

**DRAFT LEASE CUM DEVELOPMENT  
AGREEMENT**  
for  
**Allotment of Plot for International School**

**August 2016**

**NAYA RAIPUR DEVELOPMENT AUTHORITY**

**1<sup>st</sup> Floor, Utility Block, Near Sector -19, Mantralaya Naya Raipur**  
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The lease cum development agreement ("The Agreement") is entered into on the \_\_\_\_\_ day of \_\_\_\_\_ 2016 at Raipur

**Between**

**Naya Raipur Development Authority**, established and constituted under Chhattisgarh Town & Country Planning Act 1973 and having its office at Raipur (hereinafter referred to as "NRDA" or the "**First Party**", which expression shall include its permitted assigns and successors-in-interest) of the **One Part**;

**And**

\_\_\_\_\_ a Company/ Trust/Society registered under relevant act on \_\_\_\_\_ at \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the "**Second Party**" or the "**Lessee**" which expression shall unless repugnant to the context include its permitted assigns and the successors-in-interest) of the **Second Part**. (NRDA and the Lessee are hereinafter also individually referred to as a 'Party' and collectively as 'Parties').

**WHEREAS:**

- (i) NRDA desires to develop a parcel of land, measuring approximately \_\_\_\_\_ square meter ("the Project Land" more specifically defined in **Schedule-I** hereto), by allotting the land to a developer selected through competitive bidding process. The project land situated in Sector-24 of Naya Raipur and is earmarked to set up an International School with related infrastructure facilities (herein after referred to as "**the Project**")
- (ii) NRDA invited tender for Development of International School in Naya Raipur vide RFP No. \_\_\_\_\_ Raipur dated \_\_\_\_\_, had prescribed the technical and financial terms and conditions, and invited bids from the bidders for allotment of land on lease to set up an International School and its operation and maintenance during the period of lease.
- (iii) The Land Premium of INR \_\_\_\_\_/- per Sq. m, offered by the **Second Party** being the successful tenderer, has been accepted by NRDA vide its Notice of Award (NoA) no. \_\_\_\_\_ Raipur Dated \_\_\_\_\_ appended in **Schedule-II**  
The successful tenderer has agreed to undertake and perform the obligations and exercise the rights of the successful tenderer under the NoA, including the obligation to enter into this Agreement pursuant to the NoA, for undertaking the land on lease to set up an International School.
- (iv) Within 45 (Forty Five) days of issuance of NoA, the Lessee has made the payment of 100% of the accepted Land Premium, amounting to INR \_\_\_\_\_ (Rupees \_\_\_\_\_ only) vide Demand Draft no \_\_\_\_\_ Dated \_\_\_\_\_ drawn in favor of NRDA from \_\_\_\_\_ payable at Raipur, Chhattisgarh.
- (v) An amount of INR \_\_\_\_\_/- (Rupees \_\_\_\_\_ Only) has been paid by the Lessee towards the first Year's annual Lease Rent (inclusive of applicable taxes), vide Demand draft or pay order No. dated , \_\_\_/\_\_\_/\_\_\_ drawn in favor of Chief Executive Officer, NRDA from (Bank) payable at Raipur, Chhattisgarh; and;

(vi) The Second Party, under the terms and conditions of the tender documents as specified in the RFP, as being the pre-condition to the execution of this Agreement hereby submits/submitted performance security of INR 3,20,00,000 (Three Crore and Twenty Lakh Only) by way of an irrevocable Bank Guarantee issued by Nationalised Bank or Scheduled Bank. The Second Party has submitted an Irrevocable and Unconditional bank guarantee appended in Schedule-IV, issued by the \_\_\_\_\_(name of Bank), bearing BG Number\_\_\_\_\_dated\_\_\_/\_\_\_/\_\_\_ valid till\_\_\_/\_\_\_/\_\_\_ in favour of NRDA for INR \_\_\_\_/- ( Rupees\_\_\_\_\_Only) operative at Raipur and if invoked, be enchashable at \_\_\_\_\_(Branch), Raipur towards performance security, Lease Rent and applicable penalty, if any. The said BG shall be, appropriated by NRDA without serving any notice to the Second Party within prescribed duration or any extension thereof.

(vii) Being the title holders of the Project Site with a good and marketable title thereto and having lawful possession thereof. NRDA is desirous of demising the Project Land unto the Second Party and subject to strict adherence of the terms and conditions of the lease, vesting unencumbered possession thereof with the Second Party, on the terms and conditions hereinafter contained.

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:

## ARTICLE 1: DEFINITIONS & INTERPRETATIONS:

### 1.1 Definitions

In this agreement the following words and expressions shall have the meanings set out to them below except wherein context otherwise requires:

- i) **Agreement OR "the Agreement" OR "this Agreement"**: Means this lease cum development agreement including the Schedules hereof entered into between NRDA and the Lessee as may be amended, supplemented or modified from time to time in accordance with the provisions hereof for the plan, design, construction, finance, maintenance, marketing, Leases, operations and management of the Project.
- ii) **Agreement Date**: Means the date of execution of this Agreement.
- iii) **Applicable Laws**: Means any statute, law, ordinance, rule, regulation, bye-law judgment, order, decree, approval, directive, guideline, policy, requirement or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration having the force of law of any of the foregoing, by any Government authority having jurisdiction over the matter in question, whether in effect as on Agreement date or thereafter.
- iv) **Approvals**: Means any and all permissions, clearances, authorizations, consents, sanctions and no-objection letters for and in respect of the Project from any Government Authority, regulatory or departmental authority including but not limited to, the approvals of the Town & Country Planning Directorate, NRDA, Chhattisgarh Environment Conservation Board, Reserve Bank of India and any other authorities, bodies, regulators, as may be applicable.
- v) **Applicable Permits**: shall mean all clearances, licenses, permits, authorizations, consents, no objection certificates and approvals under or pursuant to the Laws, required to be obtained and maintained by the Lessee in order to implement the Project.
- vi) **Bank**: Means a scheduled bank, other than a Co-operative bank, incorporated in India and having a branch at Raipur.
- vii) **Tender**: Means the documents submitted by the Lessee to NRDA in response to the RFP No.: \_\_\_\_\_-CE(P)/NRDA/\_\_\_\_Raipur Dated --.--.---- with amendments/modification if any, in accordance with the provisions thereof. The words "Tender" and "Proposal" are used synonymously.
- viii) **Earnest Money Deposit**: Means the Earnest Money deposited by the Lessee in accordance with the Tender Document. The words "EMD" and "Tender Security" are used synonymously.
- ix) **Completion Certificate**: Means the certificate as may be issued by NRDA, its representative or any agency appointed by NRDA for the purpose to the Lessee in accordance with the conditions hereof, confirming the completion of the Project by the Lessee consistent with the terms hereof.
- x) **Completion Date**: Means, the date of completion of the Project as mentioned in the Completion Certificate issued by NRDA.
- xi) **Users**: Means all the persons who use all or any one or more of the facilities, utilities, infrastructure for social, recreational common facilities etc. established or provided in the Project under suitable arrangement entered into by such persons with the Lessee / Lessee's sub-lessees on terms and conditions as stipulated from time to time by the Lessee's sub-lessees in this regard

- xiv) Contractor/s:** Means a Person with whom the Lessee has entered into/may enter into an agreement, requiring such person to tender any service pertaining to the Project.
- xv) Day:** Means the twenty four (24) hour period beginning and ending at 12.00 midnight as per Indian Standard Time.
- xvi) Designs and Drawings:** Means the conceptual and detailed construction plans, designs, drawings, technical information required for the Project and all calculations, samples, models, specifications and other technical information submitted by the Lessee from time to time to the respective authority as required in accordance with the provision of this agreement, to enable proper and safe development of the Project and in conformity to the Naya Raipur development Plan 2031
- xvii) Defect Liability Claim:** Shall have the meaning ascribed to the said term in Article 19 hereof.
- xviii) Development Period:** Means the development period as envisaged in Article 2.2 hereof.
- xix) Dispute:** Dispute has the meaning ascribed to the said term at Article 16 hereof.
- xx) Fees:** Means the charges that may be collected by the Lessee from end-users of the Project towards providing services during the period set out in this agreement for Operation and Maintenance of the Project
- xxi) Financial Closure:** Means the date on which the Financing Documents relating to the financing of the cost of development of the Project, pursuant to terms and condition of this Agreement have been executed and delivered by all the parties thereto
- xxii) Financing:** Means the aggregate amount to be provided by way of loan, lease finance, hire purchase finance or otherwise to the Lessee by the Lenders for the Project and shall include all related financial charges, fees and expenses of all kinds relating thereto.
- xxiii) Financing Documents:** Means, collectively, the loan agreement, notes, indentures, security, agreements or arrangements, guarantees, acceptable letters of credit and other agreements evidencing any liability / obligation of the Lessee and other necessary undertakings required pursuant to the respective terms thereof, relating to the Financing or any refinancing for the project or any portion thereof in each case as amended, supplemented or otherwise modified from time to time as approved by the NRDA.
- xxiv) Force Majeure:** Means an act, event, condition or occurrence specified in Article 12 hereof.
- xxv) Good Industry Practice:** Means the exercise of that degree of skill, diligence and prudence and those practices, methods, specifications and standards of equipment, safety and performance, as may change from time to time and which would reasonably and ordinarily be expected to be used by a skilled and experienced person engaged in construction, operation and maintenance of infrastructure and facilities of the type and size similar to the project.
- xxvi) Governmental Authority:** Means any government or political subdivision thereof, any department, agency or instrumentality of any government or political subdivision thereof; any court or arbitral tribunal.
- xxvii) Implementation Plan:** Means the plan to be prepared by the Lessee in a form acceptable to NRDA, setting out, inter alia, the steps, procedures and processes, activities to be undertaken by the Lessee for the Project while detailing the activities in the immediately following quarter, towards completion of the Project
- xxviii) Layout Plan:** Means the master plan for the Project prepared by Lessee in accordance with the provisions contained in this Agreement and got approved from NRDA and the competent authority
- xxix) Lenders:** Means the banks or other financial institutions, either public or private, providing the debt,

- xxx) Notice of Award (NOA):** Means the letter No. \_\_\_\_\_, dated..... issued by NRDA to the Lessee pursuant to and in compliance of which the Lessee has been authorized by the NRDA to execute this agreement with NRDA for implementation of this Project.
- xxxii) Material Adverse Change:** Any situation which in the reasonable opinion of NRDA may cause a - substantial undesired change in the ability of the Lessee to perform its obligation set out under this Agreement
- xxxiii) Month:** Means the calendar month as per the Gregorian calendar
- xxxiiii) Operation and Maintenance:** Means the various activities required for the preservation and upkeep of the Project and for providing the services to the end users of the Project and more specifically defined in Schedule I hereto.
- xxxv) Operation and Maintenance Period:** Means in relation to the period commencing from the Agreement Date until the end of Lease Period or till the Termination of the Agreement.
- xxxvi) Operator:** Means Contractor appointed by the Lessee for the Operation and Maintenance of the Project as specified in Article 2.10 hereof.
- xxxvii) Payment Schedule:** Means the schedule as set out in Schedule II hereto for payment of Land Premium to NRDA by Lessee
- xxxviii) Performance Security:** shall mean the security provided by the Lessee to the Authority at the time of signing this agreement, a sum of INR 3,20,00,000 (Three Crore and Twenty lakh Only), in accordance with the Request for Proposals, and which is to remain in force for the time period mentioned under Article 3 of this agreement
- xxxix) Person/s: Means** company, group of individuals, society, trust
- xl) Project:** means the construction, operation and maintenance of the International School in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project; and related infrastructures within the Project Land
- xli) Project Agreements:** Means collectively this Agreement, the Financing Documents and any other agreements executed by the Lessee with the NRDA or other person relating to the Project during the subsistence of this Agreement
- xlii) Project Assets:** Means all physical and other assets relating to and forming part of the Project Site including (a) rights over the Project Site in the form of licence, right of way or otherwise; (b) tangible assets such as civil works and equipment (including tankers); (c) Project Facilities situated on the Project Site; (d) all rights of the Lessee under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Permits and authorisations relating to or in respect of the Project;
- xliii) Project Implementation Plan:** Means the Project time-lines and schedule as indicated in Schedule II hereto
- xliiii) Indian Rupees or Rs. Or INR:** Means Indian rupees being the lawful currency of the Republic of India
- xliv) Scheduled Project Completion Date:** Means the last day of 36 (Thirty Six) months starting from the Agreement Date or the date on which encumbrance free land was actually handed over to the Lessee, whichever is later.

- xlv) Steering Group:** Means a group constituted by NRDA for the purpose of guiding, monitoring and taking all operational level decisions, required for the smooth implementation of this Agreement having representation from NRDA and the Lessee, headed by a representative of the NRDA.
- xlvi) Taxation or Tax:** Means in relation to the Project or Gross Revenues, all forms of taxation whether direct or indirect and whether levied by reference to income, profits, gains, net wealth, asset values, turnover, added value or other reference and statutory, governmental, state, provincial, local government or municipal impositions, duties, contributions, rates and levies, whenever and wherever levied or imposed (whether imposed by way of a withholding or deduction for or on account of tax or otherwise) on the Lessee or its affiliates, contractors, servants or agents and all penalties, charges, costs and interest related thereto.
- i) Tender Documents: Means the documents (Request For Proposal [RFP], RFP documents) pertaining to the Projects including all clarifications, addenda and revisions thereto, issued by NRDA ii) Termination: Means the discontinuation or cessation of this Agreement, consistent with the terms hereof
- iii) Termination shall have the meaning ascribed to the said term in Article 13.2.2 hereof.

## 1.2 Interpretation

### In this Agreement:

- a) Any reference to or any section of or schedule to or other provision of an Act of Parliament or of State Legislature or a regulation of a local authority shall be construed, as at the time of submission of the Tender and references to Indian Law shall include the laws of any State forming part of the Union of India, if applicable to the Project or Lessee.
- b) The singular shall include plural and vice versa, and words denoting natural persons shall include societies, partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal personality).
- c) The headings are inserted for convenience and shall not be used in and shall not affect the construction or interpretation of the contents hereunder.
- d) Terms used in the Schedules to this Agreement shall have the meaning ascribed to such terms in the Schedules when used elsewhere in this Agreement.
- e) The words "include" and "including" are to be construed without limitation.
- f) The Articles/Schedules to this Agreement from part of this Agreement and will be of full force and effect as though they were expressly set out in the body of this Agreement.
- g) Any reference to any agreement deed, instrument, development or other document of any description shall be construed, at the particular time, as reference to that agreement, deed, instrument, development or other document as the same may have been amended, varied, supplemented, modified, suspended or innovated, provided that this Article shall not operate, so as to increase liabilities of either NRDA or the Lessee if any agreement which under this agreement is to be in a form approved of consented to be NRDA or the Lessee, as the case may be, is amended, varied, supplemented, modified or suspended without NRDA or the Lessee's as the case may be consent.
- h) References to particular Article, sub Article, section or schedule shall, except where the context otherwise requires, be a reference to that Article, clauses of Article, section or schedule in or to this Agreement.
- i) Words denoting any gender shall include all genders.



- j) References to any party to this Agreement or any other document or Agreement shall include its successors or permitted assigns.
- k) Any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both, such days or dates.
- l) The fines/damages payable by either party to the other party as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed, genuine pre-estimates of loss and damage likely to be suffered and incurred by the party entitled to receive the same and are not by way of penalty or liquidated damages (the "Damages").
- m) Measurements and Arithmetic Conventions: - All measurements and calculations shall be in metric system and calculations done to 2 decimal places, with the third digit of 5 or above being rounded up and below 5 being rounded down.
- n) In case of ambiguities or discrepancies within this Agreement the following shall apply:
  - a. Between two Articles of this Agreement, the provisions of the specific Article relevant to the issue under consideration shall prevail over those in other Articles;
  - b. Between the Articles and the Schedules, the Articles shall prevail save as otherwise expressly set forth in sub clause (s) above.

## **ARTICLE 2: The Lease**

### **2.1 Grant of Lease**

For and subject to receipt of the consideration specified in Article 5 hereof, and in accordance with the terms and conditions set forth in this Agreement, NRDA grants the Lease to the Lessee for and in relation to development of the Project and shall for achieving the said purpose, do all acts, deeds and things as may be required in accordance with the terms and conditions set out in this Agreement.

Subject to and in accordance with the terms and conditions set forth in this Agreement, the Lessee shall be primarily obliged to undertake in respect of the Project the following in accordance with the Applicable Law's and the Approvals:

- i. Develop and implement the Project as per the scope of the Project more specifically laid down in Schedule I hereto and
- ii. Perform and fulfil all of the Lessee's obligations, at its own, cost, expense and risk under this Agreement

#### **2.1.1 Lease Period**

1. NRDA hereby vests the Demised Premises unto the Lessee under the terms of this Agreement starting from the \_\_\_\_ day of 2016 for the period of lease shall be 30 (Thirty) years initially commencing from the \_\_\_\_ day of \_\_\_\_ 2016 and ending on \_\_\_\_ day of 20\_\_, The lease, after expiry of the initial period, shall be renewed for another two successive term of 30 years aggregating to a total of 90 (Ninety) years from the date of signing of Agreement subject to the compliance of the terms and conditions of this Agreement. NRDA hereby undertakes that it shall not terminate this Agreement or refuse to extend the lease term, except upon the occurrence of event of default of this Agreement due to breach of any of the terms and conditions of this Agreement by the Lessee.

#### **2.1.2 Lease Rent**

The Lessee shall from the date of execution of this Agreement and during the term of the Lease Period, pay

Lease Rent to the Lessor at the rate of 2% (Two Percent) of the Total Land Premium along with the applicable taxes per annum in advance before 1<sup>st</sup> day of April of every year during the Lease Period, by way of a Demand draft or pay order in favour of the Lessor on a nationalized/scheduled bank having a branch at Raipur.

However, the first ground rent shall be for the period commencing from the date of execution of the lease deed till 31<sup>st</sup> March of the subsequent calendar year in which the lease deed is executed and the same shall be deposited by the lessee at the time of execution of the lease deed. In the last year of subsistence of the lease deed, the ground rent due shall be for the period from 1<sup>st</sup> April till the lease deed ceases to be in force.

Provided that, on and with effect from the thirty-first Year of this Agreement, the Lease Rent payable per annum shall stand increased maximum by 100% (Hundred Percent) of the lease rent prevalent in the thirtieth year, as decided by the NRDA and similarly on and with effect from the sixty-first Year of this Agreement, the Lease Rent payable per annum shall stand increased maximum by 100% (Hundred Percent) of the lease rent prevalent in the sixtieth year, as decided by the NRDA, under the provisions of Chhattisgarh Vishesh Khsetra (Achal Sampatti ka Vyayan) Niyam.

- 2.1.3 Provided however, that the Developer shall not assign or create any lien or encumbrance, except to the extent and in the manner specifically envisaged elsewhere herein, either on the Project Land, assets of NRDA or on any of the structures/buildings/ units comprising the Project and hereby permitted to be developed by the Developer.
- 2.1.4 Provided further that Lessee shall not Sub Lease in any manner whatsoever the Project Land or part thereof except to the extent and in the manner specifically provided in this agreement. A default in this respect shall be treated as Lessee's Event of Default and material breach of this Agreement.

## 2.2 Development and Operation Period Milestones

### **A) Milestones under Construction and development Phase:**

Lessee is required to sign the Agreement within 45 (Forty Five) Days from the date of NoA complying with the conditions set out in the Request for Proposal document and to obtain all requisite approvals including Environmental Clearance within stipulated time given under this agreement. The development period shall be **36 months (3 Years) which shall include the period of obtaining requisite approvals.**

The development milestone has been made in a way to ensure completion of international School within 3 years from signing of this Agreement.

- i. The Developer shall take all the necessary approvals, permissions, license, NOC's from the competent authority **within six months from the date of signing the Agreement.**
- ii. The Developer shall construct minimum 15% of maximum permissible Built-up area<sup>1</sup>, **within one year from the date of Agreement (Construction stage will be certified by steering group constituted by NRDA)**
- iii. The Developer shall complete construction of remaining Built-up area of school building in all respect and commence operations of school within three years from the date of execution of the Agreement between NRDA and successful bidder
- iv. Scheduled Project Completion Date: Means the last day of 36 (Thirty Six) months starting from the

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<sup>1</sup> **Built up area- The total built-up area of the project shall be as per the plan approved by the Authority. The percentage of work completion mentioned under clause 2.2 Development and Operation Period Milestones is linked to the built-up area approved by the authority.**

Naya Raipur Development Authority – Draft Lease cum Development Agreement  
date of execution of the Agreement between NRDA and successful bidder or the date on which NRDA  
hand over Assets, to the Developer, whichever is later.

## **B. Milestones under Operations and Management Period**

- I. The International School in Naya Raipur with the affiliation from International boards (IB or CIE or combination of both) at all three levels combined shall be a semi residential or residential school with minimum capacity of 500 students'. The minimum capacity of 500 students shall be attained within 10 years from the date of commencement of first academic year
- I. The residential facility should have provision to accommodate at least 20% of the minimum student capacity (500 students studying IB/CIE curriculum)
- II. The school institution shall obtain affiliation with International Board/s (IB or CIE or combination of both) at all three levels starting from K to 12 within the specified timelines mentioned in the below table:

| <b>Levels</b>                                     | <b>Timeline to Obtain Affiliation with the International Board/s</b> |
|---|--|
| Level I (K to 5 <sup>th</sup> )                   | Within 4 years from the commencement of First Academic Year          |
| Level II (6 <sup>th</sup> to 10 <sup>th</sup> )   | Within 6 Years from the commencement of First Academic Year          |
| Level III (11 <sup>th</sup> to 12 <sup>th</sup> ) | Within 8 Years from the commencement of First Academic Year          |

- vi. The selected Tenderer can manage and operate school with affiliation from CBSE/CISCE (National board/s) along with the International board as per the conditions mentioned in this RFP. However, the applicant cannot apply for "composite approval" with National Boards which means affiliation from Class I to X or I to XII with CBSE/CISCE since inception. The applicant can apply for affiliation for IX and XI standard with CBSE/CISCE only when the school management of the Project has obtained affiliation with international board/s at the prescribed levels mentioned below:

| <b>Condition for taking affiliation with National Board (CBSE/CISCE) for starting XI and XI standard</b>   |
|--|
| When the affiliation with IB/CIE is obtained at level II (6 <sup>th</sup> to 10 <sup>th</sup> ) only then school management can make application for obtaining affiliation at IX with CBSE/CISCE   |
| When the affiliation with IB/CIE is obtained at level III (11 <sup>th</sup> to 12 <sup>th</sup> ) only then school management can make application for obtaining affiliation at XI with CBSE/CISCE |

- v. The applicant will have to set up the school Project in Naya Raipur in accordance with the guidelines and regulations prescribed by State, Central Government, National Boards and International Boards, as applicable under this RFP from time to time

**2.2.1.** Deleted

**2.2.2** Provided further that in the event an early Termination/determination of this Agreement by NRDA in accordance with the provisions hereof, the Development Period shall mean and be limited to the period commencing from the Agreement Date and ending with the date of Termination/Determination of this Agreement

**2.3.** Deleted;

**2.4.** Deleted

**2.5.** Deleted

**2.6.** Deleted

**2.7.** Deleted

### **2.9.1 Development**

#### **Scope of Work**

The obligations of the Lessee in respect of the Project shall include the following:

- (a) Construction and procurement for the International School on the Site as set forth in Schedule-I;
- (b) Operation and maintenance of the International School in accordance with the provisions of this Agreement;
- (c) Performance and fulfilment of all other obligations of the Lessee in accordance with the provisions of

this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Lessee under this Agreement;

(d) Construction, development and maintenance of all infrastructures within the Project Land, including forward and backward connectivity thereof, such as, roads and pathways, water supply, underground sewerage, solid waste collection and disposal system, storm water drainage, electricity / power distribution through underground cables and indoor transformers, telecommunication, security system, parking, firefighting, landscaping etc., in conformity with the approved Building Plans and this agreement

(e) Secure the Project Land from any kind of encroachment, unauthorized occupation and unauthorized construction

(f) Providing all services of acceptable standard in relation to the Clause 2.11, Operation and Maintenance of the Project during and after implementation of the Project as contemplated in this agreement, and as per the approved Building Plans, subject to terms and conditions of this agreement

(g) Administration and management of the Project as contemplated herein.

(h) Ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Lessee's obligations under this Agreement.

2.10. The Lessee shall complete all Project Development activities such as approval of Detailed Project Report DPR, approvals from town planning department / approval for water supply, power and all other statutory approvals within six months from the date of signing of Agreement as per the following provisions:

(i) The DPR shall have a detailed plan, including standards and specifications, area statements, construction time schedule, operation and maintenance requirements for development of Project Facilities for implementation of the Project in conformity with the Standards and Specifications and Applicable Laws including Naya Raipur Development Plan, 2031 and Bhumi Vikas Niyam, 1984 as amended from time to time.

(ii) The DPR shall set out in detail the following:

- a) Detailed list of Applicable Permits to be obtained by the Lessee, the government agency concerned for sanction and the stages in the Project when such Applicable Permits would need to be sought;
- b) Layout and Master Plan for the entire Project Site;
- c) Tentative list of Project Facilities along with details of the capacity, location and dimensions of the facilities;
- d) The DPR prepared by the Lessee should necessarily provide for development in a phased manner.
- e) Tentative area statements for all Project Facilities, including FAR permissible, FAR proposed to be consumed.
- f) Construction time schedules for completion of the various phases which shall be in accordance with the Project Completion Schedule;
- g) Standards and specifications of proposed Basic Infrastructure Facilities, building materials for Basic Infrastructure Facilities, procedures, type, and other details of the construction activities;

- h) Operation and maintenance requirements of Basic Infrastructure Facilities in conformity with the applicable acts, rules, policies and guidelines issued by the competent authority and amended from time to time
  - i) Safety requirements, procedures for emergency evacuation and other usages related to the construction of Project Facilities;
  - j) Details of the reports to be submitted and procedure for reviews.
  - k) Any other detail deemed necessary.
- (iii) Within 30 days of receipt of the DPR, NRDA shall review the DPR and either approves or shall convey its comments/observation, if any, on the DPR. The approved layout and the approved building plans shall become part of the Approved DPR. The Lessee shall modify the DPR accordingly and shall submit for approval of the NRDA. Within 30 days of receipt of such comments/observation from NRDA, and receiving approval on the layout and building plans, the Lessee shall finalize the DPR taking into account the comments and observation by NRDA. Within 30 days of receipt of the revised DPR, it shall be finalized with mutual consent of the Parties ("Approved DPR"). The entire Project shall be developed and implemented in conformity to the Approved DPR.
- (iv) In case the revised DPR submitted by the Lessee pursuant to the direction of NRDA, does not comply with the direction or the Lessee fails to submit the said DPR within the stipulated time or any extension granted by NRDA, a final notice of 15 days shall be given to the Lessee for compliance, failing which, with reasonable prior notice to the Lessee, Lessor shall have the option to terminate this Agreement.
- (v) The Lessee shall be responsible for obtaining at his/her cost all the statutory approvals/permits/license/permission including diversion of the land as required for construction and development works under the applicable laws within 6 (Six months or any extension granted by NRDA from the date of approval of the Final DPR.

The Lessee shall make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits and obtain and keep in force and affect such Applicable Permits in conformity with Applicable Laws.

## **2.11. Operation and Maintenance (O &M)**

During the Operation Period, the Lessee shall operate and maintain the International School in accordance with this Agreement either by itself, or through the O&M Contractor and if required, modify, repair or otherwise make improvements to the International School to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Good Industry Practice, applicable Indian laws and directives and for that purpose do all such acts, Agreements and things necessary and expedient including but without limitation, as per the provisions of this Agreement.

- I. The Lessee as a mandatory condition of this Lease, shall complete Minimum Development Obligations

(as mentioned under clause 2.2) on Project Site within the stipulated time period mentioned therein.

- II. Common Physical Infrastructure, Common Utilities, Common Social Infrastructure including Institutional, Landscaping and Greenery, and other basic infrastructure to be completed within 3 years to support the school as per the provision of Naya Raipur Development Plan - 2031.
- III. The Lessee shall submit a certificate from an architect approved under Bhumi Vikas Niyam – 1984, in support of the completion of the construction at the stages set out herein above.
- IV. The Lessee shall strictly adhere to the Standards and Specifications of Approved DPR and Applicable Laws. .
- V. The developer shall be responsible for construction and maintenance of necessary hutments for its labour within the site along with providing power, drinking water, sanitation and other facilities at its own cost. The developer shall demolish all such hutments and remove the debris from site before completion of project at its own cost.
- VI. The Lessee shall remove promptly from the International School premise, as the case may be, all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the school building and its premise in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice
- VII. The Lessee shall procure that all times during the Operation Period, the School conforms to the maintenance requirements in accordance with the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice (the “**Maintenance Requirements**”)
- VIII. The Lessee shall comply with the provisions of this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Students, Resident students/staff, visitors and staff. In particular, the Lessee shall develop, implement and administer a surveillance and safety programme for providing a safe environment in and around the School, and shall comply with the safety requirements (the “**Safety Requirements**”).
- IX. Unless otherwise expressly provided in this Agreement, all costs and expenses arising out of or relating to Safety Requirements shall be borne by the Lessee.
- X. Any default under this agreement on the part of any Operator, operating on behalf of the Lessee shall be deemed to be the default of the Lessee.

## **ARTICLE 3: PERFORMANCE SECURITY**

### **3.1 Performance Security**

The Lessee shall, for the performance of its obligations hereunder furnish the Performance Security in the following way:

- (a) **During the Construction period** - At the time of execution of this Agreement for the international School Project, the Lessee shall provide to the NRDA an irrevocable and unconditional Bank Guarantee for a sum equivalent to INR 3, 20, 00,000 (Rupees Three Crore and Twenty Lakh Only) in the form set forth in **Schedule III** (the “Performance Security for Construction and commencement Period and commencement of Operations”). The said performance security should be valid for the period mentioned

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in the Tender Document under **Schedule-F, Part-D - Minimum Development Obligations** and 180 days  
thereof

(b) **During the Lock-in period (as mentioned under clause 6.14)**, provide to the NRDA, 30 (thirty) business days prior to the end of term mentioned above in (a), a fresh irrevocable and unconditional Bank guarantee for a sum equivalent to INR 50 lakh (Fifty lakh) in the form set forth in Schedule III (the “Performance Security for Lock-in Period”). Lock-in Period shall be for Nine (9) years from the date of execution of lease agreement.

Notwithstanding anything to the contrary contained in this Agreement, in event Performance Security for the Construction Period is not provided by the Lessee within the specified time limit, the performance security will be increased by 5% after every fortnight maximum up to two fortnights. In case the Lessee fails to furnish the Performance Security within two such fortnights, the EMD so deposited by the Lessee shall be forfeited and Lessee will have no claim whatsoever in this regard.

Notwithstanding anything to the contrary contained in this Agreement, the Performance Security may be encashed by the NRDA and this Agreement shall be deemed to have been terminated by mutual agreement of the parties.

### **3.2 Appropriation of Performance Security**

Upon occurrence of lessee event of Default, the NRDA shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance security as Lessee event of Default, Upon such encashment and appropriation from the Performance Security, the Lessee 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, and the Lessee shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid failing which the Authority shall be entitled to terminate this Agreement in accordance with Clause 13.2. Upon replenishment or furnishing of a fresh Performance security, as the case may be, as aforesaid, the Lessee shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Lessee event of default, and in the event of the Lessee not curing its default within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security in event of lessee event of Default, and terminate this Agreement in accordance with Clause 13.2.

### **3.3 Release of Performance Security**

The Performance Security for the Construction Period and commencement of operations shall remain in force and effect till the time period mentioned in clause 3.1 and shall be released on the completion of Construction Period and six months after the commencement of operations: provided the Lessee is not in breach of this Agreement. Upon request made by the Lessee for release of the Performance Security along with the particulars which establish satisfaction of the requirements specified under this Clause 3.3, the Authority shall release the Performance Security forthwith and The Performance Security for the Lock-in period shall remain in force and effect till the end of Lock-in Period as mentioned under clause 6.14, and shall be released on the completion of Lock-in Period( Nine years from execution of lease agreement; provided the Lessee is not in breach of this Agreement. Upon request made by the Lessee for release of the Performance Security along with the particulars which establish satisfaction of the requirements specified under this Clause 3.3, the Authority shall release the Performance Security forthwith.

**ARTICLE 4: RIGHT TO SUB LEASE**

4.1 The Lessee shall have the right to sub-lease as per the provisions of "Chhattisgarh Vishesh Kshetra (Achal Sampatti ka Vyayan) Niyam, 2008".

**ARTICLE 5: CONSIDERATION**

5.1 In consideration of the NRDA granting the Lease, the Lessee shall pay to NRDA the Land Premium as mentioned below:

**5.2 Land Premium**

a. "Land Premium" means the total amount payable by the Lessee to NRDA that is Rs. ----- (Rupees ----- only) by way of ----- Bank Draft ----- dated ----- for Rs. -----/- (Rupees -----only) issued by -----Bank being the consideration payable by the Lessee for the Project Land on Lease in strict adherence with the terms hereof. The Lessee has to pay 100% of the land premium upfront to NRDA. Prior to the execution of Agreement for the International School project, the successful bidder shall submit Performance Security of INR 3,20,00,000 (Three Crore Twenty Lakh only) by way of an irrevocable Bank Guarantee appended in (Schedule III) issued by Nationalised Bank or Scheduled Bank in the prescribed format. The said performance security should be valid through the commencement of operations as mentioned in the RFP document.

Payment Schedule is as follows:

| S. No | Payment as % of Land Premium      | Payment Schedule  |
|-------|-----------------------------------|---|
| 1.    | 100% of the accepted Land premium | within 45 (Forty Five) days of issue of the Notice of Award (NoA) |

5.2.1 The Lessee shall bear and pay any and all taxes, duties, charges, levies and cess as may be levied on the land premium.

**ARTICLE 6: PROJECT REQUIREMENTS**

**6.1 Deleted**

**6.2 Deleted**

**6.3 Project Implementation Schedule**

6.3.1 The whole of the work under the project shall be carried out strictly in accordance with the scope indicated in this Agreement, and as per the following:

a) The provisions in the Naya Raipur Development Plan 2031 including the Development Control Regulation therein and Naya Raipur Urban Design Guideline are mandatory for any land development or building activity in Naya Raipur. For any other provisions required for Land development/ building activity, the "Chhattisgarh Bhumi Vikas Rules 1984" and National Building code shall be applicable.

**6.4 Obligations of the Lessee for the Designs and Drawings:**

**6.4.1** The Lessee shall not make any change in any approved Designs and Drawings by NRDA without the prior written consent of the NRDA and shall abide by the terms and conditions thereof. Provided that the Lessee, for more efficient functioning of the Project may, propose to the appropriate authority and NRDA, changes to the approved Designs and Drawings and specifications of any equipment consistent



with all design standards applicable to the Project and the Applicable Laws. The competent authority shall review such proposed changes and communicate their approval or otherwise thereto in writing to the Lessee. The decision of the competent authority in this regard shall be final and binding.

**6.4.2** Notwithstanding the approval by the competent authority, the Lessee shall be solely responsible for any defect and/or deficiency in the Designs and Drawings and construction and any defect thereto relating to the Project or any part thereof and accordingly the Lessee shall at all times remain responsible for its obligations under this Agreement.

**6.4.3** Any review of the Designs and Drawings conducted by the NRDA is solely for the NRDA own information and that by conducting such review, the NRDA does not accept any responsibility for the same.

**6.4.4** The Lessee shall in no way represent to any Person that, as a result of any review by the NRDA the NRDA has accepted responsibility for the engineering or soundness of any work relating to the Project or part thereof carried out by the Lessee and the Lessee shall, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational efficiency and reliability of the Project or any part thereof.

## **6.5 Development**

**6.5.1** Subject to the above provisions, the Lessee shall complete the implementation of the Project in accordance with the approved Designs and Drawings and Project Schedule within the Development Period. The Lessee shall obtain necessary approval from competent authority for completion of construction of Project in accordance with the provisions of this Agreement.

a) The Lessee shall make its own arrangement for procuring all the materials required for execution of the work as prescribed in this Agreement,

b) The Lessee shall follow good construction practice.

**6.5.2** The quality and the quantities of various items of the Project shall be the sole responsibility of the Lessee.

**6.5.3** The Lessee shall ensure that the Project is developed and implemented in accordance with this Agreement in a proper, maintaining good workmanship using Good Industry Practice satisfying all the applicable Indian standard code provisions.

**6.5.4** The Lessee shall comply with and shall ensure that its Contractors also comply with all the statutory provision for the time being in force in respect of the persons employed/ engaged by it or its Contractors for and in relation to the Project.

**6.5.5** During and after the development of the Project, if on inspection by the NRDA any part of the Project is found to be damaged or structurally compromised or substandard then that shall be removed and replaced in accordance with such advice from the NRDA, at the cost of the Lessee. No additional time shall be granted for the same.

**6.5.6** The Lessee shall not store / set up any construction materials, equipment, machineries, plants, debris outside the Project Land, neither allow any of its contractors, suppliers to do so.

**6.5.7** The Lessee shall, by itself or through its Subcontractors, at its cost and risk undertake the development of the Site, including land filling, levelling, clearing, shifting of utilities, landscaping and demarcation and division of the Site etc. for establishment of the Project Facilities, in accordance with the provisions of this Agreement, including the Specifications and Standards and Good Industry Practice.

- 6.5.8** The Lessee shall on and from the Agreement Date, in accordance with the Specifications and Standards, develop the Site and requisite infrastructure facilities so as to:
- (a) Efficiently manage, make available, maintain and operate the Project Facilities consistent with prudent standards of safety and technical sufficiency;
  - (b) Provide the necessary resources for the operations and maintenance of the Project Facilities;
  - (c) Provide non-discriminatory access of the Facilities and Services within the Project Facility to the users and other persons.

**6.6 Access to NRDA**

- 6.6.1 All works under or in course of execution or executed in the pursuance of this Agreement shall at all-time be open to the inspection of NRDA or its authorized representatives. The Lessee shall at all times during regular working hour and at all other time either himself be present to receive orders and instructions or have a responsible agent duly authorised in writing present for that purpose. Order given to the Lessee's duly authorised agent/representative shall be considered to have the same force and effect as if they had been given to the Lessee himself. Provided that failure on the part of the NRDA to inspect any works shall not, in relation to such works, (a) amount to any consent or approval by the NRDA nor shall the same be deemed to be waiver of any of the rights of the NRDA under this Agreement and (b) release or discharge the Lessee from its obligations or liabilities under this Agreement in respect of such work.
- 6.6.2 NRDA shall retain its right of access to the Project Assets and the Project to be built by the Lessee as contemplated herein and/or any other development activity that NRDA may undertake in and around the Project Land during the Development Period and thereafter.

**6.7 Deleted**

**6.8 Insurances**

- 6.8.1 Insurance during development stage - Lessee shall procure and maintain, at no cost to NRDA, during the construction stage of the Project, such insurances as may be required under Indian law and such insurances as Lessee may reasonably consider necessary or desirable in accordance with Good Industry Practice. The Lessee shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the NRDA as a consequence of any act or omission of the Lessee during the Lease Period.

**6.8.2 Deleted**

**6.8.3 Evidence of insurance cover**

The Lessee shall furnish to NRDA certified true copies of certificates and policies of insurances in respect of insurances obtained in relation of the Project immediately (within 10 days) and from time to time as may be reasonably requested by NRDA. Lessee shall furnish evidence to NRDA that the relevant premiums have been paid or policies are remaining in force.

**6.8.4 Application of insurance proceeds**

The proceeds from all insurances claims, except life and injury, shall be applied for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation at the Project Land and in relation to the Project.

The Lessee shall, during the Lease Period, procure and maintain Insurance Cover including but not limited to the following:

- a) Loss, damage or destruction of the School Infrastructure at replacement value;

- b) Comprehensive third party liability insurance including injury to or death of personnel of the NRDA or others who may enter the School Premises;
- c) The Lessee's general liability arising out of the Lease Agreement;
- d) Liability to third parties for goods or property damage;
- e) Workmen's compensation insurance; and
- f) Any other insurance that may be necessary to protect the Lessee and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums.

All insurances obtained by the Lessee shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Lessee shall furnish to the NRDA, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premium payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of this Agreement.

## **6.9 Financing**

- 6.9.1 The Lessee will have to make arrangement for procuring the Financing of the Projects from its own resources or from open market borrowings such as from Banks or any other financial institution, against the security of the License in terms of this Agreement. NRDA shall not furnish any guarantee whatsoever for the repayment of the loans or debentures floated by the Lessee. The Financing structure, the nature of instruments to be used and portion of debt and equity shall be decided by the Lessee at his own cost and risk.
- 6.9.2 No advance/s loans will be provided to the Lessee by the NRDA for and in relation to the Project.
- 6.9.3 The Lessee shall not assign its rights, title, interest or obligation or create a Security Interest with respect to its rights under the Agreement or any part thereof in favour of any Person without the prior written consent of the NRDA. However, with the prior written consent of NRDA, Lessee can assign its rights, interest or obligation or create a Security Interest with respect to its rights under the Agreement in favor of Banks or financial institutions.

## **6.10 Appointment of Contractors**

- 6.10.1 The Lessee may appoint Contractor/s under written intimation to the NRDA, for-
  - a) Construction and development of the Project;
  - b) Marketing of the Project and/or
  - c) Operation and maintenance of the Project;
- 6.10.2 For the avoidance of doubt, it is hereby clarified that notwithstanding the appointment of a Contractor by the Lessee for any of the aforesaid purposes, the Lessee shall be liable for the performance of its duties and for the discharge of all its obligations and responsibilities which it shall have towards NRDA under this Agreement and the appointment of Contractor(s) for any of the aforesaid purposes shall neither release nor exonerate the Lessee from its obligations hereunder, including full and timely compliance with the terms of this Agreement. The Lessee does hereby also agree and acknowledge that it shall remain responsible for obligations performed or to be performed by the Contractor to the same extent as if such obligations were to be always performed by the Lessee.
- 6.10.3 The Lessee further undertakes and covenants that it shall be solely responsible for all payments to be made to the Contractors and shall indemnify and keep NRDA indemnified and harmless from and against any and all losses, claims, damages, liabilities, costs (including attorney's fees and disbursements) and expenses that NRDA may incur, in so far as such losses directly arise out of, in any way relate to, or result from the non-performance by the Lessee of its obligations to the Contractors

**6.10.4** The Lessee acknowledges and undertakes to ensure that the terms of any agreement between the Lessee and the Contractors shall be in conformity with the provisions of this Agreement and in the event of any conflict between such agreement and this Agreement the provisions of this Agreement shall prevail. The Lessee undertakes that in every agreement which it shall enter into with the Contractor(s), the following provision shall be included:

"It is hereby agreed and acknowledged by and between the Parties hereto that the [Lessee] has executed this Agreement in favour of the Contractor in exercise of this rights under the agreement dated..... executed between the [Lessee] on the one hand and the NRDA on the other ("the Development Agreement") and as such, this Agreement shall at all times be subject to the provisions of the Development Agreement between the Lessee and NRDA. For the avoidance of doubt, it is hereby clarified that in the event of inconsistency or conflict between the terms of this Agreement and the Development Agreement, the terms of the Development Agreement shall prevail. The Contractor hereby acknowledges that it is aware of and understands all the material terms and conditions of the Development Agreement between the Lessee and NRDA as are applicable to the provision of services under this Agreement and undertakes that it shall in the provision of the services under this Agreement, be subject to the same restrictions and liabilities as the [Lessee] under the Development Agreement as applicable"

6.11 Deleted

#### **6.12 Third Party Agreement**

The Lessee shall ensure that the terms of any Third Party Agreement, which it may enter into, shall be in conformity with the terms and conditions of this Agreement. Further, each such Third Party Agreement shall include provisions to the effect that in the event of a conflict (direct or indirect) between the provisions of this Agreement and the Third Party Agreement(s) on the other, the provisions of this Agreement shall prevail and such Third Party Agreement shall stand modified to that extent.

**6.13 Deleted**

#### **6.14 Obligations of the Lessee**

##### **6.14.1 Development phase**

In addition to any of its other obligation under this Agreement, during the development phase, the Lessee shall

- i. In accordance with the Project Schedule commence and complete the Project to the satisfaction of NRDA.
- ii. To strictly comply with the timelines and stages mentioned in the Development Milestone clause no (2.2)
- iii. To get into a legal Agreement with all the members of the consortium to operate and manage the school for at least 9 years (lock-in period) from date of execution of lease agreement; the consortium members cannot be changed during the construction period and Lock-in Period;
- iv. In case of change in members of the consortium to operate and manage the school after the completion of lock-in period lessee shall be have the knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and upon receiving prior written consent/ approval from the authority members of the consortium can be changed by replacing the existing partner/s / member/s with equal or higher credentials as per the Technical and Financial capacity mentioned in the

- v. Entrust responsibility for Project management and construction to professionally competent Person.
- vi. obtain all necessary Approvals from all the statutory authorities, and such other Approvals and permits as may be needed during the construction/operation of the Project;
- vii. The Lessee shall Prepared a concept plan for the Project and DPR including project cost estimates, including the area statement, block drawings, schedule of construction with financial and physical progress, details of services to be so provided and as incorporated in the concept plan as per the applicable Local Building Bye laws, Norms of Naya Raipur Development Plan 2031 and other applicable laws and submit to the Authority for its approval, whereby meeting all the requirements mentioned herein, apart from all other requirements of this Agreement in the DPR;
- viii. Ensure to submit DRP and obtain approval as per clause 2.10 mentioned in this agreement
- ix. To ensure that the Project Site (Encroachment free plot provided by NRDA)remains free from all encroachments and take all necessary measures to remove encroachments, if any;
- x. Comply with Applicable Laws and give priority to safety in its construction and planning activities in order to protect life, health, property and environment.
- xi. Provide to the representative(s) of the NRDA, at any time access to the Project Land to review progress in construction and operation of Project and to ascertain compliance with any of the requirement of this Agreement.
- xii. Promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Steering Group and NRDA's representative to ensure completion of construction of the Project in all respects in accordance with the provisions of this Agreement.
- xiii. Furnish operational information as and when requested for by NRDA, within a reasonable time
- xiv. Meet all the costs of operation, maintenance and repairs of the Project or any part thereof; as per the provisions of this agreement
- xv. Maintain the Project in accordance with the Good Industry Practice with the objective of providing adequate service standards and ensuring that the Project to be transferred to the NRDA/buyers/members upon expiry of the Development Period are in good condition, normal wear and tear excepted;
- xvi. Pay taxes and duties as per applicable laws
- xvii. Disclosure of the relevant information to the perspective buyers of the housing stock created under this agreement.

#### **6.14.2 Post development phase**

The Lessee after completion of the Project fully and completely in terms of this Agreement, shall clear the Project Land of all debris and remove all unused materials, plants, machinery, equipment and clearing the site of all temporary structures, site offices, labour camps, utility lines, etc. constructed/erected for the development of the Project and shall, thereafter, apply to the NRDA for issuance of the Completion Certificate which shall be issued by the NRDA in terms of and subject to the provisions contained in, Article 6.16 hereof. The Project shall be treated as complete, only after Completion Certificate is issued by the NRDA.

#### **6.14.3 Operation and Maintenance Period**

In addition to any of its other obligation under this Agreement, during the Operation and maintenance

Period, the Lessee shall manage, operate, maintain the Project and shall repair the project components, whenever required, entirely at its cost, charges, expenses and risk in accordance with the provisions of this Agreement. The Lessee's obligations under this Agreement shall include but not be limited to the following:

- a. Make available all necessary financial, technical, technological, managerial and other resources for operation, maintenance, repair and replacement of the Project and its components in a timely manner
- b. Ensure Maintenance of proper and accurate record/data/accounts relating to operations of the Project and the revenue earned therefrom;
- c. Comply with applicable laws including those relating but not limited to, health, environment and labour;

#### 6.14.4 Obligations related to Change in Ownership

The Lessee shall not undertake or permit any Change in Ownership except with the prior approval of NRDA.

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

- (i) All acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 15% (fifteen percent) of the total Equity of the Lessee; or
- (ii) Acquisition of any control directly or indirectly of the Board of Directors of the Lessee by any person either by himself or together with any person or persons acting in concert with him

Shall constitute a Change in Ownership requiring prior approval of the Authority from national security and public interest perspective, the decision of the NRDA in this behalf being final, conclusive and binding on the Lessee, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Lessee without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the NRDA hereunder shall be limited to national security and public interest perspective, and the NRDA shall endeavour to convey its decision thereon expeditiously. It is also agreed that the NRDA shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Lessee or its Contractors from any liability or obligation under this Agreement.

For the purposes of this Clause 6.14.4:

- (a) The expression “**acquirer**”, “**control**” and “**person acting in concert**” shall have the meaning ascribed thereto in the securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 or any statutory re-enactment thereof as in force as on date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Lessee;
- (b) The indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Lessee; and
- (c) Power to appoint, whether by contract or by virtue of control or acquisition of share of any company holding directly or through on or more companies (whether situate in India or abroad) the Equity of the Lessee, not less than half of the directors on the Board of Directors of the Lessee or any

company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 15% (fifteen percent) of the Equity of the Lessee shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Lessee.

- (d) It shall at no time undertake or permit any **Change in Ownership** except in accordance with the provision of clause 6.14.4 (a to c) and that each consortium member whose technical and financial capacity was evaluated for the purposes of qualification and short-listing in response to the Request for Proposal shall hold at least 26% (twenty six per cent) of Lessee's issued and paid-up equity; during the Construction Period.

#### **6.15 Obligations of the NRDA**

In addition to any of its other obligations under this Agreement, during the Development period, the NRDA shall:

- a Grant permission and consent to Lessee, to develop the land required for the development of the Project. The Project Land shall be made available to the Lessee by NRDA free from all encumbrances and occupations. However, it shall be lessee's responsibility to take necessary measures to protect the encumbrance free land provided by NRDA against any kind of encroachment on the demised premises.
- b Grant permission to Sub-Lease as per the provisions of "Chhattisgarh Vishesh Kshetra (Achal Sampatti ka Vyayan) Niyam, 2008".
- c Assist the Lessee in obtaining Approvals required by the Lessee in accordance with this Agreement;
- d The Authority shall provide water to the developer of the project upon payment of applicable charges prevailing at that time, as decided by the Authority.
- e Develop the external infrastructure including Road, Water Supply, Electricity and Sewerage and made those available to the developer before 1 years of schedule completion date; and
- f Provide the temporary approach road to the Project Land before the start of construction.

#### **6.16 Completion Certificate for the Project**

On completion of the entire Project, the Lessee shall submit the following documents and shall apply for issuance of a "Completion Certificate" to NRDA:

- i. No dues certificate from various statutory agencies and utilities.
- ii. Submission of all the as-built drawings or any other documents as may be required by the NRDA.
- iii. An affidavit confirming that the Lessee has cleared and settled its debts under the Financing Documents and cleared any/all liabilities and obligations pertaining to the Project.
- iv. An affidavit confirming that the Lessee has constructed the Project as per the approved Building plans, instructions of NRDA and the Steering Group and in conformity of Indian Standard codes.

The NRDA after due verifications, shall issue Completion Certificate within 30 working days of receipt of such application from the Lessee. In the event of deficiencies, the NRDA will communicate such deficiencies to the Lessee within 25 working days. After rectification of deficiencies within a period of 30 days, after the date of receipt of the said communication from NRDA, the Lessee shall again apply for Completion Certificate along with a compliance report. The NRDA may issue the Completion Certificate after due verification of the said revised application by the Lessee, before the expiry of 15 working days

### 6.17 Delay in Completion of the Project

The lessee shall commence and complete the development and or construction works for which the land has been granted, by obtaining development and/ or building permission as the case may be, within the time specified in the conditions of transfer. In case of delay in achieving the completion of the construction of the Project as per the Development Period as specified in clause 2.2 and subject to satisfaction of NRDA for the reasons of such delay, the Lessee may be allowed extension of time to complete the development of the Project on payment of surcharge to NRDA in the following manner:

The lessee shall commence and complete the development and or construction works for which the land has been granted, by obtaining development and/ or building permission as the case may be, within the time specified in the Agreement or any extension provided by NRDA under this clause.

**The amount of surcharge levied on lessee shall be on the prevailing land rate at that time for the Public & Semi-Public (PSP) land use category and not on the concessional premium of INR 1 per Sq. m**

- a) Where the lessee does not obtain the permission of development and/or building construction as the case may be within the time specified by the Authority, the extension in time to commence and complete the development and/or construction may be granted by the Chief Executive Officer, on payment of following surcharge by the lessee

| Block of time Extension | Period of Extension  | Amount of surcharge as Percentage of the Land rate prevailing under PSP land use category at that time |
|-------------------------|--|--|
| First                   | Twelve months or part thereof                                    | 20% (Twenty)   |
| Second                  | Twelve months or part thereof after the First extension of time  | 25% (Twenty five)  |
| Third                   | Twelve months or part thereof after the Second extension of time | 30% (Thirty)   |
| Fourth                  | Twelve months or part thereof after the Third extension of time  | 35% (Thirty Five)  |
| Fifth                   | Twelve months or part thereof after the Fourth extension of time | 40% (Forty)  |

Provided that the extension in time shall be granted for Twelve months or its part at one time and such extension shall be granted maximum for five years.

- b) Where the development and/or construction, as the case may be is commenced by the lessee as per terms of agreement after obtaining development and/or building construction permission but fails to complete the work due to unavoidable circumstances, the extension in time for the completion of work may be granted by the Chief Executive Officer on payment of the following surcharge by the lessee –

| Block of time extension | Period of time   | Amount of surcharge as Percentage of the Land rate prevailing under PSP land use category at that time |
|-------------------------|--|--|
| First                   | Twelve months or part thereof                                    | 5% (Five)  |
| Second                  | Twelve months or part thereof after the First extension of time  | 7% (Seven)   |
| Third                   | Twelve months or part thereof after the Second extension of time | 10% (Ten)  |

Provided that the extension in time shall be granted for Twelve months or its part at one time and such extension shall be granted maximum for three years.



Provided that the extension in time shall be granted for Twelve months or its part at one time and such extension shall be granted maximum for three years. If development of the Project is not completed within such extended period that is after the expiry of Third Block of extension of Time as described above, then it shall be treated as Lessee's Event of Default

If the lessee fails to achieve development milestone as mentioned in the tender document and even after the extension period sanctioned by the Authority as mentioned in the above tables namely (a) and (b), then as penalty the lessee shall have to pay the land rate prevailing during that time for Public & Semi-Public land use category for an area of approx. 40,000 Sq. m and the concessional upset price i.e. INR 1 /- per Sq. m will stand cancelled. The penalty levied on the lessee shall be the same as mentioned above in case the lessee fails to obtain affiliation with either IB or CIE within the stipulated time period mentioned in the tender document.

Even if the Lessee pays the penalty amount after failing to obtain affiliation at three levels from international boards (either IB or CIE) within the time mentioned in this agreement; the lessee will only be permitted to operate and manage School on the allotted land. No other activity or project shall be allowed on the demised premise that has been allotted for the purpose of setting up school.

## **6.18 General Requirements**

### **6.18.1 Additional/ altered work**

Any agreed additional and/or altered work in relation to the Project shall be undertaken and completed by the Lessee at its own cost and expenses.

### **6.18.2 Permanent Structures**

No permanent structures, except those, which are ancillary to the Project (such as site office, etc.), shall be permitted to be constructed by the Lessee. The location and layout of these ancillary structures shall be approved by NRDA on submission of layout of the same by the Lessee.

### **6.18.3 Security Arrangements**

The Lessee shall make arrangement for security of the Project at its cost during the entire Lease Period

### **6.18.4 Employment of Personnel**

The Lessee shall ensure that at least 10% of the total employed semi-skilled employees whether permanent, temporary or outsourced in the project facilities during the construction / operation period are residents of Chhattisgarh.

The Lessee shall employ/engage qualified and skilled personnel required to implement the Project. The terms of employment/engagement may be as deemed fit by the Lessee and the Lessee shall bear and pay all costs in this regard. All such personnel shall always remain the Lessee's responsibility.

For efficient operation and maintenance of the Project, the Lessee shall engage adequate number of professionally qualified administrative, engineers and other personnel.

The Lessee shall not carry out any activity that may be considered detrimental to the interests of the NRDA, under the Project or to the national security of India and shall make their premises available for inspection by any authority empowered by the NRDA or the Government of India/State Government or any of its agencies. Any gross violation by the Lessee shall render this Agreement liable for Termination. However, a notice of 30 days shall be given to the Lessee for remedying the breach. Depending on the nature and seriousness of breach/violation, the Lessee may apply for extension of time for remedying such violation, which shall be examined on merits by the NRDA. Failure to remedying the breach/violation, within such extended period, shall render this Agreement liable for Termination, without any claim on the part of the Lessee or other authorised agents.

### **6.18.5 Law and Order**

The NRDA will assist the Lessee in any application that may be made for securing the assistance of law enforcement agencies as may be required for maintenance of law and order and protection of the Project's Assets. However any cost thereto would be borne by the Lessee.

## **ARTICLE 7: OTHER CONDITIONS OF DEVELOPMENT**

### **7.1 Tax Concession**

The Lessee shall not be entitled to any recommendation from the NRDA for any special Tax concession.

### **7.2 Deleted**

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### **7.3 Environmental Requirements**

The Lessee will have to make his own arrangements at its cost to fulfil environmental requirements without any cost or liability to NRDA. Any tree, if standing in the project area, required to be cut, to be cut only after written approval of the competent authority.

### **7.4 Rate of Fees for Operation and Maintenance**

The Lessee shall be entitled to recover the Fees from the **users** from the date of execution of the relevant Sub-Lease deed with the **users**. The Fees to be collected shall have a direct correlation with the area of project facilities subleased to the **users**.

The Fees to be collected shall be specified by the Lessee at the time of issuance of application form for marketing of the Project. The Operation and Maintenance fee shall be fixed for at least three years at one stretch.

The Fees to be recovered from the **users** should be in consonance with the expenses incurred by the Lessee/Operator, as the case may be for the purpose thereof.

### **7.5 Additional Conditions of Agreement**

#### **7.5.1. Project Land Condition**

The Lessee shall be deemed to have carefully studied the work and site conditions specifications, schedules and drawings and various other data and shall be deemed to have visited the site of the work and to have fully informed himself regarding the local conditions. Lessee shall be deemed to have carried out his own surveys and investigations and assessment of site conditions. Lessee is deemed to be fully aware of all the statutory requirements including those concerning with labour and the local conditions/status of availability and employment of labourers. The Lessee shall be deemed to have accordingly worked out his proposal. The data given by the NRDA is made available in good faith only for general information without any commitment or responsibility on the part of NRDA about its accuracy.

#### **7.5.2. Patent Material**

If the Lessee desires to use any designed device materials or any process covered under letters of patent or copy right, the right to such use shall be secured by suitable legal arrangements and Agreement with patent owner and copy of their Agreement shall be filed with the NRDA.

#### **7.5.3. Staff Accommodation**

The Lessee at his own cost shall make his own arrangements for housing as per the provisions of the “Naya Raipur Development Plan- 2031” of his staff with necessary amenities. Lessee shall take all necessary precautions and protective measures for the safety of the workers and preserving their health while working on such jobs.

#### **7.5.4. Precautions**

The Lessee shall take all the precautions against damages that may be or is reasonably likely to be caused to the Project from or by floods or from accidents, The Lessee shall comply with all rules and regulations, bye laws and directions given from time to time by any local or public authority in connection

#### **7.5.5. Safety**

The Lessee shall be solely responsible to arrange for the safety, security and welfare of the people employed/engaged by the Lessee for rendering services at the Project.

#### **7.5.6. Treasure**

In the event of discovery by Lessee or its employees, during the progress of the work, of any treasures, fossils, minerals or any other articles of value or interest, the Lessee shall give immediate intimation to the NRDA. Such treasure or things shall be the property of the NRDA.

#### **7.5.7. Labour Laws**

The Lessee shall comply with all the latest applicable provisions of Applicable Laws (such as Minimum Wages Act, 1948. The Payment of Wages Act 1936, Apprentices Act, 1961, The Contract Labour (regulations and abolition) Act, 1970, The EPF Act, 1952. Mines Act, Workmen compensation Act, 1923 Child labour Act, 1986, as amended from time to time.) in respect of all the employees employed by it and relation to the Project.

The Lessee shall pay any cess as applicable as per Bhawan Aur Anya Sannirman Karmakar kalian Upkar Adhiniyam, 1996 and Rules made thereunder.

### **ARTICLE 8: OTHER PROVISIONS**

- 8.1 The provisions in the Naya Raipur Development Plan 2031 including the Development Control Regulation therein and Naya Raipur Urban Design Guideline are mandatory for any land development or building activity in Naya Raipur. For any other provisions required for Land development/ building activity, the "Chhattisgarh Bhumi Vikas Rules 1984" and National Building code shall be applicable.
- 8.2 Broadly the Project development shall include construction of International School, provision of internal infrastructures, provision of physical, social and service infrastructure, within the land parcel, providing forward and backward linkages, providing services and operation and maintenance, in conformity with this agreement

### **ARTICLE 9: REPRESENTATIONS AND WARRANTIES**

- 9.1 The Lessee hereby represents, warrants and covenants to NRDA for itself that ("Lessee Warranties"):
  - 9.1.1 The Lessee has been duly incorporated and organised, and is validly existing and in good steering under Applicable Laws. The Lessee has the corporate power and authority down and operates its assets and properties and to carry on its business as currently conducted and proposed to be conducted.
  - 9.1.2 The copy of the charter documents (having attached thereto copies of all such resolutions are by law required to be attached thereto and all amendments made to date) they have been delivered to NRDA are true, accurate and complete. All legal and procedural requirements and other formalities concerning such Charter Documents have been during as properly complied with in all material respects.
  - 9.1.3 The Lessee has the legal right, power and authority to execute, deliver and perform this Agreement. All action on the part of the Lessee and all corporate action on the part of thread of directors of the Lessee necessary for the authorisation, execution, delivery and the performance of all obligations of the Lessee have been taken.

- 9.1.4 No consent, approval, order or authorisation of, or registration, qualification, designation, declaration or filing with, any Governmental Authority or any other Person is required in connection with the execution and delivery of this Agreement.
- 9.1.5 The Lessee has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement.
- 9.1.6 The Lessee affirms that the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement.
- 9.1.7 This Agreement when executed is valid and would constitute the binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms. This Agreement is, and when executed be, the valid and binding obligation of the Lessee, enforceable against the Lessee in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally. As of date, as regards the Lessee, there is no applicable bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally.
- 9.1.8 The execution and delivery by the Lessee of this Agreement and the performance by the Lessee of its respective obligations under this Agreement do not and will not:
- (a) Constitute a breach of or a default under any Charter Document of the Company.
  - (b) Result in a breach of, or constitute a default under, any contract to which the Lessee is a party or by which it is bound.
  - (c) Result in a violation or breach of or default under any Applicable Laws or regulation or of any order, judgment or decree of any Governmental Authority to which the Lessee is a party or by which the Lessee is bound.
- 9.1.7 No order has been made and no resolution has been passed for the winding up of the Lessee or for a provisional liquidator to be appointed in respect of the Lessee and no petition has been presented and no meeting has been convened for the purpose of winding up the Lessee. No receiver has been appointed in respect of the Lessee or all or any of its assets. The Lessee is not insolvent or unable to pay its debts as they fall due.
- 9.2 NRDA represents and warrants to the Lessee for itself that ("NRDA Warranties"):
- 9.2.1 It is a body corporate established and constituted under the laws of India and has the power to enter into contract.
- 9.2.2 It has the full power, authority and legal right to acquire, hold, administer and transfer property and to carry on its business.
- 9.2.3 It has the capacity and is capable of executing a full, valid and registered transfer of the Project Land either on freehold or on lease hold basis.
- 9.2.4 As on the date of the Agreement it has no knowledge nor received any notice that the Project Land or any part thereof is and will be subject to any compulsory acquisition by any authority or Governmental body.
- 9.2.5 It has not entered into any other Agreement, contract, transaction, arrangement of understanding in relation to the development of the Project with any third party, or for the Lease, lease, assignment, or other disposition in whole or in part in respect of the Project Land;
- 9.2.6 The statement contained in the recitals to this Agreement are true, correct, accurate in all respects;
- 9.2.7 It has disclosed and raised all facts, information, matters, issues, within its knowledge and its view material to the Project and which the Lessee ought and should reasonably know of, for purposes of the

Project and has/will not conceal any facts/information/matters/issues from the Develop.

- 9.2.8 This Agreement when executed shall be valid and would constitute the binding obligations of NRDA and would be enforceable against NRDA in accordance with respective terms;
- 9.2.9 The execution, delivery and performance of this Agreement by NRDA will not:
- (a) Violate any court order, judgement, injunction, award, degree or writ against, or binding upon, NRDA or upon its securities, properties or business.
  - (b) Violate any law of India.

## **ARTICLE 10: MORTGAGE OF ASSETS**

The Lessee may mortgage the land with the Central Government, State Government, Nationalized bank, Life Insurance Corporation, Chhattisgarh State Finance Corporation, Housing and Urban Development Corporation or any other Financial Institution with prior permission from Authority as per the provisions of Rule 22 (1), "Chhattisgarh Vishesh Kshetra (Achal Sampatti ka Vyayan) Niyam, 2008" .However the permission for the mortgage shall be granted subject to the following conditions-

- A. The mortgage permission shall be granted (where the project land is not cancelled or any show cause notice is not served), after registration of Agreement, only in favour of Bank/Govt. organization/approved financial institution on receipt of simple request from the Lessee. The Lessee should have valid time period for construction as per terms of Agreement or should have obtained valid extension of time for construction and should have cleared up-to-date dues.
- B. The Lessee shall submit the following documents:
  - a. Sanction letter of the concerned Bank/approved financial institution.
  - b. An affidavit on non-judicial stamp paper of appropriate value duly notarized stating that there is no unauthorized construction and activities on the allotted land Clearance of up to date dues.
- C. NRDA shall have first charge on the project site toward payment of all dues of NRDA. Provided that in the event of sale or foreclosure of the mortgaged/charged property as the case may be the NRDA shall be entitled to claim and recover such percentage, as decided by the NRDA, of the unearned increase in values of properties in respect of the market value of the said land as first charge, having priority over the said mortgage charge, the decision of the NRDA in respect of the market value of the said land shall be final and binding on all the parties concerned.

The NRDA have the right to the recovery of unearned increase and the pre-emptive right to purchase the property as mentioned herein before shall apply equally to involuntary sale or transfer, be it bid or through execution of decree of insolvency/ court Indemnity bond.

## **ARTICLE 11: CHANGE IN LAW**

### **11.1 Change in Law**

"Change in Law" means a Material Adverse Change resulting from any of the following:

- i) Adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government authority of any statute, rule regulation, order, treaty, convention, directive, guidelines, policies; or
- ii) The imposition by any Government authority of any material condition in connection with the issuance, renewal or modification of any Approvals after the date of this Agreement which renders the performance by the Lessee of any of the terms of this Agreement impossible or unviable.
- iii) Any Approval previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Lessee or if granted for a limited period,

Provided this Article 11.1 shall not be triggered due to any increase in taxes, duties, cess and the like effected from time to time by any Government authority

## **11.2 The Lessee's Remedy**

In the event of a Change in Law the Lessee may propose to the NRDA, modifications to the relevant terms of this Agreement which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement including extension of the Development Period, so as to place the Lessee in substantially the same legal, Commercial and economic position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Change in such that this Agreement is frustrated or is rendered illegal or impossible of performance in accordance with the provisions hereof. The parties shall before the expiry of twenty one (21) days after the Date on which the said Change in Law occurs, discuss the said change in Law and endeavour to identify the manner in which the Lessee shall fulfil its obligations hereunder, under the changed circumstances, due regard being had to principles of equity and fair play the outcome of such discussion shall be communicated for deliberation by the Steering Group. The Steering Group shall discuss the same within fourteen (14) days and shall forthwith communicate its decision to the parties. The decision of the Steering Group shall be final and binding on the parties.

## **ARTICLE 12: FORCE MAJEURE**

### **Force Majeure Event**

12.1 "Force Majeure" means acts of God (such as natural disaster, thunder, lightning, earthquake, storm, typhoon, tornado, drought, tidal wave and flood) or war, invasion or an act of foreign enemy whereby a Party is prevented from complying with its obligations under this Agreement.

In the event of a Party ("Affected Party") not being able to perform its obligations pursuant to this Agreement as a result of a Force Majeure event, such Affected Party shall give notice ("Force Majeure Notice") to the other Party of any such Force Majeure event as soon as reasonably practicable, but not later than seven days after this date on which the Affected Party knew or should have reasonably known the commencement of the Force Majeure event. The Force Majeure Notice shall contain the following particulars:

12.2.1 The nature of the Force Majeure event.

#### **(a) Non Political Force Majeure Events:**

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

- i. act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- ii. strikes or boycotts (other than those involving the Lessee, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 12.2.1 (b);
- iii. any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Lessee by or on behalf of such Contractor;
- iv. any judgment or order of any court of competent jurisdiction or statutory authority made against the Lessee in any proceedings for reasons other than (i) failure of the Lessee to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this

- v. the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- vi. any event or circumstances of a nature analogous to any of the foregoing.

**(b) Indirect Political Event**

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

- i. an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- ii. industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;
- iii. any civil commotion, boycott or political agitation which prevents collection of Fee by the Lessee for an aggregate period exceeding 7 (seven) days in an Accounting Year;
- iv. any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Lessee by or on behalf of such Contractor;
- v. any Indirect Political Event that causes a Non-Political Event; or
- vi. any event or circumstances of a nature analogous to any of the foregoing.

**(c) Political Force Majeure Events:**

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

- i. Change in law; means a Material Adverse Change resulting from any of the following:
  - I. adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government authority of any statute, rule regulation, order, treaty, convention, directive, guidelines, policies; or
  - II. the imposition by any Government authority of any material condition in connection with the issuance, renewal or modification of any Approvals after the date of this Agreement which renders the performance by the Lessee of any of the terms of this Agreement impossible.
  - III. any Approval previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Lessee or if granted for a limited period, being renewed on terms different from those previously stipulated

Provided this Clause 12.2.1 (c) shall not be triggered due to any increase in taxes, duties, cess and the like effected from time to time by any Government authority

- ii. compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Lessee or of the Contractors;
- iii. unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Lessee or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Lessee's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;
- iv. any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Lessee by or on behalf of such Contractor; or
- v. any event or circumstance of a nature analogous to any of the foregoing.

12.2.2 The date and time the Affected Party was affected by the Force Majeure event.

12.2.3 The effect of such Force Majeure event on the Affected Party.

12.2.4 The measures or steps undertaken by the Affected Party to alleviate or mitigate the impact of the Force Majeure event on the Affected Party.

12.2.5 An estimate of the time period during which the Affected Party shall be unable to perform its Obligations as a result of the Force Majeure event.

**12.3 Reporting Requirements**

As long as the Affected Party continues to be affected by the Force Majeure event, such Affected Party shall provide the other Party with a written report, at least on a weekly basis containing.

12.3.1 All the information required to be part of the Force Majeure Notice as set forth in Article 12.2.

12.3.2 Such other information as the other Party may reasonably request.

#### **12.4 Consequences of Force Majeure**

If the Affected Party has taken all necessary steps towards mitigating the effect of a Force Majeure event, then:

12.4.1 The obligations of the Affected Party shall be suspended to the extent that they are affected by the Force Majeure event so long as the Force Majeure event continues.

12.4.2 To the extent the performance of the obligations of the Affected Party is affected by the Force Majeure event, the time period for the performance of the obligations of the Affected Party shall be extended by a similar time period on a day for day basis.

12.4.3 Notwithstanding any other provision of this Article 12, a Force Majeure event shall not absolve the Lessee and NRDA from any obligation to make payments in respect of its obligations under this Agreement in the event such payment obligations have arisen prior to the occurrence of the Force Majeure event.

### **ARTICLE 13: EVENT/S OF DEFAULT**

#### **Event/s of Default**

Event/s of Default means the Lessee Event of Default or the NRDA Event of Default or both as the context may admit or require.

#### **13.1 The Lessee Event of Default**

13.1.1 A "Lessee Event of Default" shall be deemed to have occurred if any of the following events has occurred, unless the same has so occurred as a consequence of the NRDA's Event of Default or due to a Force Majeure Event:

- i) If Lessee fails to obtain all necessary Approvals required for commencement of work on the Project Land within Six Months from the date of execution of this Agreement; or
- ii) If Lessee fails, neglect, refuses, or is unable to pay the Development Premium in accordance with the Payment Schedule indicated at Schedule II.
- iii) If Lessee fails to submit performance Guarantee as mentioned under Article 3 of this agreement
- iv) If Lessee fails to comply with the terms and conditions under clause 6.17 mentioned in Article 6 of this agreement
- v) If change in members of Consortium has occurred during the Lock-in period in breach of the provisions under 6.14.1 (ii) of this agreement
- vi) If Lessee repeatedly and persistently remains in breach of any of its obligations under this Agreement; or
- vii) If any representation made or warranties given by the Lessee under this Agreement is found to be false or misleading.
- viii) If Lessee passes a resolution for voluntary winding up.
- ix) Upon appointment of a provisional liquidator, administrator, trustee or receiver of the whole or substantially whole of the undertaking of the Lessee by a court of competent jurisdiction in proceedings for winding up or any other legal proceedings.



- x) Upon levy of an execution or distraint on the Lessee's assets which has or is likely to have Material Adverse Change and such execution or distraint remaining in force for a period exceeding 90 days.
- xi) Upon amalgamation of the Lessee with any other company or reconstruction or transfer of the whole or part of the Lessee's undertaking [other than transfer of assets in the ordinary course of business] without the NRDA's prior written approval, provided, if the amalgamated entity, reconstructed entity or the transferee as the case may be, has the ability demonstrated to the satisfaction of the NRDA, to undertake, perform/discharge the obligations of the Lessee under this Agreement, necessary approval shall be granted by the NRDA.
- xi) Upon the Lessee engaging or knowingly allowing any of its employees, agents, Contractor or representative to engage in any activity (including but not limited to construction or permitting construction of, any unauthorized structures on the Project Land) prohibited by law or which constitutes a breach of or an offence under any law, in the course of any activity undertaken pursuant to this Agreement.
- xii) If Lessee fails to perform or discharge any of its obligations, responsibilities, duties and/or undertakings in accordance with the provisions of this Agreement, including but not limited to non-payment of applicable service tax.
- xiii) If the Lessee transfers in any manner whatsoever the Development Rights of the Project Land or part thereof except to the extent and in the manner specifically provided in this agreement.

### **13.2 Termination procedure**

- 13.2.1 Upon the occurrence of Lessee Event of Default, NRDA shall deliver a default notice to the Lessee, which shall specify in reasonable detail the Lessee's Event of Default giving rise to the default notice.
- 13.2.2 If the Lessee fails to rectify default within 30 days of the delivery of the default notice, NRDA may, without prejudice to any other right or remedy it may possess under this Agreement or under any Applicable Laws for the time being in force, terminate this Agreement at any time after expiry of 30 days after issuing of written notice advising Termination of this Agreement ("Termination Notice") to the Lessee.
- 13.2.3 The termination Notice shall be effective from such date not exceeding thirty (30) days from the date of issue of notice as may be specified in the Termination Notice. During the period specified in the Termination Notice, the Parties shall, subject where applicable to the provisions of Article 13, continue to perform such of their respective obligations under this Agreement which are capable of being performed with the object, as far as possible, of ensuring continued availability of the Project to the user, failing which the Lessee shall compensate NRDA for any loss or damage occasioned or suffered on account of underlying failure/breach.

### **13.3 No obligation to Operate the Project in the event of termination**

- 13.3.1 If NRDA issues Termination Notice for Lessee's Event of Default under Article 13.1 above, then NRDA shall not have the obligation to develop and operate the Project itself or through its agents/affiliates from the date of such termination Notice
- 13.3.3 If NRDA decides to so develop the Project as aforesaid then NRDA shall provide during the period in which Termination Notice is in effect, notice to the Lessee, NRDA to step in (whether itself or through its agents/affiliates) and shall carry on the development to such extent as it may deem fit . In such case, NRDA shall not be liable in any manner to the third party including the **users** of the project facilities for

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any liability or commitment made by the Lessee.

**13.3.4 NRDA** shall have no liability to the Lessee for any act resulting from a breach by Lessee of its obligations under this Agreement or any agreement or commitment made by the Lessee to any third party.

**13.3.5 In the event of Termination of this Agreement, NRDA** shall have no liability towards any third party, lenders to the Lessee, contractors, service providers, suppliers with whom Lessee has any kind of contractual obligation and the Lessee shall remain solely liable for its liability and obligations

#### **13.4 NRDA Events of Default**

In the event, Lessee is not in default as per Article 13.1 and NRDA fails to provide the Project Land free from encumbrances to the Lessee, it shall be construed as event of default on the part of NRDA ("NRDA Default Event");

Provided that the events mentioned above in as Article 13.4 would not constitute NRDA Event of Default, if such event could be exclusively attributed to an event of Force Majeure

In any of the NRDA Events of Default the Lessee shall give NRDA a notice to rectify such default. Upon expiry of 30 (thirty) days from the date of receipt of the notice if the default is not rectified by NRDA, shall give the compensation to the Lessee as specified in Article 15.1.2

## **ARTICLE 14: OTHER CONSEQUENCES OF TERMINATION**

### **14.1 Consequences of Termination**

Without prejudice to any other consequence requirements under this Agreement or under any law, the following consequence will follow upon Lessees Event of Default.

#### **14.1.1 Project Assets**

All rights including development rights, interim privileges and benefits in the Project Assets accruing to and to the benefit of the Lessee under this Agreement shall automatically stand terminated and vest in NRDA on the Termination of this Agreement. Lessee shall peacefully hand over the possession of the Land including the structures therein/upon, within such reasonable time, as may be prescribed by NRDA.

#### **14.1.2 Project Agreements**

The Lessee shall at its cost transfer/assign of the Project Agreements which the NRDA may require to be transferred in favour of a third Party, upon the instructions and advise of the NRDA. The Lessee shall entirely at its cost, terminate any/all such Project Agreements.

#### **14.1.3 Not used**

#### **14.1.4 Guarantees**

The NRDA shall be entitled to encash any Bank Guarantees provided by the Lessee, if the Termination is on account of Lessee's Event of Default.

## **ARTICLE 15: COMPENSATION**

### **15.1 Compensation**

#### **15.1.1 Termination due to Lessee Event of Default**

If the Termination is due to a Lessee Event of Default, no compensation shall be payable by the NRDA to the Lessee. Land Premium and lease rent paid by the Lessee till the date of Termination shall be forfeited. The Lessee shall not be entitled for any compensation including for the structures/buildings constructed on the Project Land.

### **15.1.2 Due to NRDA Event of Default**

In case of NRDA Event of Default, then the Lessee shall be entitled to receive from the NRDA, delayed interest @ SBI PLR as on the date of the payment was due+2% per annum (the "Delayed Interest"), calculated on the default amount for the number of days delayed. The default amount will be finalized by NRDA based on the submitted schedule of construction by the lease along with DPR with financial and physical progress.

### **15.1.3 Remedies Cumulative**

The exercise of right by NRDA to terminate this Agreement, as provided herein, shall not preclude, NRDA from availing any other rights or remedies that may be available to it under law. All remedies available to NRDA shall be cumulative and the exercise or failure thereof in one or more remedies by NRDA shall not limit or preclude the exercise of or constitute a waiver of any other remedies by NRDA.

## **ARTICLE 16: DISPUTE RESOLUTION**

### **16.1 Amicable Settlement**

Any matter of dispute arising out of or in connection with this Development Agreement between the parties shall be notified in writing by the aggrieved party to the other parties.

If any dispute or difference or claims of any kind arises between the NRDA and the Lessee in connection with construction, interpretation or application of any terms and conditions or any matter or thing in any way connected with or in connection with or arising out of this Agreement, or the rights, duties or liabilities of any Party under this Agreement, whether before or after the Termination of this Agreement, then the Parties shall meet together promptly, at the request of any Party, in an effort to resolve such dispute, difference or claim by discussion between them.

### **16.2 Negotiations**

The Parties will attempt in good faith to resolve any dispute, difference, conflict or claim arising out of or in relation to this Agreement or the performance of the Agreement (a "Dispute") through negotiations between an authorized representatives of each of the Parties with authority to settle the relevant Dispute. If the Dispute has not been settled through negotiation within 14 days from the date on which either Party has served written notice on the other of the Dispute (the "Notice") then the remaining provision of this Article 16 shall apply.

### **16.3 Arbitrators**

In the event of a Dispute arising out of or in connection with this Agreement not being resolved in accordance with the provisions of Article 16.2 above, either Party shall be entitled to, by notice in writing ("Arbitration Notice") to the other Party, refer such Dispute for final resolution by binding arbitration in accordance with the Arbitration & Conciliation Act; 1996.

In case the dispute is referred to arbitration under the Arbitration and Conciliation Act 1996 the arbitration shall be by a panel of three Arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. A Party requiring arbitration shall appoint an Arbitrator in writing, in from the other Party about such appointment and call upon the other Party to appoint its Arbitrator. If the other Party fails to appoint its Arbitrator, the Party appointing Arbitrator shall take steps in accordance with arbitration and Conciliation Act, 1996, and subsequent amendments thereto.

### **16.4 Place of Arbitration**

The venue of such arbitration shall be only at Raipur or Naya Raipur.

**16.5 English Language**

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

**16.6 Procedure**

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

**16.7 Enforcement Award**

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

**16.8 Fees and Expense**

The fees and expenses of the arbitrators and all other expenses of the arbitration shall be initially borne and aid by respective Parties subject to determination by the arbitrators.

**16.9 Performance during Arbitration**

This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings herein.

**ARTICLE 17: MISCELLANEOUS PROVISIONS**

**17.1 Articles to service Termination**

The provisions of this Agreement shall, to the fullest extent necessary to give effect thereto, survive the Development Period/the Termination of this Agreement and the obligations of parties to be performed/discharged following the Termination/early determination of this Agreement shall accordingly be performed/ discharged by the Parties.

**17.2** If the lessee does not pay any part of the premium or ground or lease rent or fees or service charges or any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest @ SBI PLR as on the date of the payment was due+2% per annum (the “**Delayed Interest**”), from the due date for payment thereof until the same is paid to or otherwise realized by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off. Provided the stipulation regarding interest for delayed payments contained in this Clause 20 shall neither be deemed nor construed to authorize any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations. If the arrears remain unpaid for three years, the Authority shall have powers to terminate the lease, and re-enter in to the property.

**17.3 Responsibility**

In the event that any damage is caused in part only due to the negligence or default or omission on the



lessee at the demised land and any notice or demand sent by the post shall be deemed to have been delivered in the course of post.

**17.9** If the NRDA in future grants any additional benefits due to amendments in the development plan are development rules, such as additional floor area ratio or change in use or any concession whatsoever which may be financially beneficial to the lessee, the NRDA shall have power to charge additional premium and/or fees, at the rate decided by it and proportionate increase in the lease rent.

In case the maximum permissible FAR applicable for the project land is increased as per the provision of the Naya Raipur Development Plan 2031 at any time after the signing of this agreement but before the completion of the project, the lessee may in writing request NRDA to grant the use of such additional FAR.

**17.10** The Lessee shall not construct any religious building on the demised plot nor shall permit such construction and even will not give permission to use the plot for such purposes.

**17.11** The Lessee shall not manufacture, store, use or sale any explosive or narcotic material in the demised plot other than the materials permissible by the relevant authorities to run the healthcare business.

**17.12** The Lessee shall not dig any tube well without prior permission of lessor.

**17.13** The Lessee shall construct and maintain rain water harvesting system in all the buildings.

**17.14** The Lessee shall use solar power for heating water.

**17.15** The Lessee shall not deny any part of demised land if needed for public purposes.

**17.16** The transfer of property under this lease shall be governed by the provisions of "Chhattisgarh Vishesh Kshetra (Achal Sampatti ka Vyayan) Niyam, 2008" and As well as "Transfer of property act 1908"

**17.17 Waiver**

Failure by any party to enforce, at any time, any provision of the contract shall not be constructed as a Waiver of its right to enforcement of the breach of such provision or any other provision of the contract, or as a Waiver of any continuing, succeeding or subsequent breach of any such provision or other provisions of the contract or as a waiver of any right under the Agreement.

**17.18 Amendments, Modifications, etc.**

No amendments, modifications or alterations of or any additions to terms and conditions of this Agreement shall be valid unless the same be in writing and agreed to by the Parties.

**17.19 Governing Law**

This Agreement shall be governed and construed in accordance with the laws of Republic of India and the parties hereby submit to the exclusive jurisdiction of the Chhattisgarh Courts.

**17.20 Violation of Terms**

The Parties agree that in the event of any breach of the provisions of this Agreement, the Parties shall proceed in the manner specified in Article 16 of this Agreement.

**17.21 No Partnership**

Nothing contained in this Agreement shall constitute or be deemed to constitute a partnership between the Parties, and no Party shall hold himself out as an agent for the other Party, except with the express prior written consent of the other Party.

**17.22 Time**

Any date or period as set out in any Article of this Agreement may be extend with the written consent of the Parties failing which time shall be the essence of the contract.

**17.23 Independent Rights**

Each of the rights of the Parties hereto under this Agreement are independent, cumulative and without prejudice to all other rights available to them, and the exercise or non-exercise of any such rights shall not prejudice or constitute a waiver of any other right or the Party, whether under this Agreement or otherwise.

**17.24 Counterparts**

This Agreement may be executed in any number of originals or counterparts, each in the like form and all of which when taken together shall constitute one and the same document, and any Party may execute this Agreement by signing any one or more of such originals or counterparts.

#### **17.25 No Assignment**

Except as otherwise provided in this Agreement, the Lessee shall not assign its rights, or interest in this Agreement in favour of any Person without prior written consent of NRDA, which consent may in the sole discretion of NRDA be denied with or without assigning reasons therefor.

### **ARTICLE 18: LIABILITY AND INDEMNITY**

#### **18.1 General Indemnity**

18.1.1 The Lessee shall indemnify and keep indemnified and other wise hold harmless, the NRDA, its agents and employees, from and against all claims, demands made against and/or loss caused and/or damages suffered and/or cost, charges/expenses incurred to and/or penalty levied and/or any claim due to injury to or death of any person and/or loss or damage caused or suffered to property owned or belonging to the NRDA, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by Lessee or as a result of failure on the part of the Lessee to perform any of its obligations under this Agreement or on the Lessee committing breach of any of the terms and conditions of this Agreement or on the failure of the Lessee to perform any of its statutory duty and/or obligations or as a consequence of any notice, action, suit or proceedings, given initiated, filed or commenced by consignee or owner of goods or vessel owner/agent or its employees or any third party or Government Authority or as a result of any failure or negligence or default of the Lessee or its Contractor(s), sub-contractor(s) or employees, servants, agents of such Contractor(s), sub-contractor(s) and/or invitees as the case may be, in connection with or arising out of this Agreement and/or arising out of or, in connection with the Lessee's use and occupation of NRDA's Asset and/or construction, operation and maintenance of the Project

18.1.2 Without limiting the generality of Article 18.1 the Lessee shall fully indemnify and defend NRDA including its officers, servants and agents (the "NRDA Indemnified Persons") from and against any and all loss and damages arising out of or with respect to (a) failure of the Lessee to comply with applicable Laws and Approvals, (b) payments of taxes relating to the Lessee, Lessees, suppliers and representatives, income or other taxes required to be Paid by the Lessee without reimbursement hereunder, or (c) non-payment of amounts due as a result of materials or services furnished to the Lessee or any of its Contractors which are payable by the Lessee or any of its Contractors

18.1.3 Without limiting the generality of the provisions of this Article 18, the Lessee shall fully indemnify, and defend the NRDA Indemnified Persons from and against any and all damages which the NRDA Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used by the Lessee or by the Lessee's Lessees in performing the Lessee's obligations or in any way incorporated in or related to the Project. If in any such suit, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Lessee shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraint order. If, in any such suit claim or proceedings, the Project, or any part, thereof or comprised therein is held to constitute an infringement and its use is permanently enjoined, the Lessee shall promptly make every reasonable effort to secure for NRDA license, at no cost to the NRDA, authorizing continued use of the infringing work. If the Lessee is

unable to secure such license within a reasonable time, the Lessee shall, at its own expense and without impairing the specifications and standards either replace the affected work, or part, or process thereof with non-infringing work or parts or process, or modify the same so that it becomes non-infringing.

18.1.4 In the event that NRDA receives a claims from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 18 ("Indemnified Party") it shall notify the Lessee ("Indemnifying Party") within 14 (fourteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party subject the Indemnified Party being secured against any costs involved to its reasonable satisfaction.

## **18.2 Defence of Claims**

**18.2.1** The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder and their reasonable costs and expenses shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the person indemnified in respect of loss to the full extent provided by this Article 18, the Indemnifying Party shall be entitled, at its option, to assume and control the defence of such claim, action, suit or proceeding liabilities, payments and obligations at its expense and through counsel of its choice provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure, the loss to be indemnified hereunder to the extent so compromised or settled.

**18.2.2** If the Indemnifying Party has exercised its rights under Article 18.2.1, the Indemnified Party shall not be entitled to settle or compromise any claim, action suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonable withheld or delayed).

**18.2.3** If the Indemnifying Party exercises its rights under Article 18.2.1 then the Indemnified Party shall nevertheless have the right to employ its own counsel and such counsel can participate in such action, but the cost and expenses of such counsel shall be at the expense of such Indemnified Party, when and as incurred, unless:

1. The employment of counsel by such party has been authorized in writing by the Indemnifying Party; or
2. The Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defence of such action; or
3. The Indemnifying Party shall not in fact have employed independent counsel reasonable satisfactory to the Indemnified Party to assume the defence of such action and shall have been so notified by the Indemnified Party; or
4. The Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
  - i. That there may be specific defences available to it which are different from or additional to those available to the Indemnifying Party; or
  - ii. That such claim, action, suit or proceeding involves or could have a Material Adverse Change



**18.2.4** Provided that if clauses 2, 3, or 4 of Article 18.2.3 shall be applicable, counsel for the Indemnified Party shall have the right to direct the defence of such claim, action, suit or proceeding on behalf of the Indemnified Party and the reasonable cost and disbursements of such counsel shall constitute legal or other expenses hereunder.

## **ARTICLE 19: DELETED**

## **ARTICLE 20: VARIATIONS**

### **Variation by Lessee**

Any variation to the Project proposed to be done by the Lessee other than the scope of work and as pre-approved by NRDA shall be done at Lessee's cost.

## **ARTICLE 21: FURTHER ASSURANCES**

The parties shall at all times and from time to time do all such further acts and execute all such further deeds, documents and instruments as may be necessary or desirable in order to give full effect to and carry out the term of the contract.

## **ARTICLE 22: EFFICIENCY OF DOCUMENTS**

- 22.1 The documents forming the Agreement (hereinafter also called the contract documents) are to be taken as mutually explanatory of one another.
- 22.2 If the any of the Parties finds any discrepancy in or divergence between any two or more or the contract documents including a discrepancy or divergence between parts of any one of them, the Party shall immediately give to the other Party a written notice specifying the discrepancy or divergence and the other Party shall issue instruction in regard thereto provided always that such discrepancy or divergence shall not vitiate this Agreement.
- 22.3 This Agreement has been made in duplicate, each Agreement on Rest. 100/- stamp paper. Each Party of this Agreement has retained one stamped copy reach.

**SIGNED, SEALED AND DELIVERED BY Chief Executive Officer  
Naya Raipur Development Authority Raipur (C.G.)**

**In the presence of**

1. -----
2. -----

**SIGNED, SEALED AND DELIVERED BY FOR AND ON BEHALF OF**

**Authorised Signatory of Lessee  
Address \_\_\_\_\_**

**In the presence of**

1. -----

2. -----

**Pursuant to its Board resolution dated  
dated----- in the presence of-----**

----- confirmed by the Company Secretary vide letter

1-----

**(Signature)**

2-----

**(Signature)**

**Schedules:**

**Schedule I: Project Details**

**Schedule II: Payment Schedule**

**Schedule III: Performance Security (Bank Guarantee)**



## **GUIDELINES FOR DEVELOPMENT OF PROJECT SITE:**

**Note:**

- b) The provisions in the Naya Raipur Development Plan 2031 including the Development Control Regulation therein and Naya Raipur Urban Design Guideline are mandatory for any land development or building activity in Naya Raipur. For any other provisions required for Land development/ building activity, the "Chhattisgarh Bhumi Vikas Rules 1984" and National Building code shall be applicable.
- c) Broadly the Project development shall include construction of International School, provision of internal infrastructures, provision of physical, social and service infrastructure, within the land parcel, providing forward and backward linkages, providing services and operation and maintenance, in conformity with this agreement
- d) In case of plotted development the FAR and the ground coverage shall be applicable on net plot area after deducting area of roads and open space
- e) In case of apartments the FAR and the ground coverage shall be applicable on gross plot area without deducting area of roads and open space

## **Schedule II: Payment Schedule**

| <b>S. No</b> | <b>Payment as % of Land Premium</b> | <b>Payment Schedule</b>   |
|--------------|-------------------------------------|---|
| 2.           | 100% of the accepted Land premium   | within 45 (Forty Five) days of issue of the Notice of Award (NoA) |

### **Schedule III: Format of Bank Guarantee for Performance Security (On requisite Stamp Paper)**

B.G. No.

Dated:

1. In consideration of you, Chief Executive Officer, Naya Raipur Development Authority, having its office at Capitol Complex, Sector-19, Naya Raipur – 492002, Chhattisgarh (hereinafter referred to as the “NRDA”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Tender of and having its office at \_\_\_\_\_ and acting on behalf of the Tendered (hereinafter referred to as the “Tenderer” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), **Allotment of Plot For International School in Sector 24 in Naya Raipur , Naya Raipur (hereinafter referred to as “the Project”)** pursuant to the Tender Document no. .... Dated..... issued in respect of the Project and other related documents (hereinafter collectively referred to as “Tender Documents”), we [Name of the Bank] having our registered office at and one of its branches at (hereinafter referred to as the “Bank”), at the request of the Tenderer, do hereby in terms of the Tenderer Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the RFP Document by the said Tenderer and unconditionally and irrevocably undertake to pay forthwith to NRDA an amount of Rs ...../- (Indian Rupees only) as **Performance Security (hereinafter referred to as the “Performance Security”)** as our primary obligation without any demur, reservation, recourse, contest protest and without reference to the Tenderer if the Tenderer shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Tender Documents.
2. Any such written demand made by NRDA stating that the Tenderer is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Tender Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Tenderer or any other person and irrespective of whether the claim of NRDA is disputed by the Tenderer or not merely on the first demand from NRDA stating that the amount claimed is due to NRDA by reason of failure of the Tenderer to fulfil and comply with the terms and conditions contained in the Tender Documents including failure of the said Tenderer to keep its Tender open during the Tender validity period as set forth in the said Tender Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding INR. .... (Indian National Rupees only).
4. This Guarantee shall be irrevocable and remain in full force through the commencement of operations as mentioned under Schedule-F, Part-D- Minimum Development Obligations viz. **3 years (Three) and 6 months (Six)** thereof or for such extended period as may be mutually agreed between NRDA and the Tenderer, and agreed to by the Bank, and shall continue to be enforceable till the subjected work under this Guarantee have been completed (as mentioned in the RFP document)
5. We, the Bank, further agree that NRDA shall be the sole judge to decide as to whether the Tenderer is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Tender Documents including, inter alia, the failure of the Tenderer to keep its Tender open during the Tender validity period set forth in the said Tender Documents, and the decision of NRDA that the Tenderer is in default as aforesaid shall be final and binding on us, notwithstanding any differences between NRDA and the Tenderer or

Naya Raipur Development Authority – Draft Lease cum Development Agreement  
any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6. The Guarantee shall not be affected by any change in the constitution or winding up of the Tenderer or the Bank or any absorption, merger or amalgamation of the Tenderer or the Bank with any other person.
7. In order to give full effect to this Guarantee, NRDA shall be entitled to treat the Bank as the principal debtor. NRDA shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Tender Documents or to extend time for submission of the Tenders or the Tender validity period or the period for conveying acceptance of Letter of Award by the Tenderer or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Tender Documents by the said Tenderer or to postpone for any time and from time to time any of the powers exercisable by it against the said Tenderer and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Tender Documents or the securities available to NRDA, and the Bank shall not be released from its liability under these presents by any exercise by NRDA of the liberty with reference to the matters aforesaid or by reason of time being given to the said Tenderer or any other forbearance, act or omission on the part of NRDA or any indulgence by NRDA to the said Tenderer or by any change in the constitution of NRDA or its absorption, merger or amalgamation with any other body or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch that shall be deemed to have been duly authorized to receive the said notice of claim.
10. It shall not be necessary for NRDA to proceed against the said Tenderer before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which NRDA may have obtained from the said Tenderer or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealized.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of NRDA in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorized and has full power to execute this Guarantee for and on behalf of the Bank.
13. The Bank Guarantee number \_\_\_\_\_, dated \_\_\_\_\_ shall be operative at Raipur/ Naya Raipur and if invoked, be encashable at (name of bank and its branch in Raipur/ Naya Raipur and branch code).

Signed and Delivered by

By the hand of Mr./Ms \_\_\_\_\_, its \_\_\_\_\_ and authorized official.

**(Signature of the Authorized Signatory)**

**(Official Seal)**