खास)

सहाय्यक नागपूर शहर

सहाय्यक नागपूर शहर



201, A-Wing, Fortune 2000, C-3, G Block,
Bandra Kurla Complex, Bandra (E), Mumbai -051.
Tel.:022 26530174/64/63
E-mail: info.garudaamusements@gmail.com
CIN No. U92419MH2019PTC325474

145/541
12/7/2021
ambazari
Date: - 06th Jul 2021

To,
The Executive Engineer,
Maharashtra Tourism Development Corporation,
Apeejay House, 4th Floor,
Churchgate, Mumbai-20.



Name of Work -Development and Operation/Maintenance of Ambazari Garden in Nagpur,
Maharashtra on Design, Build, Finance, Operate and Transfer (DBFOT) Basis

Subject - Conditions Precedent required to be satisfied by the Concessionaire - **Financial Closure**

- Reference:** - 1) Concession Agreement executed between MTDC & M/s. Garuda Amusement Parks (Nagpur) Pvt Ltd. Dated 22.11.2019.
- 2) Work Order No. MTDC/Works/Nagpur/Ambazari/2019/442 dated 6th September 2019.
 - 3) Approval to Financial Closure dated 20th Apr, 2021
 - 4) Letter dated 2nd June, 2021 putting the approval to Financial Closure on Hold
 - 5) Letter dated 01st July, 2021 granting approval to the Financial Closure

Respected Sir,

In view of the above captioned subject and references and as per Article 4, Clause 4.1.3 of the Concession Agreement, M/s. Garuda Amusement Park (Nagpur) Pvt Ltd. has submitting the requisite documents required for achievement of Financial Close.

However, the Authority put on hold the approval provided to Financial Closure dated 20th April, 2021 by issuing a letter to M/s. Garuda Amusement Park (Nagpur) Pvt Ltd. on the 2nd June, 2021.

Further, after lot of deliberations and acquiring opinions of the hold accorded by the Authority we have provided our submission vide letter dated 07th June, 2021 for uplifting of the same. In

145/541
12/7/19

145/541
12/7/19
file



201, A-Wing, Fortune 2000, C-3, G Block,
Bandra Kurla Complex, Bandra (E), Mumbai -051.
Tel.: 022 26530174/64/63
E-mail: info.garudaamusements@gmail.com
CIN No. U92419MH2019PTC325474

this regards we thank the Authority for reinstating and lifting the hold on the said granted Financial Closure.

Further, we would like to bring to your notice that, as per Concession Agreement Article 4 clause 4.4 Commencement of Concession Period - The date on which Financial Close is achieved and all the Conditions Precedent specified under Clause 4.1 are satisfied shall be the **Appointed**

Date which shall be the **date of commencement of the Concession Period.**

However, the start of the project development/concession period shall be considered from the date of financial closure i.e 20th Apr, 2021. But the hold imposed on the financial closure and again reinstated on 01st July, 2021. We are of the view that the appointed date shall be considered as from the order of uplifting the hold and bring it to force again i.e from 01st July 2021.

Also, in view of the 2nd Covid-19 wave and the State of Maharashtra put under total lock down till 31st May, 2021. We have sought for further extension till situation improves and project execution can be commenced.

In view of the above, we request you to kindly provide a suitable extension in this regards and do the needful for updating the appointed date/ commencement of the Concession Period.

Thanking You,

For, Garuda Amusements park (Nagpur) Private Limited



Payer
Authorized Signatory

Copy to: - Hon'ble Managing Director - MTDC, Mumbai



201, A-Wing, Fortune 2000, C-3, G Block,
 Bandra Kurla Complex, Bandra (E), Mumbai - 400 051.
 Tel. : 022 26530174 / 64 / 63
 E-mail : info.garudaamusements@gmail.com
 GIN: U92419MH2019PTC325474
 By Hand/Emdill

Ref No: GAPPL/Admin/Ambazari/2019/015

Date: 23.12.2019

To,
 The Executive Engineer,
 Maharashtra Tourism development corporation Ltd,
 Apeelay house, 4th Floor,
 3 Dinshaw Vaccha Road, Near KC college,
 Churchgate, Mumbai - 400 020



Ref: Our letter Ref No: GAPPL/Admin/Ambazari/2019/006 dated 30/11/2019 & dated 19.12.2019

Subject: Observations after joint round at site Ambazari Garden on 30th November, 2019 & found no progress on site visit dated 17/12/2019

Sir,
 This is with reference to the joint round taken with your good team (MTDC) and our team {Garuda Amusement park (Nagpur) Pvt Ltd} onsite on 28th of November 2019, during the round there were many obstructions/structures been found which needed to be vacated immediately so that we could start our work on site so as to meet all deadlines and complete the project within timeline. Your immediate action to get all vacated was requested but on our visit at site on 17th December 2019 there was no progress at site and all obstructions/structures were found as it is on site. Your immediate action on the same shall be appreciated and will help us expedite our work in all terms.
 a detailed point wise structures & encumbrances with pictures has been attached herewith & also been email on "ee@maharashtratourism.gov.in" for your kind reference request to please look into the same.

Kindly acknowledge the same & oblige,

Thanking You,

For, Garuda Amusements park (Nagpur) Private Limited

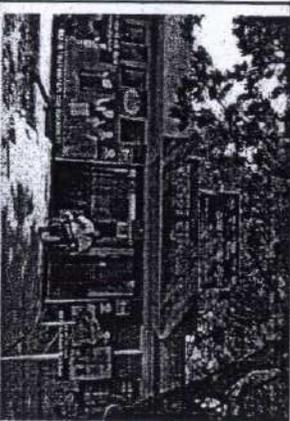
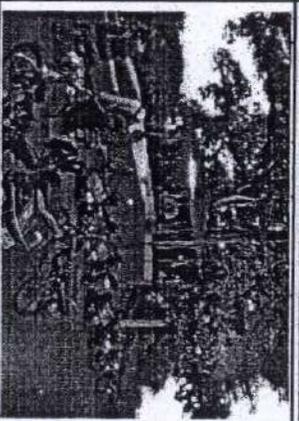
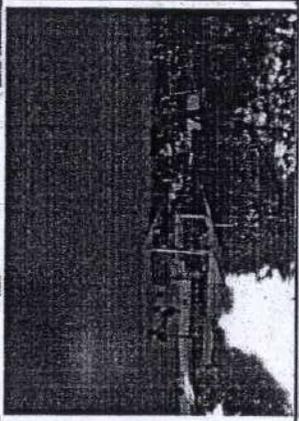
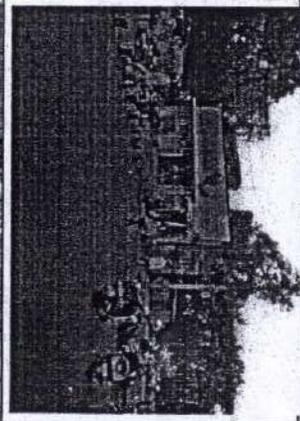
[Signature]
 Authorized Signatory

No..... 4851 Date 26 DEC 2019
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 Branch.....

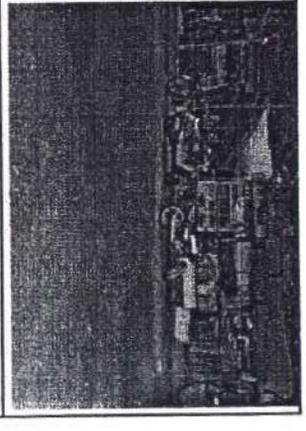
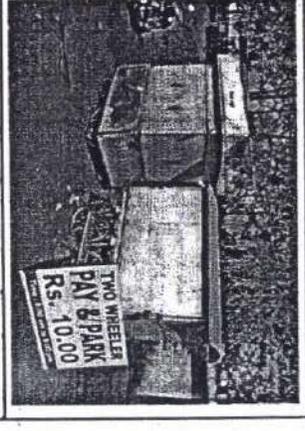
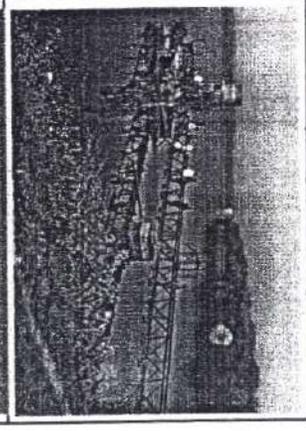
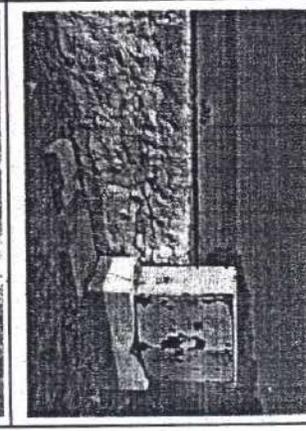
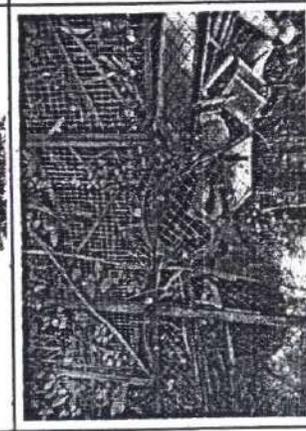
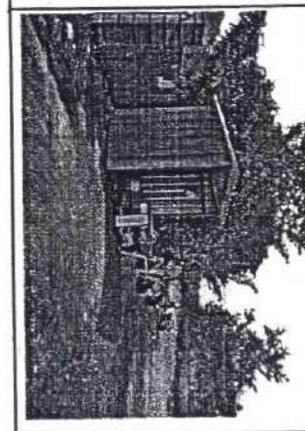
933
 26-12-19

*Reply from
 Mr. Subhat.
 1) & 2) will reminder from
 Mr. Subhat. get consent
 from
 Mr. Subhat. it is up
 to you
 3) Inform H.S.
 and following
 Reply to A.M. Subhat
 26/12/19*

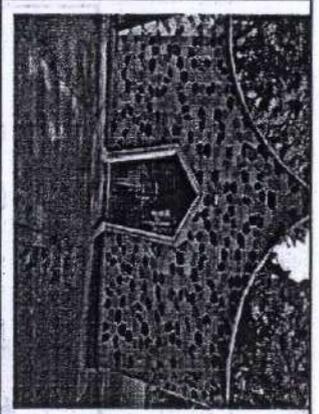
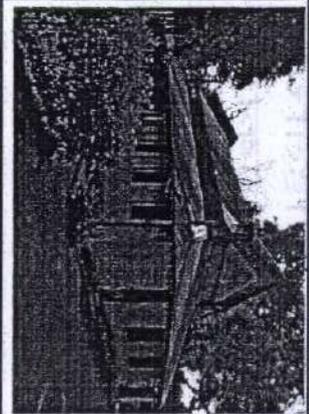
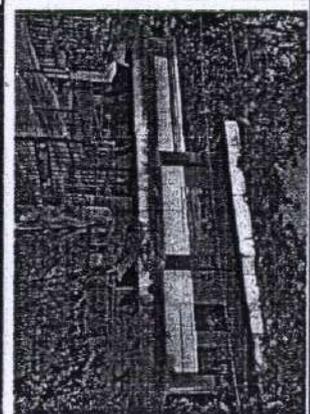
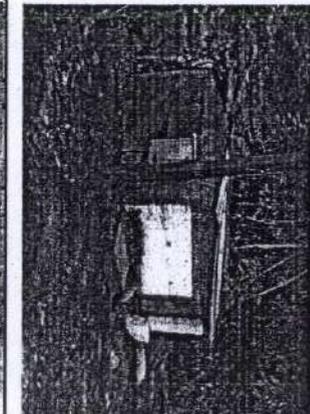
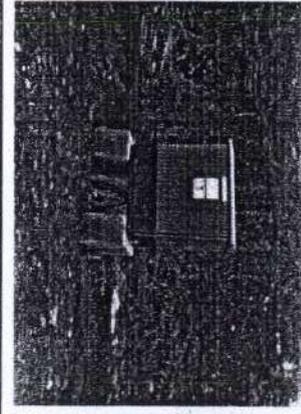
Ambazari Garden pictures taken on date 17.12.2019

Sr No	Points	Pics
1	<p>Common washroom shown in the picture has access from main road is operational till date needs to be removed & demolished</p>	
2	<p>Small temple present in the premises needs to be shifted at new location</p>	
3	<p>Parking booth present in the premises needs to be removed/demolished</p>	
4	<p>an operational restaurant and its structure is operating in the premises, same needs to be removed/demolished as seen in the picture</p>	
5	<p>a structure adjoining to the restaurant is present in the premises, same needs to be removed/demolished as seen in the picture</p>	

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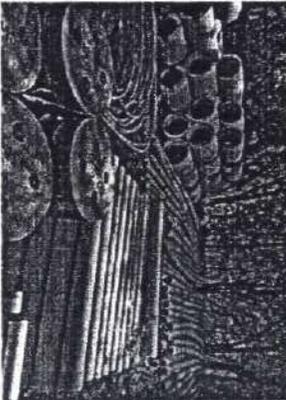
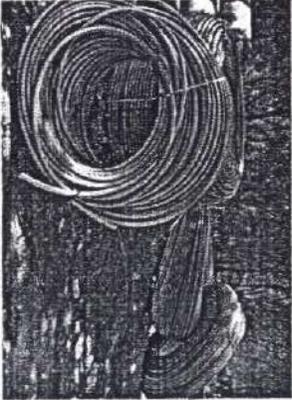
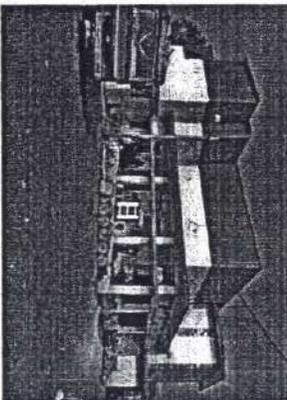
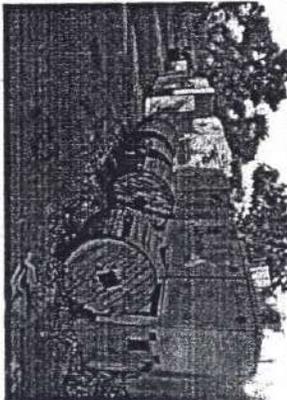
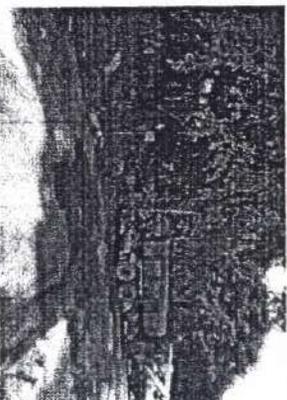
6	<p>Vendors selling different food stalls is present in the premises as shown in the pictures, same needs to be removed/demolished and vacated</p>	
7	<p>Vendors selling different food stalls is present in the premises as shown in the pictures, same needs to be removed/demolished and vacated</p>	
8	<p>Iron and civil structure is present as shown in the picture, where people are walking adjoining our premises needs to be demolished</p>	
9	<p>Iron and civil structure is present as shown in the picture, where people are walking adjoining our premises needs to be demolished</p>	
10	<p>huge area dumped with debris needs to be vacated as attached in the picture</p>	
11	<p>Parking collection booth in the premises to be removed/vacated as seen in the picture</p>	

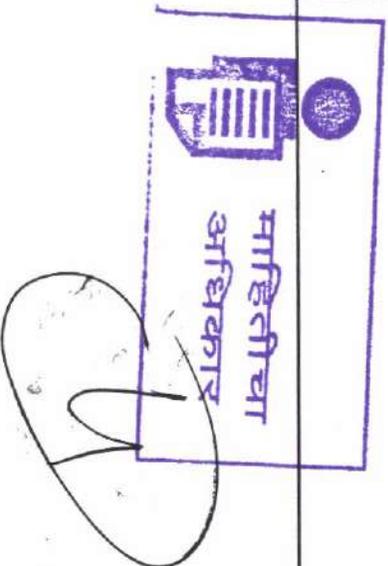
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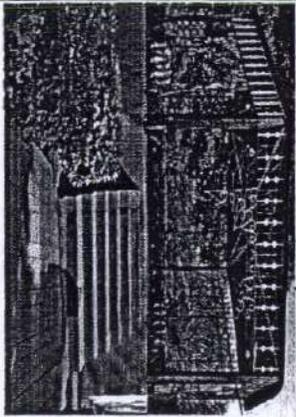
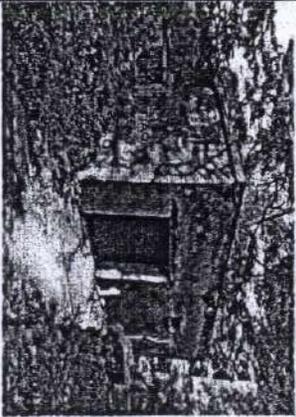
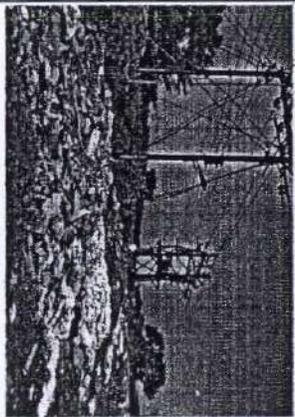
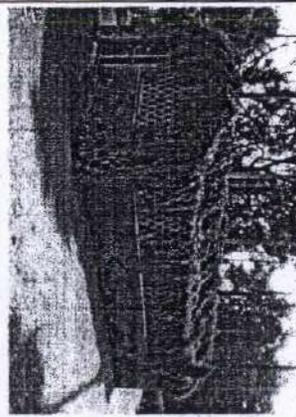
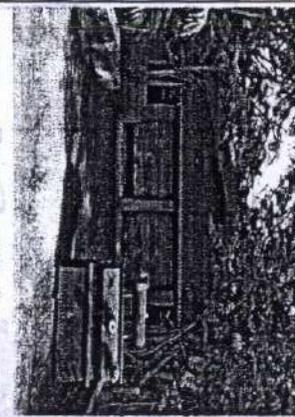
12	<p>Permanenet civil structure present in the premises needs to be removed as seen in the picture</p>	
13	<p>Permanenet civil structure present in the premises needs to be removed as seen in the picture</p>	
14	<p>Permanenet civil structure present in the premises needs to be removed as seen in the picture</p>	
15	<p>Permanenet civil structure present in the premises needs to be removed as seen in the picture</p>	
16	<p>Permanent electric station to be removed as shown in the picture</p>	



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17	Smart city work material is been kept at various locations in the premises that needs to be cleared and removed from the premises its still lying there as shown in the picture	
18	Smart city work material is been kept at various locations in the premises that needs to be cleared and removed from the premises its still lying there as shown in the picture	
19	A civil structure building is been constructed and been used by some 3rd party needs to be vacated/demolished its still present in the premises as shown in the picture.	
20	Smart city work material is been kept at various locations in the premises that needs to be cleared and removed from the premises its still lying there as shown in the picture	
21	Water tanker filling is been carried out in the premises area needs to be stopped	



27	<p>Many such huge civil structures present in the premises needs to be removed/vacated from the premises as shown in the picture</p>	
28	<p>Many such huge civil structures present in the premises needs to be removed/vacated from the premises as shown in the picture</p>	
29	<p>Debris all over roads along side in the premises is been kept</p>	
30	<p>Many such huge civil structures present in the premises needs to be removed/vacated from the premises as shown in the picture</p>	
31	<p>Many such huge civil structures present in the premises needs to be removed/vacated from the premises as shown in the picture</p>	



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