

Directorate of Tourism
Government of Uttar Pradesh

Request for Qualification cum Proposal

Volume - III
Draft Schedules to Development
Agreement

**Operation of Rahi Tourist Bungalow, Bhupia Mau
through Private Sector Participation on Lease and
Development basis in the state of Uttar Pradesh**

January 2016

Tender No: 7/8-16(PPP)Lease/2016

**Paryatan Bhawan, C-13, Vipin Khand,
Gomti Nagar, Lucknow - 226010
Tel: 0522-2308017/2308993
Fax: 0522-2307074/2308937**

Table of Contents

No.	Schedules	Page
1.	Schedule-A: SITE OF THE PROJECT	1
2.	Schedule-B: BUSINESS PLAN	5
3.	Schedule-C1: PROJECT INFRASTRUCTURE	7
4.	Schedule-C2: PROJECT FACILITIES	8
5.	Schedule-D: SPECIFICATIONS & STANDARDS	9
6.	Schedule-E: APPLICABLE PERMITS	25
7.	Schedule-F: PERFORMANCE SECURITY	27
8.	Schedule-G: PROJECT COMPLETION SCHEDULE	29
9.	Schedule-H: DRAWINGS	30
10.	Schedule-I: TESTS	32
11.	Schedule-J: COMPLETION CERTIFICATE	34
12.	Schedule-K: MAINTENANCE REQUIREMENTS	35
13.	Schedule-L: SAFETY REQUIREMENTS	38
14.	Schedule-N: PANEL OF CHARTERED ACCOUNTANTS	41
15.	Schedule-O: VESTING CERTIFICATE	43
16.	Schedule-P: SUBSTITUTION AGREEMENT	44
17.	Schedule-Q: ESCROW AGREEMENT	56
18.	Schedule-R: SELECTION OF PROJECT MONITORING AGENCY	73
19.	Schedule-S: TOR FOR PROJECT MONITORING AGENCY	74
20.	Schedule-T: LAND LEASE AGREEMENT	81
21.	Schedule-U: BUILDING REGULATIONS	90
22.	Schedule-V: INCENTIVES FROM THE AUTHORITY	91
23.	Annexures	92

SCHEDULES

SCHEDULE – A

SITE OF THE PROJECT (Refer Article 2.1 & Article 10.1)

Uttar Pradesh as tourism investment destination

To increase and support the flow of tourists to Uttar Pradesh, the Ministry of Tourism, Government of Uttar Pradesh has been working on improving Uttar Pradesh as a prime destination for tourists in India. The following table presents an assessment of factor contributing to Uttar Pradesh as tourism destination:

Parameter	Remarks
Tourist Visits	<ul style="list-style-type: none">▶ Uttar Pradesh ranked 2nd in domestic (18.28 crores) and 3rd in foreign (29 lakhs) tourist arrivals in the country.
State Expenditure on Tourism	<ul style="list-style-type: none">▶ The state government is implementing several schemes to promote tourism in state.▶ Tajganj project, Heritage Arc, Eco-tourism, Theme-based circuits viz. Buddhist circuit, Ramayana Circuit, Spiritual Circuit, etc., Wildlife tourism, are some of the flagship projects being undertake for development of tourism facilities in the state.
Branded Hotel Rooms	<ul style="list-style-type: none">▶ The number of branded hotel rooms in a state are lacking in comparison to the overall tourism attractiveness and hospitality competitiveness of the state. This point to the opportunity for the hotel investors and operators in the state.
Taxation	<ul style="list-style-type: none">▶ The state has one of the lowest luxury taxes on hotels at 5% of the actual tariff.▶ The introduction of the impending Goods and Services Tax (GST) which would subsume all forms of tax such as service tax, luxury tax, entertainment tax, value added tax, and others will also be a positive for the tourism industry.

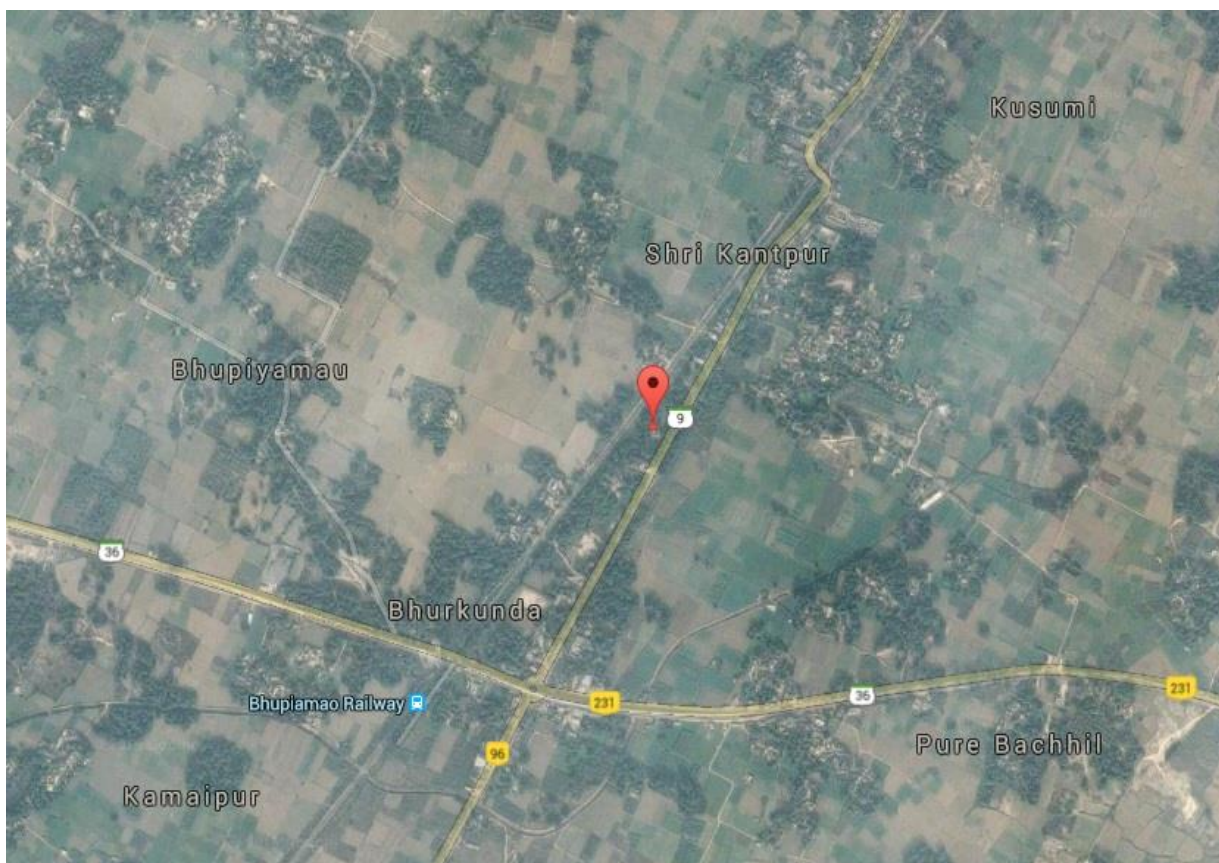
Parameter	Remarks
Transport Infrastructure	<ul style="list-style-type: none">▶ Tourist movement depends heavily on roadways and railways as modes of transportation.▶ State is well covered by railway network and has great connectivity with Delhi via railway.▶ The state has the highest road density among the large states in India.▶ Ongoing investments in road infrastructure will lead to increase in tourist movement, and increase their stay as more sites become accessible due to good quality infrastructure.▶ The state's proximity to major transport hub of Delhi, and airports in Lucknow, Varanasi, & Gorakhpur as well as upcoming airports in Agra and Kushinagar will also attract more tourists.▶ The increase in number of low-cost airlines will also contribute to increase in domestic tourism, as many more destinations will become easily reachable. The will also lead to increase in stay as less time will be spent travelling to reach the destination.
Ease of Doing Business	<ul style="list-style-type: none">▶ The state features in the top 10 list of states for ease of doing business in the state.▶ For this particular project, since the department will act as a facilitator, the permits and approvals will be easier to get in comparison.

The above highlights the investment opportunity and potential for the tourism industry in the state. This project provides potential hotel investors and operators a unique opportunity to partake in the potential in the state, and partner with the state government in providing improved tourism facilities to tourists to the state.

1. The Site :

Rahi Tourist Bungalow Bhupia Mau (RTB Bhupia Mau), is located on Allahabad- Faizabad road in Bhupia Mau, District Pratapgarh, in Uttar Pradesh. . This road is the busiest state highway. The property is about 900m away from the Bhupia Mau Chowk

Figure: Location details



The Bhupia Mau Chowk is the intersection point for Rae Bareilly- Jaunpur NH with Allahabad- Faizabad State Highway. The subject property is well accessible by rail and road network. Property has 2 major railway stations within a radius of 6 kms. Bhupia Mau Railway Station around 1km away from the site and Pratapgarh railway station around 5.6 km away from the site. Allahabad railway station is about 55km away from site. The nearest airport is Allahabad at 55kms from RTB Bhupia Mau.

Spread over 3300 sqm plot area, RTB Bhupia Mau is a single storied structure and has a built up area of 269 sqm. The property consists of meeting hall and a restaurant along with kitchen..

Figure: Project Site



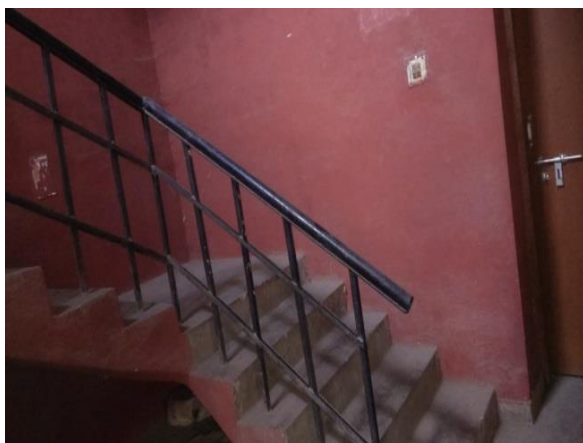
Figure: Site Photographs



View of Building



Back yard of Building



Stair Case



Kitchen Area

The area statement is as below:

Site area	3300 sqm
Built-up area	269 sqm

Infrastructure Assessment at Site

The following table presents the infrastructure assessment at the site:

Table: Physical Infrastructure Assessment at property

Parameter	Details
Approach road	Located on Allahabad- Faizabad State Highway. The Highway is in Good condition
Water supply	The area does not have access to water supply. The property has own bore well for water supply. However the developer will need to enhance the capacity for meeting the water requirements.
Power Supply	The site has access to power supply from state government power undertaking. However, the power supply has been disconnected, and the developer will need to procure a new connection. Developer can also opt for alternative power sources viz. solar energy for some of the power needs.
Sewerage system	The area is not connected to a sewerage network. Additionally Tourism Ministry's guidelines require developer to set up sewage treatment plant as part of eco-friendly guidelines.
Drainage system	The area is not connected to a drainage network. Assessments of drainage requirements will have to be undertaken by the

	developer
Solid waste management	The area does not solid waste management services. However the developer would need to arrange for solid waste management in accordance with the applicable rules and regulations, and MSW Rules 2000.
Telephone connectivity	The area has access to all telecom service providers.

The Developer shall provide the details of Project Infrastructure and Project Facilities proposed to be developed at the Site in the Business Plan.

SCHEDULE – B

BUSINESS PLAN

(Refer Article 2.1)

The Business Plan shall include, but not limited to the following:

1. Site evaluation and analysis
2. Overall development plan for the entire Site
3. Zoning and allocation of the areas for different usages rooms, restaurant, kitchen, bar, common areas, parking, landscaping, banquet halls, etc.
4. Design configuration and conceptual planning & architectural layouts for Suggested Project Infrastructure and Suggested Project Facilities
5. Architectural plans and drawings incorporating the local architectural aesthetics, and the buildings at the Site.
6. Structural engineering and designing keeping in view the land topography and seismic risk, and existing building
7. Methods & technique for erection, testing and commissioning of the various project components, civil, structural, electrical, fire safety, etc.
8. Usage of design attractiveness, innovation, environmental friendliness, aesthetics, green concept, technology, etc.
9. Detail plan for internal roads/pathways as well as connectivity to the external access road
10. Detail plan for water supply
11. Detail plan for drainage, sewerage, sewerage treatment plant, wastewater management, recycling, solid waste management, etc.
12. Detail plan for electricity supply including power backup
13. Provision for telecommunication, internet connectivity and other related services
14. Detail plan for heating, ventilation and air-conditioning work (HVAC)
15. Detail plan for open spaces, landscape and green area
16. Detail plan for rain water harvesting, pollution & noise control measures
17. Detail plan for fire protection mechanism
18. Detail plan for Green area and landscaping
19. Ensuring energy efficient buildings / infrastructure and energy management
20. Graphic signage
21. Provision of first aid, and emergency medical assistance
22. Adequacy and effectiveness of resource allocations, plant & machinery and manpower
23. Adequacy and appropriateness of chosen technology
24. Testimonials on safety & time adherence
25. Technology management & know how transfer arrangements
26. Overall conformance to stipulated technical requirements
27. Environment Impact Assessment (EIA) and Social Impact Assessment (SIA)

28. Detail cost estimates
29. Project completion schedule
30. Sequencing and time phasing of activities
31. Financial stake (equity percentage) and financing arrangements (percentage of debt and the extent of tie-up)
32. Marketing and promotion plan, clearly identifying potential markets, marketing and promotional strategies, execution strategies and time frames for the plans
33. Tie-ups for development & operations of Suggested Project Infrastructure and Project Facilities
34. Contingency plans and Disaster management plans
35. Extent of compliance stipulated in Bidding Documents
36. Constructive justification behind deviations, if any

SCHEDULE – C1

PROJECT INFRASTRUCTURE

(Refer Article 2.1)

The Project should be designed as a world-class facility and embodies futuristic concepts. The overall development must be futuristic; service oriented and should be able to project a global image and cater to the needs of both domestic and foreign tourists. It needs to have a vision and spaces that are conducive to global / reputed tourist amenities and in accordance with the local architectural guidelines. The Project shall be conceived as a Green project with all development activities or facilities to be non-polluting keeping with the emphasis on preserving and enhancing the environment. The project envisages that the:

- a. Development activities or facilities will lead to the branding of Project as a preferred destination for both domestic and foreign tourists;
- b. Development activities or facilities to attract reputed and high quality travel & tourism service providers; and
- c. Development activities or facilities incorporating all round Green development, environment friendly and non-polluting environment.

The usage of the Rahi Tourist Bungalow, Bhupia Mau shall be for Travel & Tourism purpose only in accordance with the Tourism Policy of the Government of Uttar Pradesh and guidelines issued by the Authority, consisting of.

- (a) Site development
- (b) Construction of boundary walls
- (c) Construction of roads/pathways
- (d) Installation of water supply and sanitation and sewage systems
- (e) Power distribution system
- (f) Telecom facilities
- (g) Rooms
- (h) Bar
- (i) Kitchen
- (j) Restaurant
- (k) Common area
- (l) Retail space
- (m) Space of display of collaterals of the Uttar Pradesh Tourism Department
- (n) Any, other infrastructure as proposed by the Authority and/or the Developer

SCHEDULE – C2

PROJECT FACILITIES

(Refer Article 2.1)

1. Internal roads / pathways of varying widths to accommodate the following facilities within the Right of Way:
 - a. Provision of pipes for water distribution
 - b. Provision of pipes for sewerage collection
 - c. Provision for cable ducts for Telecommunication & TV cables
 - d. Provision of ducts for power
 - e. Footpath
 - f. Internal lighting
2. Safe drinking water supply, water treatment plant and water distribution system
3. Sewerage/Drainage collection system and Sewerage treatment plant
4. Solid waste management system
5. Power distribution system including back-up, and internal lighting
6. Telecommunication distribution system and other related services
7. Building heating systems / arrangements / Air Conditioning management & control
8. Water saving & rain water harvesting system
9. Fire hydrants and control measures
10. Property Management System (PMS) - The PMS shall be implemented for effective management, monitoring and integration of various facilities in the Project. The PMS shall perform the following general functions such as Property Management & Control, Data Collection & Archival, Alarm Event & Management, Trending, Reports & MIS Generation, Maintenance & Complaint Management, etc.
11. Housekeeping facilities
12. Energy management
13. Safety & Security Systems Integration such as Fire Alarm System and Access Control & Surveillance System. The safety and security should be one of the top priorities at the Rahi Tourist Bungalow Bhupia Mau and there should be a 24-hour security system, backed by state-of-the-art surveillance systems and a reliable and committed security and protocols.
14. Signage
15. Land development in the form of pavements, fencing, walkways etc.
16. Landscaping and maintenance of Green area

SCHEDULE – D

SPECIFICATIONS AND STANDARDS

(Refer Article 2.1)

The following guidelines are issued as the minimum Specification and Standards for reference. However, the Developer shall come up with proposal of complying with other National / International standards and formulate the following byelaws in consultations with the Authority during the Business Plan preparation stage, which shall include Operator and Property Management Services Regulations for Project.

The Developer shall comply with the Specifications and Standards set forth in this Schedule for construction of the Project Infrastructure and Project Facilities and shall always adhere to Good Industry Practice.

The Project Infrastructure and Project Facilities being developed should adhere to minimum 2 star category according to the Revised Guidelines for Classification / Re-Classification for Hotels w.e.f. 16.12.2014 issued by Ministry of Tourism, Government of India. The Developer will be required to apply for classification according to the guidelines and should achieve a minimum 2 star category rating. The Developer should keep the facilities compliant with 2 star category requirements throughout the Concession Period.

The Developer shall upgrade / renovate / modernise the existing facilities and create / add other assets including overall development as required for the Project.

During the Construction Period the Developer has to improve the Project Infrastructure and Project Facilities. The main objective of the development should be provision of improved Hospitality / Tourism Services by way of the following:

1. Increase / provide well furnished Rooms based on the market demand and the provisions of the Agreement, and applicable rules and regulations;
2. Provide state of the art services in terms of electricity, water supply, sewerage, telecom and internet connectivity;
3. Maintain overall environment of the property through well-developed landscaped areas, drainage system, lighting system, etc. with environmentally sound principles and renewable sources like solar street light, waste water recycling, etc. in accordance with the provisions of the Agreement;
4. Provide additional leisure services and / or facilities, tourist activities that may be based on the cultural, historic, and social attractions of surrounding region;
5. Provide tours and ancillary services for tourists and local population, development of package holidays, Convention / Banquet Halls;
6. Provide well defined areas for Parking for all public and private vehicles viz. cars, buses, etc.;

1 Specifications and Standards to apply

The Project shall conform to the provisions, principles and guidelines laid down under:

- a) The regulations of the Authority and /or any other regulating authority;
- b) Regulations and approvals under the Environmental Protection Laws;
- c) Existing Building Byelaws issued by development authority, as applicable for the project and/or latest amended other relevant Indian Standard (IS) Codes and practices, Development Control Regulations, statutory requirements, laws of land, the principles of good industry practices and any other norms as applicable from time to time;
- d) ISO – International Organization for Standardization;
- e) Indian Standard (IS) Code as published by the Bureau of Indian Standards; and
- f) Revised Guidelines for Classification / Re-Classification for Hotels w.e.f. 16.12.2014 issued by Ministry of Tourism, Government of India.

2 General Quality Standards to apply

The term “**General Quality Standards**” means a standard of performance which,

- a) is competent, efficient, economical and in accordance with internationally accepted techniques used in tourism & hospitality industry;
- b) is in accordance with professional engineering, accounting and consulting standards, as applicable, recognized by national or international professional bodies;
- c) is in accordance with sound management, commercial, technical, design and engineering practices;
- d) employs appropriate technology and safe and effective equipment, machinery and methods;
- e) is in accordance with national and local standards and codes in India;
- f) protects the interests of the Authority, Developer, Users & Employees;
- g) is in accordance with the Applicable Law;
- h) is in accordance with the applicable Social Safeguards/Environmental Assessment and Mitigation Plan; and

- i) would overall ensure all elements of the design & construction are ‘**Fit for its intended purpose**’.

3 Guidelines

The Authority encourages use of National / International Best Practices and leading innovation in sustainable development, the following only sets the general guideline in terms of Green and Sustainable development for the Project. The overall Project Infrastructure and Project Facilities shall take due care on the following:

- a. Environmental conservation
- b. Cultural and heritage sites
- c. Traditional aesthetics
- d. Bio mimicry and eco-friendly development
- e. Gross National Happiness Ethos, harmonious living and sustainable living

A. Design Guidelines

Water Efficiency	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Minimize water use by using water efficient toilets/sinks/ basins <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ Design roof to capture rain water - with simple inexpensive adjustments, rain water can be effectively captured
Indoor Quality	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Use paint, adhesives and caulks that have low or no – Volatile Organic Compounds (VOC) have been connected to cancer and other health concerns ▪ Design buildings for maximum air circulation within the building

Ecological Impact	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Choose building sites to minimize adverse effect on biodiversity – for e.g. avoid felling of trees to the extent possible considering the availability of land at the Project Site ▪ Use wood from indigenous / local trees to avoid introducing alien species of insects ▪ Use organic, locally available insulation such as hay bales or saw dust wherever possible - Reduce insulation costs and make it eco-friendly ▪ Conserve old trees– proper planning of the new structure to conserve old mature trees ▪ Only use indigenous trees/ bushes/grass for landscaping in the entire City ▪ Only use organic pesticide/fertilizer on soil ▪ Have eco-friendly pest control mechanisms that does not rely on synthetic pesticides <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ Use green roofing techniques - have a thin layer of substrate with grass and small plants - to absorb rainwater and reduce drainage requirements, provide insulation, purify air & be aesthetically pleasing ▪ Use engineered lumber - more environmentally friendly, stronger and straighter ▪ Have water permeable parking lots and roads (such as pervious concrete) to allow seepage and recharge of underground reservoirs, and reduce need for drainage ▪ Utilize biomimicry and permaculture design tools - study the local habitats and ecosystem for clues, in order to overcome various challenges faced during planning and construction
Waste Management	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Install separate and adequate waste collection bins for organic, recyclable and hazardous waste ▪ Separate sewage from wash water using dedicated pipes so that they can be refined easily <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ Use recycled materials as much as possible – re-used materials generally save on money and save space in the land-fill
Renewable Energy	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Use solar heating systems instead of gas/wood-powered ones <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ Install solar power on roof and small wind turbines within air passageways wherever possible ▪ Cool buildings by channelling cold water from upstream through building and release downstream, making use of gravity and reducing need to use energy for air-conditioning

Efficiency in Construction	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Place bins on site during construction to gather and reuse cut studs - This system will waste less lumber than cutting a new stud each time a shorter piece of lumber is needed <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ No headers in non-structural walls - Reduced lumber and lumber waste
Energy Efficiency	<p>Priority 1 - Must Do</p> <ul style="list-style-type: none"> ▪ Use passive solar design principles - face building the right way and have windows in right places to maximize solar gain during winter and minimize during summer ▪ Use thermal mass to even out temperature fluctuations between night and day ▪ Design building interiors (with skylights, solar tubes, etc.) to ensure ambient lighting and reduce the need for artificial lights during daytime ▪ Design buildings with adequate air ventilation during the summer ▪ Use energy efficient appliances/lighting such as Energy Star TM and LED lamps ▪ Use dark coloured roofing/outer walls to absorb sunlight in cold climate – will reduce heating costs ▪ Use double-pane, glazed windows and insulated frames – reduce heat loss and gain ▪ Seal around electric outlets – Air infiltration is a huge problem and the source of much energy waste. It is important to seal even the small air gaps around an electrical outlet as they have a big impact over the life of the building ▪ Use sufficient caulking and insulation on walls and roof to minimize heat loss ▪ House wrap – A common green building practice which helps to “tighten “ the home envelope <p>Priority 2 - Should Do</p> <ul style="list-style-type: none"> ▪ Install occupancy-aware lighting and heating appliances ▪ Use waste heat from refrigerators and air conditioners to heat water for domestic use ▪ During planning, conduct life-cycle assessments of all major buildings using computer simulation tools

4 Hotel Category Guidelines

Developer should comply with the provisions applicable for 2 star category rating for hotel project issued by Government of India according to Revised Guidelines for Classification / Re-Classification for Hotels w.e.f. 16.12.2014 issued by Ministry of Tourism, Government of India¹. The Developer is to ensure compliance with the same including any revisions to the same at all times during the Operation Period.

¹ Source: <http://tourism.nic.in/writereaddata/Uploaded/Guideline/010720150505262.pdf>

If any of the facilities / services could not be provided due to local area conditions, developer should inform the Authority about the same, and the Authority would evaluate the same either through itself or through Project Monitoring Agency, and the relaxation if any should be agreed to between the Authority and the Developer and should form part of the Agreement as an Annex to Schedule D.

In case of non-compliance with the above guidelines during the Operation Period, the Developer shall pay to the Authority Damages in an amount calculated at the rate of 0.2 % (zero point two percent) of the Performance Security for each day's delay until the compliance with the guidelines, subject to a maximum of the 20% (twenty percent) of the Performance Security.

Non-compliance for a continuous period of 100 days or for 150 days or more during a two year period will be a Developer Event of Default, and the Authority shall be entitled to encash, invoke and appropriate Performance Security as Damages, and to terminate this Agreement in accordance with Article 31.

SCHEDULE –E

APPLICABLE PERMITS

(Refer Article 4.1.2)

1 Applicable Permits

1.1 The Developer shall obtain, as required under the Applicable Laws but not limited to the following, the following Applicable Permits on or before the Appointed Date as required, save and except to the extent of a waiver granted by the Authority in accordance with **Article 4.1.2** of the Agreement:

- (a) Environment clearances and Environmental and Social Impact Assessment from Ministry of Environment & Forest, Government of India:
The Developer will undertake an Environmental Impact Assessment (“**EIA**”) of the Project including existing / proposed buildings and associated access and service facilities (access roads, electricity and water supply, landscaping, etc.) before the construction of the buildings to identify and mitigate any site preparation, construction and operational environmental related impacts in accordance with the applicable rules and regulations. An Environmental Management Plan (“**EMP**”) would be developed to manage and mitigate any potential negative environmental impacts posed by the development and operation of the Project. The Developer will be responsible to ensure full compliance with the EMP and any other conditions imposed by the Ministry of Environment & Forest, Government of India when the environmental clearance certificate is issued.
- (b) Clearances, permissions and approvals required under the relevant Building Bye-laws;
- (c) Approval for extraction of boulders from quarry from Ministry of Environment & Forest, Government of India and Department of Geology and Mines;
- (d) Approval from local body for water & sewerage connection / re-connection;
- (e) Approval from competent authorities for power / electricity connection re-connection;
- (f) Approval from competent authorities for telecommunication / internet connectivity;
- (g) Consent order from competent authorities for pollution control regulation;
- (h) Fire safety clearance from competent authorities;
- (i) Clearance from Airport Authority of India;
- (j) Clearance for blasting and use of explosives at the site for construction activities from competent authorities;
- (k) Clearance for Visas and workers permits from competent authorities;
- (l) Trade and services licenses from Ministry of Commerce / local authorities;

- (m) Construction licenses from competent authorities;
- (n) Local Development Authority / Urban Local Body clearances;
- (o) Tax exemptions from Ministry of Commerce and Ministry of Finance;
- (p) Approval and accreditation from competent authorities; and
- (q) Any other permits or clearances required under Applicable Laws.

SCHEDULE –F

PERFORMANCE SECURITY

(Refer Article 9.1)

1. In consideration of the Governor of Uttar Pradesh (hereinafter called “The Government”) having agreed to exempt _____ (hereinafter called “The said Contractor(s)”) from the demand, under the terms and conditions of an Agreement dated _____ made between _____ and _____ for _____ (hereinafter called “the said Agreement”) of security deposit for the due fulfilments by the said Contractor(s) of the terms and conditions contained in the said Agreement, on production of a Bank Guarantee for Rs. _____ (Rupees _____ only) we, _____ (indicate the name of the bank), (hereinafter referred to as “the Bank”) at the request of _____ (contractor(s)) do hereby undertake to pay to the Government an amount not exceeding Rs. _____ against any loss or damage caused to or suffered or would be caused to or suffered by the Government by reason of any breach by the said contractor(s) of any of the terms and conditions contained in the said Agreement.

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

3. We undertake to pay to the Government any money so demanded not withstanding any dispute or disputes raised by the Contractor(s)/Suppliers(s) in any suit or proceeding pending before any Court or Tribunal relating thereto our liability under this present being absolute and unequivocal.

The payment so made by us under this Bond shall be valid discharge of our liability for payment there under the Contractor(s)/Supplier(s) shall have no claim against us for making such payment.

4. We _____ (indicate the name of Bank) further agree that the guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Government under or by virtue of the said Agreement

have been fully paid and its claims satisfied or discharged or till _____ (Office/Department), _____ certified that the terms and conditions of the said Agreement have been fully and properly carried out by the said Contractor(s) and accordingly discharges the Guarantee. Unless a demand or claim under this Guarantee is made on us in writing on or before the _____, we shall be discharged from all liability under this Guarantee thereafter.

5. We _____ (indicate the name of Bank) further agree with the Government that the Government shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extent time of performance by the said Contractor(s) from time-to-time any of the powers exercisable by the Government against the said Contractor(s) and to forbear or enforce any of terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Contractor(s) or for any forbearance, act or omission on the part of the Government or any indulgence by the Government to the said Contractor(s) or by any such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the contractor(s)/Supplier(s).

7. We _____ (indicate the name of Bank), lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Government in writing.

Dated the _____ day of 2016
For _____ (indicate the name of Bank)

SCHEDULE – G

PROJECT COMPLETION SCHEDULE

(Refer Article 12.1)

*{Note: The detailed Project Milestones within the Scheduled Commercial Operations Date, shall be discussed and finalised between the Authority, Project Monitoring Agency and the Developer during the preparation of the Business Plan and before the Appointed Date and the same shall be deemed to form as part of this **Schedule G.**}*

1 Project Completion Schedule

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

2 Project Milestones

The Project development is to be completed within 1 (one) year(s) from the Appointed Date and shall be the scheduled date for completion of Project which shall comprise of the Suggested Project Infrastructure and Suggested Project Facilities as described in **Schedule C1** and **Schedule C2**, respectively (the “**Scheduled Completion Date**”) and the Developer agrees and undertakes that the construction shall be completed on or before the Scheduled Completion Date.

2.1 Project Milestone – I

Project Milestone-I the Developer has to complete the following activities ***** within ***** from the Appointed Date (the “**Project Milestone-I**”).

2.2 Project Milestone-II

Project Milestone-II the Developer has to complete the following activities ***** within ***** from the Appointed Date (the “**Project Milestone-II**”).

Note: The detailed Project Milestones within the Scheduled Commercial Operations Date, shall be discussed and finalised between the Authority, Project Monitoring Agency and the Developer during the preparation of the Business Plan

3. Extension of Period

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

SCHEDULE –H

DRAWINGS

(Refer Article 12.3)

1 Drawings

In compliance of the obligations set forth in **Article 12.3** of this Agreement, the Developer shall furnish to the Authority, free of cost, all Drawings, including those listed in Annex-I of this **Schedule H**.

2 Additional Drawings

If the Project Monitoring Agency 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 Developer to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the Developer shall promptly prepare and furnish such drawings to the Project Monitoring Agency, as if such drawings formed part of Annex-I of this **Schedule H**.

Any submission of Drawings made by the Developer to the Authority under this Agreement or any other contractual arrangement, shall not amount to submission and/or fulfilment of the requirement as laid down under Applicable Law and the Developer shall separately comply with statutory requirements.

Annex – I

List of Drawings

(Schedule –H)

*{Note: The final list of Drawings shall be finalised between the Authority and the Developer during the preparation of the Business Plan and before the Appointed Date and the same shall be deemed to form as part of this **Schedule H.**}*

The following is only a tentative list of the various drawings that is to be submitted by the Developer:

1. Development Plan of the Project
2. As-built drawing of the water distribution system
3. As-built drawing of the sewerage collection system
4. As-built drawing of the power distribution system
5. As-built drawing of the telephone and TV cables
6. As-built drawing of road and footpath network including parking areas
7. Detailed as-built architectural and structural drawings of the following:
 - a. Architectural drawings for all Buildings and service facilities
 - b. Structural drawings
 - c. Landscaping design
 - d. Slope protection design
 - e. Foundation design
8. All and any other drawings as deemed necessary.

SCHEDULE – I

TESTS

(Refer Article 14.1.2)

1 Schedule for Tests

- 1.1 The Developer shall, no later than 30 (thirty) days prior to the likely completion of construction, notify the Project Monitoring Agency and the Authority of its intent to subject the Project Infrastructure and Project Facilities to Tests, and no later than 7 (seven) days prior to the actual date of Tests, furnish to the Project Monitoring Agency and the Authority detailed inventory and particulars of all works and equipment forming part of the Project Infrastructure and Project Facilities.
- 1.2 The Developer shall notify the Project Monitoring Agency of its readiness to subject the Project Infrastructure and Project Facilities to Tests at any time after 7 (seven) days from the date of such notice, and upon receipt of such notice, the Project Monitoring Agency shall, in consultation with the Developer, 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 Project Monitoring Agency 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 **Visual and physical Test:** The Project Monitoring Agency shall conduct a visual and physical check of the Project Infrastructure and Project Facilities to determine that all works and equipment forming part thereof conform to the provisions of this Agreement.
- 2.2 **Other Tests:** The Project Monitoring Agency may require the Developer to carry out or cause to be carried additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project Infrastructure and Project Facilities with Specifications and Standards.
- 2.3 **Environmental Audit:** The Project Monitoring Agency shall carry out a check to determine conformity of the Project Infrastructure and Project Facilities with the environmental requirements set forth in Applicable Laws and Applicable Permits.

3 Agency for Conducting Tests

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

4 Completion/Provisional Certificate

Upon successful completion of Tests, the Project Monitoring Agency shall issue the Completion Certificate or the Provisional Certificate, as the case may be, in accordance with the provisions of **Article 14**.

SCHEDULE –J

COMPLETION CERTIFICATE

(Refer Articles 14.2 & 14.3)

COMPLETION CERTIFICATE

- 1 I, ***** {*Name of the designated official*}, acting as Project Monitoring Agency, under and in accordance with the Development Agreement dated ***** (the “**Agreement**”), for the “Operation of Rahi Tourist Bungalow Bhupia Mau through Private Sector Participation on Lease and Development basis in the state of Uttar Pradesh” through ***** {*Name of Developer*}, hereby certify that the Developer has duly provided the Occupancy Certificate from the relevant Authority and I am satisfied that the Rahi Tourist Bungalow Bhupia Mau can be safely and reliably placed in commercial usage for the Users thereof.

- 2 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 the **AUTHORITY** by:

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

SCHEDULE –K

MAINTENANCE REQUIREMENTS

(Refer Article 17.2)

*{Note: The detailed Maintenance Requirement shall be discussed and finalised between the Authority and the Developer during the preparation of the Maintenance Requirement and the Maintenance Manual as per **Article 17.2** and **17.3** and the same shall be deemed to form as part of this **Schedule K**.}*

1 Maintenance Requirements

1.1 The Developer shall, at all times, operate and maintain the Project Infrastructure and Project Facilities in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Developer shall, at all times during the Concession Period, conform to the maintenance requirements set forth in this **Schedule K** (the “**Maintenance Requirements**”).

1.2 The Developer 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 the Agreement without prejudice to the rights of the Authority under the Agreement, including Termination thereof.

1.3 Manual of Specifications and Standards to Apply

Maintenance of the Project Infrastructure and Project Facilities shall conform to the standards specified in **Schedule D** and also the following standards:

(i) ***** (in order of preference)

(ii) *****

(iii) *****

2 Repair/Rectification of Defects and Deficiencies

The obligations of the Developer in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies specified in Annex-I of this **Schedule K** within the time limit set forth therein.

3 Other Defects and Deficiencies

3.1 In respect of any defect or deficiency not specified in Annex-I of this **Schedule K**, the Developer shall undertake repair or rectification in accordance with Good Industry

Practice.

- 3.2 In respect of any defect or deficiency not specified in Annex-I of this **Schedule K**, the Project Monitoring Agency may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Developer within the time limit specified by the Project Monitoring Agency.

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 Developer shall be entitled to additional time in conformity with Good Industry Practice. Such additional time shall be determined by the Project Monitoring Agency and conveyed to the Developer 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 Infrastructure and Project Facilities poses a hazard to safety or risk of damage to property, the Developer shall promptly take all reasonable measures for eliminating or minimizing such danger.

6 Periodic Inspection by the Developer

The Developer shall, through its engineer, undertake a periodic visual inspection of the Project Infrastructure and Project Facilities and maintain a record thereof in a register to be kept in such form and manner as the Project Monitoring Agency may specify. Such record shall be kept in safe custody of the Developer and shall be open to inspection by the Authority and the Project Monitoring Agency 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 Developer so that the Project Infrastructure and Project Facilities conform to the Maintenance Requirements on the Transfer Date.

Annex – I

Repair/Rectification of Defects and Deficiencies

(Schedule-K)

The Developer shall repair and rectify the defects and deficiencies specified in this Annex-I of **Schedule K** set forth herein. All repair / ratification of defects and deficiencies shall be incorporated in the Management Services / Maintenance Manual with sections and guidelines or Service Level Agreements.

Nature of Defect or Deficiency	Time limit for Repair/Rectification
i. Buildings a) Minor damage b) Major damage	10 days 30 days
ii. Roads, parking areas and footpaths a) Blockade b) Pot holes c) Damage to pavement edges exceeding 10 cm	Temporary restoration within 24 hours and permanent restoration within 15 days 48 hours 10 days
iii. Water and Sewerage services a) Blockage and overflow b) Major damages	24 hours 3 days
iv. Electricity and telecommunications a) Any major failure of the system b) Faults and minor failures	24 hours 8 hours
v. Law enforcement	1 hour
vi. Any and all other defects or deficiency as suggested by the Authority from time to time and as specified in the Maintenance Manual	To be suggested in detail in the Management Services/Maintenance Manual

SCHEDULE –L

SAFETY REQUIREMENTS

(Refer Article 18.1)

1 Guiding Principles

- 1.1 Safety Requirements which shall include the Safety Guidelines attached hereto as Annex I to this **Schedule-L** (the “**Safety Guidelines**”) shall aim at reduction in injuries, loss of life and damage to property resulting from accidents on the Site, irrespective of the person(s) at fault.
- 1.2 Users of the Project include staff of the Developer and its contractors working on the Project Infrastructure and Project Facilities.
- 1.3 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.

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

- (a) Applicable Laws and Applicable Permits;
- (b) Fire safety norms as per Good Industry Practice;
- (c) Provisions of this Agreement;
- (d) usage of earthquake resistant materials and designs in accordance with Good Industry Practice, in the event the Site is prone to seismic activity;
- (e) relevant Standards/Guidelines contained in internationally accepted codes;
- (f) the Safety Guidelines; and
- (g) Provisions of the Environmental Laws

3 Safety Measures during Construction Period

The Developer shall make adequate arrangements during the Construction Period for the safety of workers and road users in accordance with Applicable Laws and Good Industry Practice for safety in construction zones, and notify the Authority about such arrangements.

4 Safety Measures during Operation Period

- 4.1 The Developer shall develop, implement and administer a surveillance and safety programme for Users, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.
- 4.2 The Developer shall establish a Safety Management Unit (the “**SMU**”) to be functional, and designate one of its officers to be in-charge of the SMU.

Annex – I

Safety Guidelines

(Schedule-L)

1 Safe Movement

In the design, construction and operation of the Project Infrastructure and Project Facilities, particular care shall be taken to ensure safety of Users. This shall include facilities for safe and efficient evacuation in case of emergency.

2 System Integrity

In the design of power supply, circuits and equipment, particular care shall be taken to minimise the likely incidence of failure.

3 Restoration of Service

The Project Infrastructure and Project Facilities shall be designed such that in the event a fault occurs, a limited service can be provided within a few minutes by isolation of the affected area or equipment, to the extent possible.

4 Safety Management

A safety statement shall be prepared by the Developer once in every quarter to bring out clearly the system of management of checks and maintenance tolerances for various assets. The statement shall also bring out the nature and extent of, staff training and awareness in dealing with such checks and tolerances. Two copies of the statement shall be sent to the Authority within 15 (fifteen) days of the close of every quarter.

5 Safety Equipment

The following equipment shall be provided in adequate numbers:

- (a) fire extinguishers and fire alarms at the appropriate locations;
- (b) stretchers and standard first aid boxes; and
- (c) such other equipment as may be required in conformity with Good Industry Practice.

6 Emergency

A set of emergency procedures shall be formulated to deal with different emergency situations and the operations staff shall be trained to respond appropriately during emergency through periodic simulated exercises as laid down in a Disaster Management Manual to be prepared and published by the Developer prior to COD.

7 Fire Safety

- 7.1 The Developer shall adopt provisions of the relevant fire protection policy as applicable in Uttar Pradesh.
- 7.2 To prevent fire in the User areas, the Developer shall use fire resistant materials in the construction thereof and shall avoid use of materials which are to some extent flammable, or which emit harmful gases when burning.
- 7.3 Emergency exit should be accessible without any obstructions and the exit doors should be kept locked in the ordinary course. The exit doors shall be easy to open from inside the building in case of emergency.
- 7.4 Escape routes shall be clearly marked by arrows in the correct direction and no cryptic symbols shall be used. In complying with the provisions of this Article, the possibility of poor visibility due to smoke shall be duly taken into account. All notices and signage shall be uniform and standardised.

8 User Safety and Information System

- 8.1 The Developer shall provide the SMU with the facilities required for supervising User areas, and shall provide visual information to Users. The Developer shall also provide one-way communication to Users through a Public Announcement (PA) system. The User call points should be located at convenient locations to allow Users to contact the SMU in emergencies.
- 8.2 The User information system shall comprise dynamic visual displays and loudspeakers.

SCHEDULE –N

PANEL OF CHARTERED ACCOUNTANTS

(Refer Article 28.2.1)

1 Panel of Chartered Accountants

Pursuant to the provisions of **Article 30.2.1** of the Agreement, the Developer and the Authority shall prepare a mutually agreed panel of 5 (five) reputable firms of Chartered Accountants having their registered offices in India (the “**Panel of Chartered Accountants**”). The criteria for preparing such Panel and the procedure to be adopted in this behalf shall be as set forth in this **Schedule N**.

2 Invitation for Empanelment

2.1 The Developer shall invite offers from all reputable firms of Chartered Accountants who fulfil the following eligibility criteria, namely:

- (a) the firm should have conducted statutory audit of the annual accounts of at least 100 (one hundred) companies registered under the relevant laws in India;
- (b) the firm should have at least 3 (three) practicing Chartered Accountants on its rolls, each with a minimum experience of 10 (ten) years in the profession;
- (c) the firm or any of its partners should not have been disqualified or black-listed by the Authority, Comptroller and Auditor General of India or any Government Agency in India; and
- (d) the firm should have an office in India with at least 2 (two) practising Chartered Accountants on its rolls in Lucknow.

2.2 Interested firms meeting the eligibility criteria shall be required to submit a statement of their capability including the bio-data of all the practicing Chartered Accountants on its rolls. In particular, each firm shall be required to furnish year- wise information relating to the names of all the companies with an annual turnover exceeding Rs. 100 (One Hundred) Crore whose annual accounts were audited by such firm in any of the preceding 5 (five) Accounting Years.

3 Evaluation and Selection

1.1 The information furnished by each firm shall be scrutinised and evaluated by the Developer and 1 (one) point shall be awarded for each annual audit of the companies specified in Paragraph 2.2 above. For the avoidance of doubt, a firm which has conducted audit of the annual accounts of any such company for 5 (five) years shall be awarded five points.

- 3.2 The Developer shall prepare a list of all the eligible firms along with the points scored by each such firm and 5 (five) firms scoring the highest points shall be identified and included in the draft Panel of Chartered Accountants.

4 Consultation with the Authority

The Developer shall convey the aforesaid panel of firms to the Authority for scrutiny and comments, if any. The Authority shall be entitled to scrutinise the relevant records of the Developer to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Developer within 15 (fifteen) days of receiving the aforesaid panel. If no comments are received from the Authority within the prescribed time limit the panel will be deemed to be confirmed.

5 Mutually Agreed Panel

- 5.1 The Developer shall, after considering all relevant factors including the comments, if any, of the Authority, finalise and constitute a panel of 5 (five) firms which shall be deemed to be the mutually agreed Panel of Chartered Accountants.
- 5.2 After completion of every 5 (five) years from the date of preparing the mutually agreed Panel of Chartered Accountants, or such earlier period as may be agreed between the Authority and the Developer, a new panel shall be prepared in accordance with the provisions of this **Schedule N**.

SCHEDULE –O

VESTING CERTIFICATE

(Refer Article 32.3)

- 1 The Directorate of Tourism, Uttar Pradesh, Lucknow on behalf of Directorate of Tourism, Government of Uttar Pradesh (the “**Authority**”) refers to the Development Agreement dated ***** (the “**Agreement**”) entered into between the Authority and ***** (the “**Developer**”) for Design, Build / Upgrade, Finance, Operate and Transfer the Project Infrastructure and / or Project Facilities, located at Rahi Tourist Bungalow Bhupia Mau (the “**Project**”), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
- 2 The Authority hereby acknowledges compliance and fulfilment by the Developer of the Divestment Requirements set forth in **Article 34.1** 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 Developer in or about the Project Infrastructure and / or Project Facilities, as the case may be 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 Developer to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Developer in any manner of the same.

Signed this ** day of *****, 2*** at Lucknow.

AGREED, ACCEPTED AND SIGNED

For and on behalf of

DEVELOPER by:

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

AUTHORITY by:

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

In the presence of:

1.

2.

SCHEDULE –P

SUBSTITUTION AGREEMENT

(Refer Article 34.3)

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

AMONGST

- 1 The Directorate of Tourism, Government of Uttar Pradesh acting on behalf of Tourism Department, Government of Uttar Pradesh as appointed by Government of Uttar Pradesh, represented by its Director General and having its principal offices at Paryatan Bhawan C-13, Vipin Khand, Gomti Nagar, Lucknow 226010 (hereinafter referred to as the “Authority” which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);
- 2, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at, (hereinafter referred to as the “**Developer**” which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);
- 3(name and particulars of Lenders’ Representative) and having its registered office at, acting for and on behalf of the Senior Lenders(name) as their duly authorised 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 Development Agreement dated with the Developer (the “**Development Agreement**”) for Operation of Rahi Tourist Bungalow Bhupia Mau through Private Sector Participation on Lease and Development basis in the state of Uttar Pradesh, 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 Development 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 the Concession to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Development 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 Developer for a minimum period of 3 (three) months;

“**Lenders’ Representative**” means the person referred to as the Lenders’ Representative in the foregoing Recitals;

“**Nominated Company**” means a company, incorporated under the provisions of the applicable regulations in India 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 Development Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Development Agreement.

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

2 ASSIGNMENT

2.1 Assignment of rights and title

The Developer 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 Development Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

3 SUBSTITUTION OF THE DEVELOPER

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 Developer by a Nominated Company under and in accordance with the provisions of this Agreement and the Development Agreement.

3.1.2 The Authority hereby agrees to substitute the Developer by endorsement on the Development 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 Developer 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 Developer (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 Developer for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Developer 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 Developer and undertake the operation and maintenance of the Project in accordance with the provisions of the Development Agreement, and upon receipt of such notice, the Authority shall undertake Suspension under and in accordance with the provisions of the Development Agreement. The aforesaid Suspension shall be revoked upon substitution of the Developer 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 Development Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Development Agreement; Provided that upon written request from the Lenders' Representative and the Developer, the Authority may extend the aforesaid 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 Development 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 Developer Default

3.3.1 Upon occurrence of a Developer 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 Developer 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 Developer by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Developer 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 aforesaid period of 180 (one hundred and eighty) days; Provided that upon written request from the Lenders' Representative and the Developer, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.4 Procedure for substitution

3.4.1 The Authority and the Developer 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

Developer towards the Authority under the Development Agreement and towards the Senior Lenders under the Financing Agreements.

- 3.4.2 To be eligible for substitution in place of the Developer, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for shortlisting the bidders for award of the Concession.
- 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 Development 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 thereupon shall 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 Developer.

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 Developer. The Developer 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 Developer agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Developer'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 Developer 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 Developer shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its consent, in place and substitution of the Developer in the event of such Nominated Company's assumption of the liabilities and obligations of the Developer under the Development Agreement.

5 TERMINATION OF DEVELOPMENT 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 Development Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination under and in accordance with the provisions of Article 37 of the Development 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 Development Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Authority and the Developer hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders' Representative is entitled to receive from the Developer, without any further reference to or consent of the Developer, the Debt Due upon Termination of the Development Agreement. For realisation of the Debt Due, the Lenders' Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Development Agreement and the Escrow Agreement.

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, or is outstanding to the Senior Lenders, under the Financing Agreements.

7 INDEMNITY

7.1 General indemnity

- 7.1.1 The Developer 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 Developer of any of its obligations under this Agreement or on account of failure of the Developer to comply with Applicable Laws and Applicable Permits.
- 7.1.2 The Authority will indemnify, defend and hold the Developer 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 Developer's obligations under the Development 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 Developer 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 Developer's obligations under the Development 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, Developer and the Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (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 venue of arbitration shall be Lucknow 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 at Lucknow shall have jurisdiction over all matters arising out of or relating to this Agreement.

9.2 Waiver of 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 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 judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the

making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

9.3 Priority of agreements

In the event of any conflict between the Development Agreement and this Agreement, the provisions contained in the Development 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 authorised 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 authorised 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 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 hereto. 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 it.

9.11 Language

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

9.12 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised 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 authorised 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 DEVELOPER has been affixed pursuant to the resolution passed by the Board of Directors of the Developer at its meeting held on the day of 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and, Company Secretary / Authorised Officer who has countersigned the same in token thereof[§]:

SIGNED, SEALED AND DELIVERED
For and on behalf of
Directorate of Tourism, Tourism
Department, Government of Uttar
Pradesh by:

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

SENIOR LENDERS by the Lenders' Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax)
(e-mail address)

[§] To be affixed in accordance with the articles of association of the Concessionaire.

In the presence of:

- 1.
- 2.

SCHEDULE –Q

ESCROW AGREEMENT

(Refer Article 26.1.2)

THIS ESCROW AGREEMENT is entered into on this the day of 20....

AMONGST

- 1 , a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at (hereinafter referred to as the “**Developer**” which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
- 2name and particulars of Lenders’ Representative and having its registered office atacting for and on behalf of the Senior Lenders as their duly authorised 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);
- 3 name and particulars of the Escrow Bank and having its registered office at (hereinafter referred to as the “**Escrow Bank**” which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
- 4 The Directorate of Tourism, Government of Uttar Pradesh acting on behalf of Tourism Department, Government of Uttar Pradesh as appointed by Government of Uttar Pradesh, represented by its Director General and having its principal offices at Paryatan Bhawan, C-13, Vipin Khand, Gomti Nagar, Lucknow 226010 (hereinafter referred to as the “**Authority**” which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);

WHEREAS:

- (A) The Authority has entered into a Development Agreement dated with the Developer (the “**Development Agreement**”) for Operation of Rahi Tourist Bungalow Bhupia Mau through Private Sector Participation on Lease and Development basis in the state of Uttar Pradesh, 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) The Development Agreement requires the Developer to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

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 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 Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

“**Development Agreement**” means the Development Agreement referred to in Recital (A) above and annexed hereto as Annex-A, and shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

“**Cure Period**” means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Developer, and shall commence from the date on which a notice is delivered by the Authority or the Lenders’ Representative, as the case may be, to the Developer asking the latter to cure the breach or default specified in such notice;

“**Escrow Account**” means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

“**Escrow Default**” shall have the meaning ascribed thereto in Clause 6.1;

“**Lenders’ Representative**” means the person referred to as the Lenders’ Representative in the foregoing Recitals;

“**Parties**” means the parties to this Agreement collectively and “**Party**” shall mean any of the Parties to this Agreement individually;

“**Payment Date**” means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

“**Sub-Accounts**” means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out therefrom on the Payment Date(s).

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 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 Development Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Development Agreement.

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

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

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Developer hereby appoints the Escrow Bank to act as trustee for the Authority, the Lenders' Representative and the Developer in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.

2.1.2 The Developer hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority, the Lenders' Representative and the Developer, and applied in accordance with the terms of this Agreement. No person other than the Authority, the Lenders' Representative and the Developer shall have any rights hereunder as the beneficiaries of or as third party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Developer, Senior Lenders or the Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Authority, the Lenders' Representative and the Developer or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Developer shall open and establish the Escrow Account with the (Name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Developer shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Developer. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the parties

The rights of the Authority, the Lenders' Representative and the Developer in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Authority, the Lenders' Representative and the Developer shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Developer

The Parties hereto acknowledge and agree that upon substitution of the Developer with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company shall accordingly be deemed to have succeeded to the rights and obligations of the Developer under this Agreement on and with effect from the date of substitution of the Developer with the Nominated Company.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Developer

3.1.1 The Developer agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

- a) all monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Authority;
- b) all funds received by the Developer from its share-holders, in any manner or form;
- c) all the User Charges from or in respect of the Project, including the proceeds of insurance claims and advances and deposits made to the Developer with respect to the Project Infrastructure and Project Facilities;
- d) all monies received in relation to the Project from insurance or any other person towards repair, maintenance or damages for the Project Infrastructure;
- e) all money forming part of User Charges including licence fee, sub-lease rent / revenue, deposits or capital receipt and User Charges accruing, arising or received by the Developer or any other person acting through or on behalf of the Developer;

- f) all benefits accruing under the applicable Acts, Laws and Policies; and
- g) all payments by the Authority to the Developer, if any

3.1.2 The Developer may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2 Deposits by the Authority

The Authority agrees and undertakes that, as and when due and payable, it shall deposit into and/or credit the Escrow Account with:

- (a) any monies disbursed by the Authority to the Developer;
- (b) all Fee collected by the Authority in exercise of its rights under the Development Agreement; and
- (c) Termination Payments.

Provided that, notwithstanding the provisions of Clause 4.1.1, the Authority shall be entitled to appropriate from the aforesaid amounts, any Concession Fee due and payable to it by the Developer and the balance remaining shall be deposited into the Escrow Account.

3.3 Deposits by Senior Lenders

The Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; Provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

3.4 Interest on deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; Provided that the Escrow Bank shall be entitled to appropriate therefrom the fee and expenses due to it from the Developer in relation to the Escrow Account and credit the balance remaining to the Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Developer may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

- (a) Concession Fee and Lease Rent due and payable to the Authority;
- (b) all taxes due and payable by the Developer for and in respect of the Project;
- (c) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- (d) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- (e) O&M Expenses incurred by the Authority, provided it certifies to the Escrow Bank that it had incurred such expenses in accordance with the provisions of the Development Agreement and that the amounts claimed are due to it from the Developer;
- (f) any reserve requirements set forth in the Agreement;
- (g) monthly proportionate provision of Debt Service due in an Accounting Year;
- (h) all payments and Damages certified by the Authority as due and payable to it by the Developer pursuant to the Development Agreement;
- (i) monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;
- (j) any reserve requirements set forth in the Financing Agreements; and
- (k) balance, if any, in accordance with the instructions of the Developer.

4.1.2 Maintenance of Reserve for Concession Fee

A Reserve equivalent to two years of Concession Fee payment should be maintained in the Escrow Account at all times. The Concession will be evaluated as per the Business Plan submitted by the Developer, and the financial bid of the Selected Bidder, and it will be the responsibility of the Bank to ensure that the Reserve for Concession Fee is maintained. In case funds are not available, the Reserve should be funded whenever funds become available in the Escrow Account. Developer should ensure that funding for first two years Concession Fee is made available from the Project Cost. Subsequently, the Bank will appropriate required funds from the Operations, and maintain the Reserve needed for Concession Fee. In case funds are not available in the Reserve when Concession Fee payment is due, it will be considered a Developer Event of Default.

In case funds are not available in the Reserve / Escrow Account when Concession Fee payment is due, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash, invoke and appropriate the relevant amounts from the Performance Security. Upon such encashment, invocation and appropriation from the Performance Security, the Developer shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, if the Developer fails, within the time so granted, to replenish or furnish fresh Performance Security as aforesaid, the Authority shall be entitled to terminate this Agreement in accordance with Article 31.

- 4.1.3 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Developer shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

Upon Termination of the Development Agreement, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, be appropriated and dealt with in the following order:

- (a) all taxes due and payable by the Developer for and in respect of the Project;
- (b) outstanding Lease Rent & Concession Fee;
- (c) 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
- (d) all payments and Damages certified by the Authority as due and payable to it by the Developer pursuant to the Development Agreement, including any claims in connection with or arising out of Termination;
- (e) retention and payments arising out of, or in relation to, liability for defects and deficiencies set forth in **Article 33** of the Development Agreement;
- (f) outstanding Debt Service including the balance of Debt Due;
- (g) outstanding Subordinated Debt;
- (h) incurred or accrued O&M Expenses;
- (i) any other payments required to be made under the Development Agreement; and
- (j) balance, if any, in accordance with the instructions of the Developer:

Provided that the disbursements specified in Sub-clause (j) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Authority.

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of insurance proceeds

Notwithstanding anything contained in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the

Escrow Account and utilised 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.

4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Authority may exercise all or any of the rights of the Developer during the period of Suspension under **Article 30** of the Development Agreement. Any instructions given by the Authority to the Escrow Bank during such period shall be complied with as if such instructions were given by the Developer under this Agreement and all actions of the Authority hereunder shall be deemed to have been taken for and on behalf of the Developer.

5 OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Developer and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

- (a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Developer upon a certificate signed by or on behalf of the Developer;
- (b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;
- (c) shall, within 5 (five) business days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Developer or any other person hereunder or in connection herewith; and
- (d) shall, within 5 (five) business days after receipt, deliver a copy to the Developer of any notice or document received by it from the Lenders' Representative in connection herewith.

5.4 No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Developer ("Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Authority or the Lenders' Representative:

- (a) the Developer commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;
- (b) the Developer causes the Escrow Bank to transfer funds to any account of the Developer in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or
- (c) the Developer commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Development Agreement.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Developer in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to

the Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Developer may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Authority and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank. The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Developer and the Lenders' Representative made on or after the payment by the Developer of all outstanding amounts under the Development Agreement and the Financing Agreements including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub-Accounts and pay any amount standing to the credit thereof to the Developer. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders' Representative and the Developer shall be entitled to enter into a Supplementary Escrow Agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Developer in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; Provided that such Supplementary Escrow Agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such Supplementary Escrow Agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

9.1.1 The Developer will indemnify, defend and hold the Authority, Escrow Bank and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Developer of any of its obligations under this Agreement or on account of failure of the Developer to comply with Applicable Laws

and Applicable Permits.

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

9.2 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 9.1 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, which approval shall not 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.

10 DISPUTE RESOLUTION

10.1 Dispute resolution

- 10.1.1 Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") 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.
- 10.1.2 The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Lucknow and the language of arbitration shall be English.

11 MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

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

11.2 Waiver of 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 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 judgement or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement that may be made or given in connection therewith).

11.3 Priority of agreements

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

11.4 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 authorised representatives of the Parties.

11.5 Waiver

11.5.1 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 authorised representative of the Party; and

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

11.5.2 Neither the failure by any 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 any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6 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.

11.7 Survival

11.7.1 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.

11.7.2 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.

11.8 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 10.1 of this Agreement or otherwise.

11.9 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.

11.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing and 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 addresses for

service of each Party, its facsimile number or e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business 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 it.

11.11 Language

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

11.12 Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised 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 authorised representative by similar notice.

11.13 Original Document

This Agreement may be executed in four 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 DEVELOPER has been affixed pursuant to the resolution passed by the Board of Directors of the Developer at its meeting held on the day of 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and, Company Secretary / Authorised Officer who has countersigned the same in token thereof[§]:

SIGNED, SEALED
AND DELIVERED
For and on behalf of
SENIOR LENDERS by the
Lenders' Representative:

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

[§] To be affixed in accordance with the articles of association of the Concessionaire.

SIGNED, SEALED AND
DELIVERED

For and on behalf of
ESCROW BANK by:

(Signature)
(Name)
(Designatio
(Address)
(Fax No.)
(e-mail
address)

In the presence of:

1.

SIGNED, SEALED AND
DELIVERED

For and on behalf of
Directorate of Tourism, Tourism
Department, Government of Uttar
Pradesh by:

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

2.

Annex A

{A copy of the Development Agreement, executed between the Developer and the Authority to be attached as Annex A}

SCHEDULE –R

SELECTION OF PROJECT MONITORING AGENCY

(Refer Article 22.1)

1 Selection of Project Monitoring Agency

- 1.1 The Authority shall select the reputed consulting engineering / architect firms or bodies corporate as Project Monitoring Agency through open and transparent Competitive Bidding to undertake and perform the duties and functions set forth in **Schedule S**. The Authority shall convey the aforesaid selected firm to the Developer for scrutiny and comments, if any. The Developer shall be entitled to scrutinise the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 15 (fifteen) days of receiving the aforesaid name of the selected firms. Upon receipt of such comments, if any, the Authority shall, after considering all relevant factors, engage the selected firm and convey its decision to the Developer.
- 1.2 The Authority shall invite the technically qualified firms to submit their respective technical and financial offers, each in a separate sealed cover. All the technical bids so received shall be opened and pursuant to the evaluation thereof, the Authority shall shortlist eligible firms on the basis of their technical scores / qualification. The financial bids in respect of such firms shall be opened and the order of priority as among these firms shall be determined on the basis of a weighted technical and financial evaluation on Quality Cost Based Selection basis or on Least Cost basis subject to Technical qualification.

2 Fee and Expenses

- 2.1 The nature and quantum of duties and services to be performed by the Project Monitoring Agency during the Concession Period shall be determined by the Authority in conformity with the provisions of this Agreement and with due regard for economy in expenditure. All payments made to the Project Monitoring Agency on account of fee and expenses during the Concession Period shall be reimbursed by the Developer to the Authority.

3 Appointment of Government Entity as Project Monitoring Agency

Notwithstanding anything to the contrary contained in this **Schedule R**, the Authority may appoint a government-owned entity as the Project Monitoring Agency; provided that such entity shall be a body corporate having as one of its primary function the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government-owned entity which is owned or controlled by GoUP shall not be eligible for appointment as Project Monitoring Agency.

SCHEDULE –S

TERMS OF REFERENCE FOR PROJECT MONITORING AGENCY

(Refer 22.2.1)

1 Scope

- 1.1 These Terms of Reference for the Project Monitoring Agency (the “**TOR**”) are being specified pursuant to the Development Agreement dated ***** (the “**Agreement**”), which has been entered into between the Authority and ***** (the “**Developer**”) for development and operation of Project Infrastructure and Project Facilities for the Operation of Rahi Tourist Bungalow Bhupia Mau through Private Sector Participation on Lease and Development basis in the state of Uttar Pradesh, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.
- 1.2 This TOR shall apply to construction, operation and maintenance of the Project Infrastructure.

2 Definitions and Interpretation

- 2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.
- 2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
- 2.3 The rules of interpretation stated in **Articles 1.2, 1.3 and 1.4** of the Development Agreement shall apply, *mutatis mutandis*, to this TOR.

3 Role and Functions of the Project Monitoring Agency

- 3.1 The role and functions of the Project Monitoring Agency shall include the following:
 - i) The Project Monitoring Agency shall review and provide inputs / suggestions / comments in conformity with the provisions of this Agreement on the Business Plan submitted by the Developer to the Authority.
 - ii) The Project Monitoring Agency shall assist the Authority in finalizing the Design, and Business Plan submitted by the Developer;
 - iii) review of Drawings of the Project Infrastructure and Project Facilities as set forth in Paragraph 4;
 - iv) review, inspection and monitoring of Construction Works with respect to the Project Infrastructure and Project Facilities as set forth in Paragraph 4;

- v) conducting Tests of the Project Infrastructure and Project Facilities on completion of construction and issuing Completion Certificate as set forth in Paragraph 4;
 - vi) review, inspection and monitoring of O&M of Project Infrastructure and Project Facilities as set forth in Paragraph 5;
 - vii) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
 - viii) determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation; and
 - ix) undertaking all other duties and functions in accordance with the Agreement.
- 3.2 The Project Monitoring Agency shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

4 Construction Period

- 4.1. During the Construction Period, the Project Monitoring Agency shall undertake a detailed review of Drawings of the Project Infrastructure and Project Facilities to be furnished by the Developer along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Project Monitoring Agency shall complete such review and send its comments/observations to the Authority and the Developer within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
- 4.2. The Project Monitoring Agency shall review any modified Drawings and supporting Documents, if any sent to it by the Developer and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- 4.3. The Project Monitoring Agency shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Developer and furnish its comments within 15 (fifteen) days of receipt thereof.
- 4.4. Upon reference by the Authority, the Project Monitoring Agency shall review and comment on the EPC Contract or any other contract for construction, operation and maintenance of the Project Infrastructure and Project Facilities, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.
- 4.5. The Project Monitoring Agency shall review the monthly progress report relating to the Project Infrastructure and Project Facilities as furnished by the Developer and send its comments thereon to the Authority and the Developer within 7 (seven) days of receipt of such report.
- 4.6. The Project Monitoring Agency shall inspect the Construction Works with respect to the Project Infrastructure and Project Facilities once every month, preferably after receipt of the monthly progress report from the Developer, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection

(the “**Inspection Report**”) setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with respect to the Project Infrastructure and Project Facilities with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Project Monitoring Agency shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project Infrastructure and Project Facilities. The Project Monitoring Agency shall send a copy of its Inspection Report to the Authority and the Developer within 7 (seven) days of the inspection.

- 4.7. The Project Monitoring Agency may inspect the Project Infrastructure and Project Facilities more than once in a month if any lapses, defects or deficiencies require such inspections.
- 4.8. For determining that the Construction Works with respect to the Project Infrastructure and Project Facilities conform to Specifications and Standards, the Project Monitoring Agency shall require the Developer to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Project Monitoring Agency in accordance with Good Industry Practice for quality assurance. The Project Monitoring Agency shall issue necessary directions to the Developer for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
- 4.9. The sample size of the tests, to be specified by the Project Monitoring Agency under Paragraph 4.8, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed by the Authority for the construction works undertaken by the Developer through their contractors; provided that the Project Monitoring Agency may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.
- 4.10. The timing of tests referred to in Paragraph 4.8, and the criteria for acceptance/rejection of their results shall be determined by the Project Monitoring Agency in accordance with the Good Industry Practice for quality assurance. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Developer for its own quality assurance in accordance with Good Industry Practice.
- 4.11. In the event that the Developer carries out any remedial works for removal or rectification of any defects or deficiencies, the Project Monitoring Agency shall require the Developer to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works with respect to the Project Infrastructure and Project Facilities into conformity with the Specifications and Standards, and the provisions of this Paragraph 4 shall apply to such tests.
- 4.12. In the event that the Developer fails to achieve any of the Project Milestones, the Project Monitoring Agency shall undertake a review of the progress of construction and identify potential delays, if any. If the Project Monitoring Agency shall determine that completion of the Project Infrastructure and Project Facilities is not feasible within the time specified in the Agreement, it shall require the Developer to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the COD shall be achieved. Upon receipt of a report from the

Developer, the Project Monitoring Agency shall review the same and send its comments to the Authority and the Developer forthwith.

- 4.13. If at any time during the Construction Period, the Project Monitoring Agency determines that the Developer has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works with respect to the Project Infrastructure and Project Facilities that should be suspended for ensuring safety in respect thereof.
- 4.14. In the event that the Developer carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Project Monitoring Agency to inspect such works, and within 3 (three) days of receiving such notice, the Project Monitoring Agency shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
- 4.15. If suspension of Construction Works with respect to the Project Infrastructure and Project Facilities is for reasons not attributable to the Developer, the Project Monitoring Agency shall determine the extension of dates set forth in the Project Completion Schedule, to which the Developer is reasonably entitled, and shall notify the Authority and the Developer of the same.
- 4.16. The Project Monitoring Agency shall carry out, or cause to be carried out; all the Tests specified in **Schedule I** and recommend to Authority for issue of a Completion Certificate. For carrying out its functions under this Paragraph 4.16 and all matters incidental thereto, the Project Monitoring Agency shall act under and in accordance with the provisions of **Article 14** and **Schedule I**.
- 4.17. The Project Monitoring Agency shall aid and advise the Developer in preparing the Maintenance Manual, and Management Services Regulation.

5 Operation Period

- 5.1. In respect of the Drawings, Documents and Safety Report received by the Project Monitoring Agency for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
- 5.2. The Project Monitoring Agency shall review the annual Maintenance Programme furnished by the Developer and send its comments thereon to the Authority and the Developer within 15 (fifteen) days of receipt of the Maintenance Programme.
- 5.3. The Project Monitoring Agency shall review the quarterly status report furnished by the Developer and send its comments thereon to the Authority and the Developer within 7 (seven) days of receipt of such report.
- 5.4. The Project Monitoring Agency shall inspect the Project Infrastructure and Project Facilities once every quarter, preferably after receipt of the quarterly status report from the Developer, but before the 20th (twentieth) day of the following month after

the end of the quarter in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Project Monitoring Agency shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project Infrastructure and Project Facilities. The Project Monitoring Agency shall send a copy of its O&M Inspection Report to the Authority and the Developer within 7 (seven) days of the inspection.

- 5.5. The Project Monitoring Agency may inspect the Project Infrastructure and Project Facilities more than once in a quarter, if any lapses, defects or deficiencies require such inspections.
- 5.6. The Project Monitoring Agency shall in its O&M Inspection Report specify the tests, if any, that the Developer shall carry out, or cause to be carried out, for the purpose of determining that the Project Infrastructure and Project Facilities is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Developer in this behalf.
- 5.7. In respect of any defect or deficiency referred to in Paragraph 3 of **Schedule K**, the Project Monitoring Agency shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
- 5.8. The Project Monitoring Agency shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Developer to the Authority for such delay.
- 5.9. The Project Monitoring Agency shall monitor and review the curing of defects and deficiencies by the Developer as set forth in **Article 19.4**.
- 5.10. In the event that the Developer notifies the Project Monitoring Agency of any modifications that it proposes to make to the Project Infrastructure and Project Facilities, the Project Monitoring Agency shall review the same and send its comments to the Authority and the Developer within 15 (fifteen) days of receiving the proposal.

6 Termination

- 6.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Project Monitoring Agency shall, in the presence of a representative of the Developer, inspect the Project Infrastructure and Project Facilities for determining compliance by the Developer with the Divestment Requirements set forth in **Article 34.1** and, if required, cause tests to be carried out at the Developer's cost for determining such compliance. If the Project Monitoring Agency determines that the status of the Project Infrastructure and Project Facilities is such that its repair and rectification would require a larger amount than

the sum set forth in **Article 35.2**, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.

- 6.2 The Project Monitoring Agency shall inspect the Project Infrastructure and Project Facilities twice during a period of 120 (one hundred twenty) days after Termination for determining the liability of the Developer under **Article 35**, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Project Monitoring Agency, it shall make a report in reasonable detail and send it forthwith to the Authority and the Developer.

7 Determination of Costs and Time

- 7.1 The Project Monitoring Agency shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
- 7.2 The Project Monitoring Agency shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

8 Other Duties and Functions

The Project Monitoring Agency shall perform all other duties and functions specified in the Agreement.

9 Miscellaneous

- 9.1 The Project Monitoring Agency shall notify its programme of inspection to the Authority and to the Developer, who may, in their discretion, depute their respective representatives to be present during the inspection.
- 9.2 A copy of all communications, comments, instructions, Drawings sent by the Project Monitoring Agency to the Developer pursuant to this TOR, and a copy of all the test results with comments of the Project Monitoring Agency thereon shall be furnished by the Project Monitoring Agency to the Authority forthwith.
- 9.3 The Project Monitoring Agency shall obtain, and the Developer shall furnish in 2 (two) copies thereof, all communications and reports required to be submitted, under this Agreement, by the Developer to the Project Monitoring Agency, whereupon the Project Monitoring Agency shall send one of the copies to the Authority along with its comments thereon.
- 9.4 The Project Monitoring Agency shall retain at least one copy each of all Drawings received by it, including '**as-built**' Drawings, and keep them in its safe custody.
- 9.5 Upon completion of its assignment hereunder, the Project Monitoring Agency shall duly classify and list all Drawings, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. 2 (Two) copies of the said document shall also be furnished in micro film form or in such other medium as may be acceptable to the Authority.

- 9.6 The Project Monitoring Agency shall be of the highest integrity and shall be able to execute the Integrity Pact and shall abide by the highest code of conducts and ethical practice.

SCHEDULE– T

DRAFT LAND LEASE AGREEMENT

(Refer 4.1.3)

This Land Lease Agreement (the “**Agreement**”) made at Lucknow on the [●] day of [●] Two thousand and [●]

BETWEEN

Directorate of Tourism, Government of Uttar Pradesh acting on behalf of Tourism Department, Government of Uttar Pradesh as appointed by Government of Uttar Pradesh, represented by its Director General and having its principal office at Paryatan Bhawan, C-13, Vipin Khand, Gomti Nagar, Lucknow 226010 (hereinafter called as “**Lessor**” or “**the Authority**”, which expression shall, unless it be repugnant to the context or meaning thereof, include it's successors, and assigns) of the One Part

AND

_____, a company incorporated under the provisions of the Companies Act, 2013, having its registered office at _____ through its authorised signatory _____ name], _____ [designation of authorised signatory] (hereinafter called the “**Lessee**” or the “**Developer**” which expression shall unless the context does not so admit includes its successor or successors in business and permitted assigns) of the Other Part;

WHEREAS, in pursuance to the Development Agreement (the “**Development Agreement**”), entered into between the Lessor of the One Part and the Lessee of the Other Part, the Lessor agreed to grant to the Lessee, upon performance and observance by the Lessee of its obligations and conditions contained in the Agreement, lease of all that piece of land and premises hereinafter described in the manner mentioned herein.

NOW THIS AGREEMENT WITNESSES AS FOLLOWS:

1. Definitions

- (a) **Applicable Law** means all laws, brought into force and effect by GOI or the GoUP including rules, regulations, policies and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;
- (b) **Applicable Permits** means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the usage of the Demised

Premises in accordance with the terms of this Agreement during the subsistence of this Agreement;

- (c) **“Encumbrance”** means any encumbrance such as an easement, right of way, license, mortgage, charge, lien, hypothecation, pre-emptive right or security interest whether or not registered and howsoever arising, including by statute or common law;
- (d) **“Lease Period”** means the term of Lease for which the Project Site is given on Lease to the Developer, commencing from the date of signing of Lease Agreement and co-terminus with the Development Agreement.
- (e) **“Lease Rent”** shall have the meaning assigned to it in Section 2;
- (f) **“Party”** shall mean either Lessor or the Lessee, and **“Parties”** shall mean Lessor and the Lessee;
- (g) **“Transferee”** means the sub-lessees of the Project Infrastructure and Project Facilities, as more particularly defined in the Development Agreement.

2. Description of Land

In consideration of the premises aforesaid, and of the covenants and agreements on the part of the Lessee to be observed and performed and the rent hereby reserved, the Lessor doth hereby demise unto the Lessee all of the demised premises, as more particularly described in **Schedule -1** hereto and together with all rights, easements and appurtenance thereto belonging, except and reserving unto the Lessor all mines and minerals in and under the said land or any part thereof, to hold the land and premises hereinbefore expressed to be hereby demised (herein referred to as **the Demised Premises**” or **“Project Site”**) unto the Lessee for the **Lease Period** and the rules thereunder paying therefore yearly during the said term to the Lessor at the office of the Lessor or as otherwise required an annual rent of Rs. 1 (Rupees One) only (the **“Lease Rent”**).

Lease Rent shall be payable by means of cheque/demand draft drawn in favour of the Lessor, payable at Lucknow or at such other place as may be notified by the Lessor. The first annual rent shall be made on the date of the execution of this Agreement and subsequent payments shall be paid on or seven day before every anniversary thereof till the expiry or early termination of the term of Lease.

3. The Lessee with intent to bind all persons into whenever hands the Demised Premises may come doth hereby covenant with the Lessor as follows:

- a) To pay Lease Rent
During the Lease Period pay unto the Lessor the Lease Rent at the times on the days and in manner hereinbefore appointed for payment thereof clear of all deduction
- b) To pay Concession Fee
To pay Concession Fee in accordance with the provisions of the Development Agreement
- c) To pay rates and taxes
To pay all existing and future taxes, rates, assessments, and outgoings of every description for the time being payable either by landlord or tenant or by the occupier in respect of the Demised Premises and anything for the time being thereon
- d) To pay fee or service charges
Throughout the Lease Period pay to the Lessor from time to time such recurring fees in the nature of service charges / drainage cess as may from time to time prescribed by Government of Uttar Pradesh (GoUP) in respect of the amenities or common facilities provided by the Lessor
- e) Not to excavate
Not to make any excavation upon any part of the Demised Premises nor remove any stone, sand, gravel clay or earth therefrom except for the purpose of implementing the Project in terms with the Development Agreement or for the purpose of executing any work pursuant to the term of this Agreement.
- f) Environmental Compliance
The Lessee shall duly comply with the provisions of the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981 and the rules made thereunder as also with any condition which may from time to time be imposed by the Uttar Pradesh Pollution Control Board constituted under the said Act as regards the collection, treatment and disposal or discharge of effluent or waste or otherwise howsoever and shall indemnify and keep indemnified the Lessor against the consequences of any breach or non-compliance of any such provision or condition as aforesaid.
- g) To develop the Project as per the Development Agreement
Not at any time during the period of this demise to develop, create, obtain, set up, construct as the context admits or requires, the Project Infrastructure and Project Facilities by itself or through its Contractors except in accordance with the Development Agreement and the Uttar Pradesh Pollution Control Board Regulations.

- h) Approved Business Plan to be submitted before Project implementation
Project implementation shall not be commenced unless and until the Business Plan is approved by the Lessor in accordance with the Development Agreement.
- i) Assignment of the Demised Premises
- i. During the Lease Period, subject to the provisions of the Development Agreement, the Lessee shall be entitled to develop the Demised Premises and to sub-lease any portion or part portion of the Demised Premises to Transferees, in terms of this Agreement, the Development Agreement and Applicable Laws.
 - ii. The Lessee may during the Lease Period create a charge in favour of Senior Lenders on the physical structures developed by it over the Demised Premises/ Project Site. Further, the Lessee shall also have the right to create charge in favour of the Senior Lenders on the area of land on which it is undertaking construction of Project Infrastructure and Project Facilities.
- j) Assignment to be registered with the Lessor

If the Lessee shall assign or part with the Project Infrastructure and Project Facilities in accordance with and subject to clause above, the Lessee shall deliver at its own expenses within 20 (twenty) days of registration of every such assignment or assurance under the Indian Registration Act, 1908 or other amending statute, a notice of such assignment or assurance to the Lessor. The notice shall be delivered to the Director General, Directorate of Tourism, Government of Uttar Pradesh or to such Officer or person on behalf of the Lessor as the Lessor shall from time to time require.

- k) To give preference in employment of labour

While employing the skilled and unskilled labour, it shall afford adequate opportunity for recruiting the maximum local people on the basis of their knowledge of handling and operating the equipment/machineries used by the Lessee and the general qualifications of the Local labour.

- l) Indemnity

To indemnify and keep indemnified the Lessor against any and all suits, proceedings, actions, demands and third party claims for any loss, damages, cost and expenses of whatever kind and nature or on account of any defect or deficiency in the provision of services by the Lessee to any user of the Project Facilities, which may be caused in consequence of the implementation of Project on Demised Premises and also against any and all payments whatsoever which during the period of implementation of the Project may become payable or be demanded from the Lessee in respect of the said Project or of anything done under the authority herein contained.

m) To implement the Project according to Rules

In the implementation of the Project and at all times during the continuance of this demise, the Lessee shall observe and conform to the rules, regulations, guidelines framed by the GoUP or any Government Agency in respect of Rules of Building Regulations and any other statutory regulations as may be in force for the time being relating in any way to the Demised Premises and any Project Infrastructure and Project Facilities thereon.

n) Sanitation

To observe and conform to all rules, regulations and bye-laws of the Municipality/Local authority concerned or any other statutory regulations in any way relating to public health and sanitation for the time being in force.

o) To repair

Throughout the Lease Period, the Lessee shall keep the Project Infrastructure and Project Facilities repaired in the manner and within the period provided in the Development Agreement.

p) To enter and inspect

To permit from time to time and at all reasonable time of the day during the term hereby granted, the Lessor and other authorized officers of the Authority, to enter into and upon the Demised Premises and to inspect to the conditions of the Demised Premises to ensure the compliance of terms of this Agreement and Development Agreement by the Lessee.

q) Nuisance

Not to do or permit anything to be done on the Demised Premises, which may constitute to be a nuisance, annoyance or disturbance.

r) Use of the Demised Premises

To use the Demised Premises only for the purpose of implementation and operation of the Project and for no other purpose whatsoever.

s) Insurance

Throughout the Lease Period, Lessee shall at its cost and expense, purchase and maintain or cause to be purchased and maintained, by due-reinstatement or otherwise, all insurances in respect of the Demised Premises and the Project Infrastructure and Project Facilities in accordance with the Development Agreement and Good Industry Practices.

t) Delivery of possession

In the event of determination of the Lease Period for any reason whatsoever, Lessor shall re-enter and take possession of the Demised Premises as provided hereunder;

- i) On expiry or earlier Termination of this Lease, the Lessee shall hand over peaceful possession of the Demised Premises in accordance with the terms of the Agreement to the Lessor along with all relevant documents including those pertaining to sub-lease, licences, including all other records in respect of the Demised Premises.
- ii) Lessor shall not as a consequence of taking over of the Demised Premises, upon expiry of the Lease or earlier Termination have any obligation whatsoever including continuance or regularization of employment, compensation for loss of employment with respect to any person in the employment of or engaged by the Lessee.

4. Sub-lease and License of the Demised Premises

I. Sub-Leases

Any time during the Lease Period, subject to the provisions of the Development Agreement, the Lessee may sub-lease any portion or portions of the Demised Premises to the Transferees in order to fulfil its obligations pursuant to Agreement and to demand, collect, retain and appropriate User Fees in respect of such portion or portions of the Demised Premises so sub-leased.

Provided that:

- i) such sub-lease shall be by way of a sub-lease deed, in favour of the Sub-Lessee in terms and conditions consistent to the Agreement and the Development Agreement, on term and conditions that are mutually agreed between the Lessee and the Transferees; Provided the provisions thereof are not inconsistent with or in derogation of any terms or provisions of the Agreement and the Development Agreement;
- ii) The duration of such sub-leases, shall be limited to and shall not be more than the term of this Agreement or Development Agreement;
- iii) sub-leases shall be determined and terminated on the expiry, determination or termination of the terms of this Agreement unless extended by the Authority in accordance with the provisions of this Agreement;
- iv) The Lessor shall not be liable in any manner whatsoever to any Person in respect of such sub-leases.

The Lessee agrees and undertakes that it shall ensure that the Transferee performs its obligations under the sub-lease deed relating to it and that the Lessee shall be liable for all acts or omissions of a Transferee there under.

II. Licenses and Sub-letting

The Lessee may for the purpose of effective implementation of the Project, grant licenses/sub-let any portion or portions of the Site/Plots/build up area/units including the right to develop Project Infrastructure and Project Facilities to the Transferee or Sub-Lessee subject to Applicable Laws and provisions of this Agreement. Provisions of this Agreement and the Development Agreement shall, in so far as possible, be applicable to all such licenses/sub-letting.

5. Recovery of Rent, Fees etc., as land revenue

If and whenever any part of the rent hereby reserved or recurring fees or service charges payable by the Lessee hereunder shall be in arrear, the same may be recovered from the Lessee as an arrear of land revenue.

6. Lessor's covenant for peaceful enjoyment

The Lessor does hereby covenant with the Lessee that the Lessee paying the rent hereby reserved and performing the covenants herein before on the Lessee's part contained shall and may peaceably enjoy the Demised Premises for the said term hereby granted without any interruption or disturbance from or by the Lessor or any person or persons lawfully claiming by from or under the Lessor.

7. Cost and charges to be borne by the Lessee

The stamp duty and registration charges in respect of the preparation and execution of this Land Lease Agreement and its duplicate including the costs, charges and expenses of attorneys of the Lessor shall be borne and paid wholly and exclusively by the Lessee.

8. Disputes

If any dispute or difference of any kind whatsoever (a "**Dispute**") shall arise between the Parties, the dispute resolution mechanism in the Development Agreement shall apply.

9. Survival

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

10. Amendments

The Development Agreement, this Agreement and the Schedule of the Demised Premises together constitute a complete and exclusive understanding of the terms of this Agreement between the Parties on the subject hereof and no amendment or

modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

11. Waiver

- a) 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:
- i) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;
 - ii) shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and
 - iii) shall not affect the validity or enforceability of this Agreement in any manner.
- b) Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

12. 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 shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable; Provided that failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

13. Language

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

14. Governing Laws

This Agreement shall be construed and interpreted in accordance with and governed by the Laws of India and the Courts at Lucknow shall have jurisdiction in matters related to the enforcement of the provisions of this Agreement or any disputes related thereto.

15. Notice

Any notice or other communication to be given hereunder shall be in writing and shall be sufficiently given if delivered by registered mail or hand-delivered against written receipt, or if transmitted and clearly received by facsimile transmission addressed as follows:

If to the Lessor:

[●]

If to the Lessee

[●]

16. This Agreement shall be executed in duplicate by the Parties hereto, each of which shall be an original but shall together constitute one and the same document.

IN WITNESS WHEREOF the Lessor and the Lessee have put their respective hands on the original and duplicate thereof on the day and year first herein above written.

THE SCHEDULE ABOVE REFERED TO:

SIGNED SEALED AND DELIVERED

On behalf of the Directorate of Tourism, Tourism Department, Government of Uttar Pradesh (Lessor)

Signature:

Name:

Designation:

SIGNED SEALED AND DELIVERED

On behalf of the Lessee

Signature:

Name:

Designation:

In the presence of witnesses

(1) [●]

(2) [●]

SCHEDULE – U

BUILDING REGULATIONS

While undertaking development of the Project, the Developer shall adhere to the latest amended applicable Building Byelaws of the State of Uttar Pradesh and/or, other relevant IS Codes and practices, Development Control Rules, FSI Limits, statutory requirements, laws of land, the principles of Good Industry Practices and any other norms as applicable from time to time. It shall also comply with the provisions of **Schedule D**.

SCHEDULE – V

INCENTIVES FROM THE AUTHORITY

(Refer Article 6.1.5)

The incentives are admissible to the Project are as below:

- (a) All incentives, as available to the Developer or other occupants of the Project, as provided in UP Tourism Policy to be read along with all revision or amendments framed thereunder from time to time by Government of Uttar Pradesh.
- (b) Other Incentives

The Developer shall be free to seek any other fiscal or non-fiscal incentives, over and above as provided in UP Tourism Policy, as available from Central or State Government or its agencies, without any adverse implication on the provisions of the Development Agreement.

The Authority shall assist the Developer in its best endeavour to seek such fiscal or non-fiscal incentives but the Authority shall not be responsible in any manner to assure or deemed to be assured, such incentives are being made available to the Developer. The Developer shall be only and solely responsible for seeking such incentives.

ANNEXURES

Table of Contents

No.	Indicative list of Annexures (Required at the time of Signing of the Development Agreement)	Page
Annexure-I	Minutes of the pre-bid meeting - reply to queries and addendums	
Annexure-II	Submission of proposal – Selected Bidder	
Annexure-III	Bid security - submitted by Selected Bidder	
Annexure-IV	Financial proposal - submitted by Selected Bidder	
Annexure-V	Letter of Award - issued by Authority	
Annexure-VI	Acceptance of Letter of Award by Developer	
Annexure-VII	Performance security – To submitted by Developer	
Annexure-VIII	Formation, introduction and address of the registered office of Developer	
Annexure-IX	List of Directors of Developer	
Annexure-X	Memorandum and Articles of Association of Developer	
Annexure-XI	Legal opinion from {Name of the Legal Firm}	
Annexure-XII	Board resolution and commitment of equity participation in the Developer by the Consortium members	
Annexure-XIII	Any other relevant document	