



Naya Raipur Development Authority (NRDA)

Near Mahanadi Dwar of Mantralaya

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REQUEST FOR PROPOSAL

Volume II: Draft Development Agreement (DDA)

Development of 130 Acre (52.61 Ha) Sports City in Naya Raipur through Public Private Partnership (PPP)

DEVELOPMENT AGREEMENT

FOR

DEVELOPMENT OF SPORTS CITY

AT NAYA RAIPUR THROUGH PRIVATE PUBLIC PARTNERSHIP

BETWEEN

NAYA RAIPUR DEVELOPMENT AUTHORITY (NRDA)

AND

_____ (“DEVELOPER”)

DEVELOPMENT AGREEMENT

This Development Agreement is entered into on this the [●]¹ day of [●], 2011 at Naya Raipur, Chhattisgarh

BETWEEN

Naya Raipur Development Authority ("NRDA") established under the [●], having its registered office near Mahanadi Dwar, Mantralaya, Raipur- 492001, Chhattisgarh (hereinafter referred to as "**NRDA or Authority**" which expression shall unless the context otherwise requires, include its successors/ successors in business and permitted assigns and substitutes) of the FIRST PART;

AND

[●]², a company incorporated under provisions of the Companies Act, 1956, having its registered office at [●]³ (hereinafter referred to as the "**Developer**", which expression shall, unless the context otherwise requires, include its successors/ successors in business and permitted assigns and substitutes) of the SECOND PART;

NRDA and the Developer are hereinafter also jointly referred to as "**Parties**" and severally as "**Party**".

¹ SNG Comment: Please insert date and month of the Agreement

² SNG Comment: Please insert name of the SPV

³ SNG Comment: Please insert address here

WHEREAS:

- A. NRDA, formed under the Chhattisgarh Nagar Tatha Gram Nivesh Adhiniyam, 1973, was set up to act as the nodal agency of the city of Naya Raipur and is the apex authority for all works related to development and construction.
- B. NRDA is desirous of developing a piece of land, spread over an area of 130 acres, to be developed as per the Naya Raipur Development Plan, 2031 (hereinafter referred to as “**Project Land**”).
- C. Upon the Project Land of 130 acres, the Authority plans to develop a Sports City, comprising a residential zone on 93 acres of land, club house with sports facilities and various utilities till the boundary of Recreational Area of 37 acres. (Hereinafter referred to as “**the Project**”, more specifically defined in clause 1.1 of this Agreement).
- D. In furtherance of the objectives as defined above, NRDA invited competent private parties by means of a Notice Inviting Tenders (“NIT”) bearing No. [●]4 dated [●]____, 2012 to develop and maintain Sports City.
- E. In response to the NIT, several proposals including that of the successful bidder were received. After evaluation of the proposals that were received, the Authority accepted the proposal submitted by the successful bidder and having found the same to meet the parameters prescribed in the Request for Proposal (“RFP”) document, issued its acceptance by means of a Letter of Award (“LoA”) bearing No.[●]5____ which, inter alia, requires the Developer to execute with the Authority a Development Agreement within [●]6 days of the date of the LoA. Pursuant to the issuance of LoA the Consortium has incorporated and constituted _____ as the Special Purpose Vehicle created for the sole purpose of implementation of the Project.
- F. Pursuant to the above bid procedure, NRDA is executing this Development Agreement to transfer and assign to the Developer its rights and obligations with regard to designing and planning, financing, marketing, development of necessary infrastructure, provision of necessary management of the Project along with the rights to sub-lease, determine, levy, collect

⁴ SNG Comment: Please confirm the no. of the NIT

⁵ SNG Comment: Please confirm the details of the LoA.

⁶ SNG Comment: Please insert number of days

and utilize the sub-lease rentals, user charges, fees for provision of services and/or tariffs in accordance with the terms herein

NOW THEREFORE IN CONSIDERATION OF THE FOREGOING AND THE RESPECTIVE COVENANTS AND AGREEMENTS SET FORTH IN THIS DEVELOPER AGREEMENT, THE SUFFICIENCY AND ADEQUACY OF WHICH IS HEREBY ACKNOWLEDGED, AND INTENDING TO BE LEGALLY BOUND THE AUTHORITY AND THE DEVELOPER HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

ARTICLE 1: DEFINITIONS & INTERPRETATION

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:

“Agreement” means this agreement including the Schedules hereof entered into between NRDA and the Developer as may be amended, supplemented or modified from time to time in accordance with the provisions hereof,

“Agreement Date” means the date of execution of this Agreement

“Affiliate” means, with respect to any Party and/or with respect to the Single/ Individual Bidder and/or with respect to any member of Consortium, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member. As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

“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.

“Approvals” means any and all licenses, permissions, clearances, authorisations, consents, sanctions and no-objection letters for and in respect of the Project from any Governmental Authority required under the Applicable Laws, regulatory or departmental authority including approvals that may be required in relation to compliance with environmental laws.

“Bank” means a scheduled bank, other than, a Co-operative bank, incorporated in India and having a branch in Chhattisgarh.

“Bank Guarantee” means an irrevocable and unconditional bank guarantee payable on demand for an amount of Rs...../- [Rupees] issued by any Bank at Chhattisgarh acceptable to NRDA in the format specified in SCHEDULE III in favour of NRDA and

furnished by the Developer to NRDA for guaranteeing the due and faithful performance of the obligations of the Developer under this Agreement. Here Bank means any Indian Nationalized Bank or any Indian Scheduled Commercial Bank whose net worth is not less than Rs. _____ crores as on _____.

“Battery Limit” shall mean the boundary of the area demarcated as the Recreational Area (14.83 hectares)

“Bid” means the documents submitted by the Developer to NRDA in response to the ‘Tender Documents’ in accordance with the provisions thereof. The words “Bid” and “Proposal” are used synonymously.

“Bid Security” means the security submitted by the Developer in accordance with Part 1 of the Tender Document (Request for Proposal).

“Bid Value” means the consideration payable by the Developer to NRDA as per Article 5.2 of this Agreement.

“Change in Ownership” means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the change in management structure of the Developer in the opinion of the NRDA;

“Charter Documents” shall mean the memorandum and articles of association of the Developer as amended from time to time.

“Common Utilities” shall mean the provisions of water, sewerage, telecom, electricity and drainage in accordance with the Development Control Rules that the Developer will provide within the Project.

“Completion Certificate” means the certificate as may be issued by NRDA to the Developer in accordance with the conditions hereof, confirming the completion of the respective component or components, as the case may be, by the Developer consistently with the terms of this Agreement.

“Completion Date” means, the date of completion of the Project as mentioned in the Completion Certificate issued by NRDA.

“Compulsory Residential Component” shall mean the Residential Units for the economically weaker section and for the lower income Group which shall be developed as per the specifications and terms of this Agreement and shall form part of the Residential Zone.

“Commercial Units” means all units set-up/erected/constructed on such area of the Project Land which is approved by the competent authority as “commercial area” including the Sports Component and the shopping centre and retail facility, health centre , park play area and other community facilities.

“Conditions Precedent” means the conditions set out in Article 3 hereof.

“Contractor/s” means a person in the nature of a company, a proprietorship or a partnership either independent or an Affiliate of the Developer with whom the Developer has entered into/ may enter into an agreement requiring such Person to render any service pertaining to the Project.

“Day” means the twenty four (24) hour period beginning and ending at 12:00 midnight than Standard Time.

“Designs and Drawings” means the conceptual and detailed construction plans, designs, drawings, technical information required for the Project and all calculations, samples, specifications and other technical information submitted by the Developer from time to time to the respective authority as required in accordance with the provisions of this Agreement, to enable proper and safe development of the Project.

“Detailed Master Plan” shall mean the detailed concept plan for the Project including the area statement, block drawings, infrastructure layout, specifications etc., as per the applicable Local Byelaws, norms, etc prepared by the Developer and submitted to NRDA by the Developer within a period of 180 days from the Agreement Date of for its approval.

“Defect Liability Claim” shall have the meaning ascribed to the said term in Article 20 hereof;

“Detailed Project Report” means the documents submitted by the selected developer to NRDA for its approval. The document shall contain details including detailed master plan, location plan, Layout plans, infrastructure plan with drawings, specifications, block /typical plan and elevation of different structures planned within the project, conceptual views and details of portray the project, utility layout details, project milestone schedule, architectural plan, cross section, and elevation of the proposed structure and any other document/map/drawing which may provide understanding about the proposed structure and its functional utilities.

“Development Agreement” means this Agreement.

“Developer Representation and Warranties” shall have the meaning ascribed to the said term in Article 9.1

“Development Fee” shall mean the same as **“Bid Value”**

“Development Period for the Residential Zone ” means the development period as envisaged in Article 2.2.1 hereof.

“Development Period for the Recreational Area” means the development period as envisaged in Article 2.2.2 hereof.

“Development Period” means the aggregate of the development period for the Residential Units, Sports Components, and Compulsory Residential Components as envisaged in Article 2.2 hereof.

“Development Right” shall have the meaning ascribed to the said term at Article 2.1 hereof.

“Dispute” has the meaning ascribed to the said term at Article 16 hereof.

“Effective Date” means the date on which all the Conditions Precedent are satisfied or waived as per Article 3 in writing by both the Parties.

“End User” shall mean such person having possession of the Residential Units and Commercial Units, as the case may be, in the Project in accordance with the terms of this Agreement.

“Fees” means the charges that may be collected by the Developer from End User of the Project towards Operation and Maintenance of the Project.

“Financing” means the aggregate amounts to be provided by way of loan, lease finance, hire purchase finance or otherwise to the Developer by the Lenders for the Project and shall include all related financial charges, fees and expenses of all kinds relating to the Project.

“Financing Documents” means, collectively, the loan agreements, notes, indentures, security agreements or arrangements, guarantees, acceptable letters for credit and other agreements evidencing any obligation of the Developer, 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.

“Force Majeure” means an act, event, condition or occurrence specified in Article 12 hereof.

“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.

“Governmental Authority” means any government or political subdivision thereof; any department, agency or Instrumentality of any government or political subdivision either at the Central level or the State of Chhattisgarh including but not limited to governmental agencies, departments and authorities generally in relation to the real estate development in the State of Chhattisgarh or related with sports infrastructure including but not limited to Sports Authority of India; any court or arbitral tribunal;

“Implementation Plan” means the plan referred to in Article 6.2.1 to be prepared by the Developer in a form acceptable to NRDA, setting out, inter alia, the steps, procedures and processes undertaken and to be undertaken by the Developer in the immediately following quarter, towards completion of the Project.

“Lease Deed” means the deed (in the form and content more specifically set out in document as Schedule IV hereto) proposed to be executed by and between NRDA and the Developer.

“Lenders” means the banks or other financial Institutions, either public or private, providing the debt, Financing for the execution of the Project.

“Letter of Acceptance or “LOA” means the Letter dated [•] and number [•] issued by the NRDA to the Developer pursuant to which the Developer shall be authorised by the NRDA to participate in the Project.

“Marketing Rights” shall mean any act by the Developer, or any Person duly authorised by it, which entitles acceptance, collection or appropriation of all revenues accruing to the Developer, or to such Person, directly or indirectly from the Premium Residential Units or Compulsory Residential Component or Sports Component, as the case may be, which shall include, without limitation, the following:

- (i) aggregate of all the amount(s) in the nature of pre-booking monies,
- (ii) token monies, advances, deposits etc, in whatever manner and form, received by the Developer;

“Material Adverse Change” means any situation which in the reasonable opinion of NRDA may cause a substantial undesired change in the ability of the Developer to perform its obligation set out under this Agreement.

“Month” means the calendar month as per the Gregorian calendar.

“NRDA’s Assets” means the assets set out in Schedule I hereto, owned by NRDA.

“NRDA Representation and Warranties” shall have the meaning ascribed to the said term in Article 9.2

“Naya Raipur Development Plan 2031” means the Naya Raipur Development Plan 2031 as published by NRDA for the city of Naya Raipur.

“Operation and Maintenance” means the various activities required for the preservation and upkeep of the Project components.

“Operation and Maintenance Period” means, in relation to each of the Project components the period during which Operation and Maintenance activities are carried out in accordance with the provisions of this Agreement.

“Operator” means a Person operating the Residential Zone on Developer’s behalf and appointed by the Developer for the Operation and Maintenance of the Project

“Performance Security” means the security to be provided by the Developer for performance guarantee to NRDA in the form of a Bank Guarantee of a Bank as per Article 6.12 hereof.

“Person/s” means any individual, company, corporation, partnership, joint venture, trust, unincorporated organisation, government or Governmental Authority or agency or any other legal entity.

“Premium Residential Units” shall mean only the villas and group housing flats built on the Residential Zone on an area admeasuring approx 93 acres of the Project Land earmarked for the Residential Units.

“Phase I of Project” shall mean development of Project on 19 hectare of land out of total 37.76 hectare land available to Residential Zone of the Project

“Phase II of Project” shall mean development of Project on 18.76 hectare of land out of total 37.76 hectare land available to the Residential Zone of the Project.

“Project” shall mean development by the Developer of the Residential Zone and Commercial Units to be built on an area of 93 acres of the Project land (“hereinafter referred to as the

“Residential Zone”) and the development of club house with 2 lawn tennis courts, a swimming pool with diving board, one basketball court, one volley ball court, 2 badminton courts, 2 tables for table tennis, one gymnasium and land development, provisioning of infrastructures like water supply, sewerage, drainage, electricity etc. upto the boundary of the Recreational Area of 37 Acres.

“**Project Agreements**” means collectively this Agreement, the Financing Documents and any other agreements executed by the Developer with the NRDA or other Person relating to the Project during the subsistence of this Agreement;

“**Project Assets**” means all physical and other assets, except the NRDA’s Assets, relating to and forming part of the Project including but not limited to (ii) tangible assets such as civil works and plant & machinery, electrical and mechanical works of the Project, telephone and other communication systems and equipment for the Project, administration, maintenance and communication systems and equipment for the Project, administration, maintenance and store, service facilities, etc. (iii) the rights of the Developer under any of the Project Agreements, (iii) financial assets of the Developer such as Letter of Credit, security deposits for electricity supply, telephone etc. (iv) insurance proceeds subject to the Lenders rights thereto and (v) Approvals and authorisations relating to or in respect of the Project.

“**Project Land**” shall have the meaning ascribed to the said term in Recital B above and shall mean such land upon which the following areas/ facilities shall be situated:

- a. Sports Components
- b. Premium Residential Units
- c. Compulsory Residential Components
- d. Common Utilities

“**Public Utilities for Residential Units**” shall mean provisions of roads, parking, open spaces, parks including schools, hospitals and primary health care centre, shopping centre, other community facilities and Common Utilities etc. in accordance with the Development Control Rules that the Developer will provide in the Premium Residential Zone.

“**Recreation Area**” shall mean the 37 acre land adjacent to Residential Zone demarcated in the Schedule II.

“**Residential Units**” means all buildings/ structures/ units constructed on such area of the Project Land which is approved by the competent authority as residential area admeasuring 93 acres in the Layout Plan in terms of this Agreement and shall include Premium Residential Units comprising of the Villa, 3 bed room flats , 2 bedroom flats, and Compulsory Residential

Components comprising of flats for economically weaker sections and for lower income group and plots.

“Residential Zone” shall mean the area admeasuring approx 93 acres of the Project Land earmarked for the Residential Units having a mix of independent villas and group housing as well residential units for economically weaker sections and people from lower income group as well as the Public Utilities for Residential Units. Residential Zone shall include both the Premium Residential Unit as well as the Compulsory Residential Components.

“Rupees” or “Rs.” means Indian Rupees being the lawful currency of the Republic of India.

“SBI PLR” means the prime lending rate as fixed from time to time by the State Bank of India.

“Scheduled Project Completion Date” means the last day of 120 Months starting from the Effective Date or the Date on which NRDA Assets are actually handed over to the Developer, whichever is later.

“Sports Components” will include the Club house with 2 lawn tennis courts, a swimming pool with diving board, one basketball court, one volley ball court, 2 badminton courts, 2 tables for table tennis, one gymnasium.

“Successful Bidder” means the Single/ Individual Bidder or the Bidder Consortium consisting of M/s _____, _____ & _____ (with _____ as its Lead Member) that is finally awarded the Project and invited to enter into the Development Agreement.

“Taxation or tax” means, in relation to the Project or Gross Revenue, 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 governmental 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 Developer or its affiliates, contractor, servants or agents and all penalties, charges, costs and interest relation thereto.

“Tender Documents” means the documents (request for proposal) pertaining to the Project including all clarifications, addenda and revisions thereto, issued by NRDA to the bidders.

“Termination” means the discontinuation or cessation of this Agreement by NRDA, consistently with the terms hereof.

“Total Transferable Land Area of residential zone” means the transferable land area of residential zone after deduction of land area for common infrastructures, roads, open area,

green area, and area identified for amenities and facilities, as per the layout approved by the competent authority, from the gross land area of the residential zone.

1.2 Interpretation

In this Agreement:

- (a) references to any legislation or any provision thereof shall include amendment or reenactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (c) references to a “person” and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns subject to the provisions of this Agreement;
- (d) The singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organizations or other entities (whether or not having a separate legal personality)
- (e) The table of contents, headings are inserted for convenience and shall not be used in and shall not affect the construction or interpretation of the contents thereunder.
- (f) 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.
- (g) The words “include” and “including” are not to be constructed without limitation.
- (h) The Articles / Schedules to this Agreement form 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.

- (i) 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 Developer, as the case may be, is amended, varied, supplemented, modified or suspended without NRDA 's or the Developer's as the case may be consent;
- (j) references to "construction" include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities that are to be completed on or before "Project Completion Date" as per the scope of work as defined under Article 2, and "construct" shall be construed accordingly;

1.3 Priority of Documents

In the event of any conflict between the provisions of the RFP, LOA and this Agreement, the documents shall be interpreted the following order of priority;

- (a) This Agreement
- (b) LOA
- (c) Tender Documents

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

1.5 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning.

1.6 In case of ambiguities or discrepancies within this Agreement, the following shall apply:

- (a) between two or more Clauses of this Agreement, the provisions of a specific Article relevant to the issue under consideration shall prevail over those in other Clauses;
- (b) between the Clauses of this agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
- (c) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;

- (d) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
- (e) between any value written in numerals and that in words, the latter shall prevail.

ARTICLE 2: THE DEVELOPMENT RIGHT

2.1 Grant of Development Right

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 to the Developer, exclusive rights for and in relation to development of the Project 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. While undertaking development of the Project, the Developer shall adhere to approved building plans and latest amended Naya Rapiur Development Plan, 2031, National Building Code of India, other relevant IS Codes and practices, Development Control Regulations, FAR Limits, statutory requirements, laws of land, the principles of good industry practices and any other norms as applicable from time to time.

2.2 Development Period

Development Period for the Project subject to the provisions of this Agreement, shall never exceed a period of 120 months from the Effective Date.

Provided that in the event of any delay attributable to NRDA in handing over possession of the NRDA's asset to the Developer in accordance with Article 2.4 hereof, the Development Period for the Project shall commence from the date the NRDA's Asset are actually handed over to the Developer. For the avoidance of doubt, the Developer shall be obliged to procure from NRDA a letter recording the date on which such hand over of assets would have been effectuated by NRDA, which date shall be the "start" date for calculation of the Development Period for each of the components of the Project.

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

2.2.1 Residential Zone

The Development period for Phase I of the Project will be first 5 years starting from the Effective Date and the Development Period for the Phase II of the project will be 5 years starting from the date of execution of lease deed for Part II project site. Developer will have the option to develop Sport Component in Phase I or Phase II. Developer shall ensure that at least 15% and 10% of the total

number of Residential Units in the Residential Zone during Phase I of the Project and Phase II of the Project comprises the Compulsory Residential Components proposed to be developed as housing for economically weaker sections (EWS) and lower income group (LIG), respectively.

2.2.2 Common Utilities for Recreational Area

The Development Period for the provisioning for Common Utilities at the Battery Limit of the Recreational Area shall be a total period of 30 months starting from the Effective Date ("**Development Period for the Infrastructure for recreational area**").

2.3 Acceptance of the Development Right

The Developer hereby accepts the Development Right and agrees and undertakes to develop and complete the Project in accordance with the provisions of this Agreement.

2.4 Access to NRDA 's Assets

In consideration of the Developer agreeing to perform and discharge its obligations as set forth the NRDA hereby agrees to grant to the Developer, the exclusive right to enter upon, occupy and use the NRDA's Asset for the purpose of implementing the Project in accordance with this Agreement and puts the Developer in exclusive possession thereof, in terms of this Agreement. NRDA shall also share information about the specification of water supply, sewerage, power, telecom networks, to which infrastructure of this Project will be connected

2.5 Use of NRDA's Assets

The Developer shall not without the prior written consent or approval of the NRDA use the NRDA's Asset for any purpose other than for the purposes of developing the Project as hereby permitted and for purposes incidental thereto as permitted under this Agreement or as may otherwise be approved in writing by the NRDA.

2.6 Information about NRDA's Asset

The information about the NRDA's Assets, as set out in Schedule I, is provided by the NRDA in good faith and with due regard to the matters for which such information is required by the Developer. The NRDA agrees to provide to the Developer, upon a reasonable request, any further information relating to the NRDA 's Assets, which the

NRDA may now possess or may hereafter come to possess. The NRDA makes no representation and gives no warranty (whether express or implied) to the Developer in respect of the condition of the NRDA 's Assets.

2.7 Acceptance of the NRDA 's Assets

The Developer hereby agrees to accept possession of NRDA's Assets on 'as is where is' basis.

2.8 Peaceful Possession

The NRDA warrants that the Developer shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the NRDA 's Assets during the Development Period. In the event the Developer is obstructed by any Person claiming any right, title or interest in or over the NRDA's Assets or any part thereof or in the event of any enforcement action including any attachment, restraining order, appointment of receiver or liquidator being initiated by any Person claiming to have charge on the NRDA 's Assets or any part thereof, the NRDA shall, if called upon by the Developer, co-operate with the Developer to defend such claims and proceedings. The Developer and NRDA shall jointly bear and pay the costs pertaining to any such defence by NRDA .

2.9 Scope of the Project

Development

Subject to the provisions of sub article 2.9.1, 2.9.2, 2.9.3 and 2.9.4 below, the obligations of the Development in respect of the Project shall include the following:

- a) Design, finance, engineer, construct, equip, operate, market, maintain, and manage the Project during the Term of the Agreement.
- b) Survey, investigations, studies, planning, designing, monitoring, construction, marketing, obtaining, Approvals from competent authority, Operation and Maintenance of a Residential Zone, Commercial Units and other infrastructure facilities as an integrated Project at Project Land.
- c) Generating revenues from the Project by inter-alia subleasing, subletting, licensing the assets, facilities, project utilities constructed upon the site.

- d) Operation and Maintenance of the Project during and after implementation of the Project as contemplated elsewhere herein; and
- e) Administration and management of the Project as contemplated herein.

2.9.1 Deleted

2.9.2 Common Utilities for Recreational Area

Developer shall only create provisions for the Common Utilities at the Battery Limit of the Recreational Area and no Development Rights shall vest in the Developer with respect to the Recreational Area.

2.9.3 Residential Zone

2.9.3.1 Developer shall design, finance, construct, market, the Residential Zone and shall also operate and maintain during the Operation and Maintenance Period. Developer shall within a period of 15 years from the Effective Date facilitate formation and registration of a residential welfare association in accordance with the Applicable Laws and shall vest the operation and maintenance of the Residential Zone in a residential welfare association so formed. For the avoidance of doubt it is clarified that during the Development Period for the Premium Residential Units and the Development Period for the Compulsory Residential Components or any extension of such period and till the first anniversary of the formation of Resident Welfare Association, the Developer shall be solely responsible for the operation and maintenance of the Residential Zone.

2.9.3.2 Subject to the provisions of Article 2.9.3.1, during the Operation and Maintenance Period, the Developer shall operate and maintain the Residential Zone, whether itself or through an Operator, modify, repair or otherwise make improvements to the Projects in accordance with specifications and in accordance with Good Industry Practice, applicable Indian Law and Indian directives and shall for that purpose do all such acts, deeds and things necessary and expedient including without limitation, the following:

- (a) Obtaining (or causing its agents and Contractors to obtain) all the Approvals required for the development , Operation and Maintenance of the Project on accordance with Applicable Laws;

- (b) Providing and maintaining of services within the Project including ensuring complete security and safety of the construction and of the Project as a whole, and
- (c) Ensuring timely collection of Fees from the End User which will be the exclusive responsibility of the Developer, Provided that the transactions in this regard between the Developer and End Users shall be carried out in a just and equitable manner and on an arms' length basis.

2.9.3.3 Developer shall ensure that at least 15% and 10% of the total number of Residential Units in the Residential Zone comprise the Compulsory Residential Components proposed to be developed as housing for economically weaker sections (EWS) and lower income group (LIG), respectively. Thus, 10% of the total Residential Units must be developed as units for LIG and 15% of the total number of Residential Units need to be developed as housing for EWS.

The specifications to be followed for construction of Compulsory Residential Components comprising of housing for LIG and economically weaker sections are given in the Schedule V.

Any default under this Agreement on the part of any Operator operating the Residential Zone on Developer's behalf shall be deemed to be a default on the part of the Developer.

2.9.4 Sports Components

Developer shall construct, develop, market, operate and maintain the club house with 2 lawn tennis courts, a swimming pool with diving board, one basketball court, one volleyball court, 2 badminton courts, 2 tables for table tennis, one gymnasium

2.10 Vesting of Project Land

Notwithstanding anything contained in this Development Agreement the physical possession of the site to be leased to the Developer under the Lease Deeds as per Schedule IV, shall only be granted to the Developer in tranches as per the phasing plan approved by NRDA.

ARTICLE 3: CONDITIONS PRECEDENT

3.1 Save and except as may otherwise be expressly provided herein, the respective rights and obligations of the Parties under the Agreement shall be subject to the satisfaction in full of the conditions precedent ("**Conditions Precedent**") as set out in Article 3 on or before the expiry of a period of 12 months from the Agreement Date.

3.2 Conditions Precedent for the NRDA

NRDA shall have provided to the Developer the following

- (i) Right of Way to the Project Site in accordance with the provisions of Article 2.4, Article 2.7 and Article 2.8, and
- (ii) Execution of lease deed for Part I Project Site
- (iii) Accorded approval to the Detailed Master Plan and the Detailed Project Report for the Project submitted by the Developer in such form and content as the NRDA may require for its approval provided that the Developer shall use best efforts in preparation of the said Detailed Project Reports mentioned above and NRDA shall approve the same within a period of 180 days from the Agreement Date subject to compliance by the Developer with the condition mentioned in Article 3.3(d), and
- (iv) Obtain approvals for diversion of land use from the appropriate authority(ies), if necessary.

3.3 Conditions Precedent for the Developer

NRDA may, in its sole opinion, terminate this Agreement if the Developer fails or is unable to achieve or fulfill any one or all the following conditions ("**Conditions Precedent**") within the stipulated time period for each of the below mentioned conditions or such extended date as may be permitted by NRDA:

- (a) to provide the Performance Security as contemplated in Article 6.12 hereof for an amount of Rs.[] Crore (Rupees ___only) within a period of 90 days from the Agreement Date.
- (b) Prepare and submit Detailed Master Plan and the Detailed Project Report in conformity with the Naya Raipur Development Plan, 2031 and Urban Design Guideline for the Project and preliminary project cost estimates, including the area

- statement, block drawings, to be so provided and as incorporated in the concept plan as per the applicable Local Byelaws, Norms, etc. within a period of 180 days from the Agreement Date.
- (c) apply for and submit to the appropriate Governmental Authority for necessary Approvals in relation to the Project with necessary fees, within a period of 180 (one hundred and eighty) days from the Agreement Date.
- 3.4 If the Conditions Precedent are not fulfilled, the NRDA may agree to extend the Effective Date on payment of penalty at the rate 1% of the amount of the Performance Security for month of delay or part thereof. In the event that the Conditions Precedent in respect of the Approvals are not fulfilled, then the NRDA may (in its sole discretion) provide the Developer an additional reasonable time required to enable the Developer to obtain the Approvals, provided however that the Scheduled Project Completion Date may not be extended commensurately.

3.5 Damages for delay in fulfillment of conditions precedent by the Developer

In the event that the Developer does not procure fulfillment of any or all of the Conditions Precedent set forth in this Article within the stipulated time frame or the 60 days cure period provided in this regard and the delay has not occurred due to Force Majeure, the Developer shall pay to the NRDA damages in an amount calculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each months delay or part thereof until the fulfillment of such Conditions Precedent, subject to a maximum of 20% (twenty percent) of the Performance Security.

3.6 Termination due to non-fulfillment of Conditions Precedent by the Developer

Notwithstanding anything to the contrary contained in this Development Agreement, in the event the Conditions Precedent as specified in Article 3.3 hereinabove is not fulfilled by the Developer before the Effective Date or an extension thereof, for any reason whatsoever, all rights, privileges, claims of the Developer, shall be deemed to have been waived by, and to have been ceased with the concurrence of the Developer, and this Development Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

Provided that upon termination of this Development Agreement for non-achievement of Conditions Precedent, NRDA shall be entitled to invoke the Performance Security deposited by the Developer with NRDA as provided in Article 6.12 and in addition.

Upon satisfaction of the Conditions Precedent by the Developer, as set forth above (unless NRDA at its option waives the satisfaction of the Conditions Precedent), the Developer shall deliver to NRDA a certificate from the Independent Engineer appointed in accordance with Article 17 of this Agreement in form and content reasonably acceptable to NRDA that the Conditions Precedent mentioned aforesaid have been satisfied.

ARTICLE 4: PROJECT SALE

4.1 Marketing of the Project

4.1.1 Marketing Rights

The Developer shall have Marketing Rights only for those land parcels for which Lease Deed as per Schedule IV has been signed in its favour. The Developer for the land parcels for which it has leasehold rights shall be responsible for marketing and transfer including the Premium Residential Zone, the Sports Component, and the Compulsory Residential Components. The Developer shall undertake all marketing activities in this regard at its own costs and expenses. However, subject to Article 6.10, the Developer may appoint Contractor for the marketing of the Project. During marketing the schemes for Residential Units, it shall be specified that while land has been provided by NRDA, Developer is responsible for construction, quality parameters, delivery schedule, defects if any, alongwith Operation and Maintenance of the Project.

4.1.2 Lease Price

The Developer will have the right to decide the lease price for transfer of Premium Residential Units as well as for Compulsory Residential Components.

4.2 Liability to Residential Unit owners

The Developer further agrees and undertakes that it shall be solely and exclusively liable to the Residential Units owners for all acts and omissions attributable to the Developer and/ or the Contractor and/ or the Operator engaged by the Developer.

ARTICLE 5 CONSIDERATION

5.1 In consideration of the NRDA granting the Development Right, the Developer shall pay to NRDA the Bid Value mentioned below:

5.2 Bid Value

“**Bid Value**” means the total amount payable by the Developer to NRDA i.e. Rs. [•] (Rupees only) being the consideration payable by the Developer for obtaining the right to develop the Project Land consistently with the terms hereof. NRDA acknowledges receivable amount of Rs. [•] /- (Rupees _____only) by way of the Demand Draft No.[•] dated [•] for [•] (Rupees _____only) issued by the [•] being a part of the Bid Value required to be paid by the Developer which is equivalent to 25% of the Bid Value. The Developer shall pay the balance and outstanding Bid Value to NRDA in the form of and in accordance with the timelines as under:

Installment No.	Due Dates	% of Bid value to be paid	Lease of Project Land
1.	Upon Signing of the Development Agreement.	25%	Nil.
2.	12 months from signing of the Development Agreement.	25% alongwith interest at 12% per annum on the balance Bid value from the date of Signing of Development Agreement.	At the time of Lease Deed for Phase I of the Project
3.	60 months from the date of signing of the Development Agreement.	50 % alongwith interest at 12% per annum on the balance Bid value from the date of 2 nd installment	At the time of execution of Lease Deed for the Phase II of Project subject to 100% completion of Phase I of the project, as per Detailed Master Plan approved by NRDA.

5.2.3 In case of delay on the part of the Developer to pay any installment of the Bid Value without prejudice to NRDA’s rights of Termination and reversion, NRDA may charge delayed interest at 14% per annum, compounded annually on such outstanding installment/s.

5.3 Lease Rental

The Developer shall also pay an annual lease rental to the NRDA in accordance with the Applicable Laws to the following extent in relation to the reference rate as may be published by NRDA from time to time.

- (i) The annual lease rent shall be calculated @ of 2% of the proposed Development Fee computed for per square meter of gross land area, which would be applicable for initial period of 30 years.
- (ii) The lease rent for the entire project land for residential land use shall be calculated on this basis and shall be proportionately distributed on the saleable Residential and Commercial units.

Renewal of lease shall be for two terms, each term shall be of 30 years, subject to an increase of maximum 100% of the annual lease rent prevailing at that time for each renewal

- (iii) The Developer and End Users will have the option of upfront payment of entire annual applicable lease rentals as per the policies of NRDA.
- (iv) Subject to the provisions of the Lease Deed as per Schedule IV and on completion of development of complete infrastructure on the demised parcel of land as per approved plan and on completion of construction of 80% (Eighty Percent) of total residential units thereon as per approved plan, the lessee or sub-lessee may request the Authority by written application to convert the period of lease of 30 years to free hold ownership. On receipt of such application and after verification, the Authority shall convert the lease to free hold ownership on the following terms and conditions:
 - a. The Lessee shall pay within one month from the date of intimation from the Authority, an amount equal to 1% (one percent) of the total land premium calculated at the prevailing guideline rate or development premium determined by the Authority, whichever is higher and;
 - b. The Lessee shall pay within one month from the date of intimation from the Authority, a lump sum amount equal to difference of eleven years annual lease rent and the annual lease rent already paid till the date of such intimation for conversion of lease to free hold ownership and;
 - c. The Lessee shall get the conversion deed registered under Registration Act 1908 at its own cost.
- (v) NRDA may at its sole discretion all conversion of Residential Units and Commercial Unit into freehold in the favor of the End Users on payment of 11 times of the annual lease rental by the respective End Users. However, NRDA may allow such conversion into freehold only after Project Completion by the Developer.

5.4 Increase in maximum permissible floor area ratio (FAR) applicable for the Project Site

In case of increase in maximum permissible FAR, applicable for the Project Site, as per the Naya Raipur Development Plan 2031, at any time after signing of this Agreement but before the date of issue of Completion Certificate for the Project, the Developer shall have option to use that additional permissible FAR but only after obtaining approval of NRDA in writing after submitting such request in writing for amendment of approved Detailed Master Plan and subsequently on the amended Detailed Master Plan for utilizing the additional permissible FAR. In the event NRDA approves such amendment in the approved Detailed Master Plan for utilizing the additional FAR, the Bid Value shall increase proportionally. The Additional Bid Value shall be calculated using the following formula:

$$\text{Additional Bid Value} = \text{Bid Value} \times \left(\frac{\text{Increase in maximum permissible FAR applicable for the project site from the Maximum permissible FAR applicable for the project site, applicable on the date of execution of this Agreement, as per the Naya Raipur Development Plan 2031)}{\text{Maximum permissible FAR applicable for the project site, applicable on the date of execution of this Agreement, as per the Naya Raipur Development Plan 2031}} \right)$$

Additional Bid Value shall be paid by the Developer to NRDA within 7 days from the date of letter of NRDA, communicating approval on the amended Detailed Master Plan for utilizing additional permissible FAR (Date of grant for increased FAR). Failure to pay such Additional Bid Value within the stipulated date shall form event of default for the Developer.

On the written request of the Developer, NRDA at its discretion may grant a maximum of 30 days of time, from the Date of grant for increased FAR, for the payment of Additional Bid Value.

In case the Developer pays the amount after 7 days but before 30 days of from the Date of grant for increased FAR, the Developer shall pay interest on the amount of Additional Bid Value at the Bank Rate⁷ plus 4% for the period from the 7th day of Date of grant for increased FAR till the date of actual payment made. Failure to pay such Additional Bid Value plus complete interest amount within 30 days from the Date of grant for increased FAR shall form event of default for the Developer.

⁷ Bank Rate published by Reserve Bank of India in its website <http://www.rbi.org.in/home.aspx>

No additional time shall be granted to the Developer for the construction for utilizing the additional FAR granted.

ARTICLE 6: PROJECT REQUIREMENTS

6.1 Deleted

6.2 Progress Reports

6.2.1 Within 30 days after the Effective Date and quarterly thereafter, the Developer shall submit the Implementation Plan to the NRDA mapped in relation with the Project Implementation Schedule approved by the NRDA to enable it to monitor the activities and sequences planned by the Developer to achieve completion of the Project (“**Implementation Plan**”). Simultaneously therewith the Developer shall also submit a summary report of the work carried out by it up to the date of such report.

6.2.2 The Developer shall respond promptly to queries and in any event before the expiry of (three) days after the date of receipt of the relevant query/ queries from the NRDA from time to time in respect of progress with the Project and other matters in relation to the Project by such means as are agreed from time to time.

6.2.3 The Implementation Plan will be monitored and reviewed regularly by the NRDA so as to ensure that the same is commensurate with the requirement for smooth and efficient implementation of the Project and should the need arise the Developer shall without demur provide such additional and/ or equipment as is deemed necessary.

6.2.4 Subject to the above provision, the Project implementation would be carried out in a phased manner as specified in the Project Milestone Schedule.

6.3 Preparation of Plans, Designs, Drawings and Technical Specifications

6.3.1 The Developer shall, at its cost, charges and expenses, plan and prepare the Designs and Drawings for the Project in accordance with the preliminary Designs and Drawing criteria as set out in the Tender Document complying with the rules and regulations prescribed by the Department of Urban Planning, Naya Raipur, Chhattisgarh and shall submit the Designs and Drawings to the competent governmental authority for its approval. Approval to such Designs and Drawings by the competent Governmental Authority shall be obtained before commencement of construction.

6.3.2 The preparation of detailed Designs and Drawing of all the components of the Project shall be the responsibility of the Developer.

6.3.3 The whole of the work mentioned immediately above shall be carried out strictly in accordance with the scope indicated in these documents, and as per the following specifications:

- 1) Naya Raipur Developmental Plan, 2031
- 2) Urban Design Guideline
- 3) Codes & Standards of Bureau of Indian standards
- 4) British standard specifications
- 5) American standard specifications
- 6) Any other standard specifications approved by the Steering Committee

The Developer shall adhere to the above specifications given above in same order of preference.

6.4 Review and approval of the Designs and Drawings

6.4.1 The Developer shall submit the Designs and Drawings of the Project in compliance to Applicable Laws, guidelines, Naya Raipur Development Plan 2031 and its amendments and obtain the approval of competent Governmental Authority within 6 (six) months from the Agreement Date.

6.4.2 The competent Governmental Authority may seek from the Developer any clarifications or may suggest any changes or modification or corrections and/ or ask the Developer to recast the Designs and Drawings as it may deem fit and proper. Thereupon, the Developer shall provide necessary clarification to the competent authority and / or re-submit the Designs and Drawings as the case may be, after incorporating the changes, modifications or corrections suggested by the competent authority with a copy to NRDA.

6.4.3 If the competent Governmental Authority does not object to the Designs and Drawings submitted to it by the Developer within thirty days of re-submission, the competent authority shall be then approached by NRDA upon receipt of a written request from the Developer in this regard so as to facilitate the approval of such Designs and Drawings. If the approval of Designs and Drawings is not received by the Developer after 30 working days from receipt of such request letter from NRDA, Developer shall be entitled to proceed with the Project as per the last revised Designs and Drawings submitted with a written notice to NRDA. Notwithstanding the above mentioned, right of the Developer to proceed with the Project pending approval on such Designs and Drawings does not amount to waiver of the condition that all Designs and Drawings shall be prepared in such a manner that all components in the Project are structurally safe and sound as per applicable codes and as per applicable laws, guidelines, Naya

Raipur Development Plan 2031 and their amendments, non-compliance to which will form an Event Of Default for the Developer

- 6.4.4 The Developer shall not be entitled to any extension of time for completing construction or any other relief on account of delay caused due to providing any clarification or its resubmitting the Designs and Drawings.
- 6.4.5 The Developer shall not change any Designs and Drawings approved or deemed to be approved by the competent authority under this Agreement, without the prior written consent of the NRDA and shall abide by the terms and conditions thereof. Provided that the Developer may, for more efficient functioning of the Project propose to the appropriate authority and NRDA, changes to the approved Designs and Drawings and specification of any equipment consistent with all designs standards applicable to the Project and the Applicable Laws. The competent authority shall review such proposed changes and communicate its approval within 30(thirty) working days or otherwise thereto in writing to the Developer. The decision of the competent Governmental Authority in this regard shall be final and binding.
- 6.4.6 Notwithstanding the express or deemed approval by the competent Governmental Authority, the Developer shall be solely responsible for any defect and/ or deficiency in the Designs and Drawings relating to the Project or any part thereof and accordingly the Developer shall at all times remain responsible for its obligation under this Agreement.
- 6.4.7 Any review of the Designs and Drawings conducted by the NRDA is solely for the NRDA's own information and that by conducting such review, the NRDA does not accept any responsibility for the same. It is further agreed that no review and/or observation of the NRDA and/or its failure to review and/or convey its observations on any document shall relieve the Developer of its obligations and liabilities under this Agreement in any manner nor shall the NRDA be liable for the same in any manner whatsoever.
- 6.4.8 The Developer shall in no way present 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 Developer and the Developer shall, subject to the provisions of this Agreement, be solely responsible for the technical feasibility, operational capability and reliability of the Project or any part thereof.

6.5 Development

6.5.1 Subject to the provisions of Article 6.4 above and Article 2.2, the Developer shall complete the implementation of the Project in accordance with the Designs and Drawings and Project Schedule within the Development Period as per the project mile stone provided in the Detailed Project Report. The Developer shall obtain necessary approval from competent authority for completion of construction of Project in accordance with the provisions of this Agreement.

- a) The Developer shall make its own arrangements for procuring all the materials which may be required for development of the Project and required for the work.
- b) The Developer shall get all the materials to be used for construction tested and other tests of completed items as its own cost and keep appropriate records/certificates.

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

6.5.3 The Developer shall ensure that the Project is developed and implemented in accordance with the Agreement in a proper and workmanlike manner using Good Industry Practice satisfying all the codal provisions.

6.5.4 The Developer shall comply with and shall ensure that its Contractor's and other service providers that may be engaged for the Project also comply with all the statutory provisions for the time being in force in respect of the persons employed/ engaged by it or its Contractors for and in relation of 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 rectified or replaced, as the case may be, in accordance with such advice from the NRDA, at the cost of the Developer.

Provided however that the Development Period for any of the components of the Project shall not be extended on account of time spent by the Developer rectification or replacement of defects or damages.

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

representative. The Developer shall at all times during regular working hours 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 Developer's duly authorised agent/representative shall be considered to have the same force and effect as if they had been given to the Developer himself. Provided that failure on the part of the NRDA to inspect any works shall not, in relation to such work, (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 Developer 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 Developer 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 Utilities

Till formation of the Residential Welfare Association by the Developer in accordance with Article 2.9.3.1 of this Agreement Developer shall be responsible for the following works in relation with the Common Utilities:

- a) The Developer shall have to make its own arrangement within the complex for tubewell(s), with prior permission of the relevant Governmental Authorities, treatment plant and the booster as per requirement for construction purposes. The Developer shall meet the water requirement for the entire complex. The Developer shall make application to the competent authority for provision of tubewell(s) at its own cost and expenses and shall pay bills at the applicable rates on its usage. Developer shall carry out the Operation and Maintenance of metering, billing of water supply in the complex.
- b) Developer shall arrange power supply during execution and during operation & maintenance subject to the requisite electricity load sanctioned to the Project. The Developer shall carry out an operation and maintenance of the system. The Developer shall pay bills at the applicable rates on its usage
- (c) Main storm water drains will be laid by the relevant Governmental Authority upto the boundary of the Project Land. The Developer should make two or more connections at its own cost to avoid accumulation at the location.

- (d) Main sewer line for connection will be made available by the relevant Governmental Authority upto the boundary of the Project Land. Main sewer line to be laid shall be of the capacity such that it meets the requirement of the Project. To avoid connection of discharge the Developer shall make two or more connections in the main sewer at its own cost to be laid by relevant Governmental Authority.
- (e) The Developer shall also ensure provision of telecommunication lines. The cost for the same shall be borne by the Developer.

6.8 Insurances

6.8.1 Insurance during the Development Period:

Developer shall procure and maintain, at no cost to NRDA during the construction stage of the Project, such insurances as may be required under Applicable Law and such insurances as Developer may reasonably consider necessary or desirable in accordance with Good Industry Practice, such insurance shall include:

- a) Contract work insurance of the Project constructed, or in the course of execution, and materials, equipment, machinery, spares, plant and other property on the site for the purposes of the Projects. The sum insured shall not be less than the cost of reconstruction or replacement, as the case may be, of the property insured; and
- b) Comprehensive third part liability insurance including insurance against legal liability to third parties for bodily injury, death or damages to property arising out of activities carried out by or on behalf of the Developer during the Construction stage;
- c) Workers' compensation insurance, including insurance of workers employed and engaged for the purposes of the Project and NRDA employees or NRDA's authorised representatives on duty pertaining to this Agreement. The coverage shall include compensation for injury and disability and other insurance as required by the laws applicable to the Chhattisgarh, save that coverage shall also extend to any such worker for whom such insurance is not required by such laws. The sum insured in respect of any such worker shall not be less than prescribed by such laws;
- d) Professional indemnity insurance, and
- e) Any other insurance that may be required pursuant to a Financing Documents or statutory requirement.

6.8.2 Insurance during the Operation and Maintenance stage

Not later than four Months prior to the anticipated completion, the Developer shall maintain in respect of the facility such insurances as may be required under Indian law and such insurance as Developer may reasonably consider necessary or desirable in accordance with Good Industry Practice. Such insurance shall include:

- (a) Comprehensive third part liability insurance including insurance against legal liability to third parties for bodily injury, death or damages to property arising out of activities carried out by or on behalf of the Developer during the Construction stage;
- (b) Workers' compensation insurance, including insurance of workers employed and engaged for the purposes of the Project and NRDA employees or NRDA's authorised representatives on duty pertaining to this Agreement. The coverage shall include compensation for injury and disability and other insurance as required by the laws applicable to the Chhattisgarh, save that coverage shall also extend to any such worker for whom such insurance is not required by such laws. The sum insured in respect of any such worker shall not be less than prescribed by such laws; and
- (c) Professional indemnity insurance;
- (c) Any other insurance that may be required pursuant to a Financing Documents or statutory requirement.
- (d) Professional indemnity insurance for adequate amount.

6.8.3 Evidence of Insurance cover

The Developer shall furnish to NRDA, copies of certificates and policies of insurances in respect of insurances obtained in relation of the Project as soon as reasonably practicable after they are received by the Developer and from time to time, as may be reasonably requested by NRDA. Developer shall furnish evidence to NRDA that the relevant premiums have been paid or policies remain in force.

6.8.4 [DELETED]

6.9 Financing

The Developer will have to make arrangement for procuring finances for the Project from its own resources or from open market borrowings such as Banks or any other financial institution.

The Developer shall obtain from the Authority a No Objection Certificate (“NoC”) before raising finances for the Project. It is expressly agreed between the Parties that the Developer shall not be permitted to raise finances for the purpose of the Project without obtaining an NOC from the Authority. Developer shall keep the Authority fully informed of the finances that it wishes to obtain from the banks and the financial institution and details of the security provided therefor.

6.10 Appointment of Contractors

6.10.1 The Developer may appoint a Contractor/s

- 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 Developer for any of the aforesaid purposes, the Developer 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 Developer from its obligations hereunder, including full and timely compliance with the terms of this Agreement. The Developer does hereby also agree and acknowledge that it shall remain responsible for obligation performed or to be performed by the Contractor to the same extent as if such obligations were to be always performed by the Developer.

6.10.3 The Developer 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 attorneys’ fees and disbursements) and expenses that NRDA may incur, insofar as such losses directly arise out of, in any way relate to, or result from the non-performance by the Developer of its obligations to the Contractors including non-payment of any monies to such Contractors.

6.10.4 The Developer acknowledges and undertakes to ensure that the terms of any agreement between the Developer and the Contractor 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 Developer 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 [Developer] has executed this Agreement in favour of the Contractor in exercise of its rights under the Development Agreement executed between the Developer 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 Developer and NRDA . For the avoidance of doubt, it is hereby clarified that in the event of any 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 Developer 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 [Developer] under the Development Agreement as applicable”.

6.11 Completion Certificate for the Project

On completion of the entire Project, the Developer shall submit the following documents and shall apply for issuance of a “Completion Certificate” by NRDA:

- (i) No dues certificate from various statutory agencies and utilities.
- (ii) An affidavit confirming that the Developer has cleared and settled its debts under the Financing Documents and cleared any/ all liabilities and obligations pertaining to the Project.
- (iii) certified true copy of the certificate of registration of resident welfare association in accordance with Article 2.9.3.1 of this Agreement.

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

Developer, before the expiry of 30 working days after the date of receipt of the revised application.

6.11.1 Delay in completion of the Project

Subject to the provisions of Article 2.2, in case of delay in achieving the completion of the construction of the Project within the Development Period and subject to satisfaction of NRDA for the reasons of such delay, the Developer may be allowed suitable extension towards such project component as may be found appropriate by NRDA to complete the development of the Project on payment of penalty amounting to 1% of the amount of the Performance Security for every month of delay or part thereof upto a maximum of 10% of the amount of the Performance Security. If development of the Project is not completed within such extended period and even after payment of penalty of 10% of the amount of the Performance Security, then it shall be treated as Developer's Event of Default.

6.11.2 If the delay is due to reasons for non-availability of environmental clearance then NRDA may, in its sole discretion, upon satisfactory reasons for such delay being provided by the Developer, allow extension by such further period s may be deemed necessary by NRDA, to accommodate the Developer's time-line to procure the said environmental clearance.

6.12 Performance Security

In order to ensure that the Project is developed within the stipulated Development Period as per the provision of this Agreement and to facilitate compliance with the other applicable provisions of this Agreement, the Developer shall furnish to the NRDA, a Performance Security from any scheduled commercial Bank through its branch at Raipur for an amount of Rs. _____ Crore (Rupees _____ Only) before execution of this Agreement.

Failure of the Developer to provide the Performance Security in accordance with this Agreement shall entitle the NRDA to forfeit the Bid Security amount including Bid Value paid and to terminate the letter of award without being liable in any manner whatsoever to the Developer.

Failure of the Developer to submit the Designs and Drawings to the competent authority and submitting application for environmental clearance within the period of six Months from the signing of this Agreement or during the cure period of 60 days thereafter entitle the NRDA to forfeit the Performance Security amount and to terminate this

Agreement in accordance with the provisions of Article 15.1.1 without being liable in any manner whatsoever to the Developer.

The Developer undertakes that the Performance Security shall be payable immediately on demand and without the assertion of any defences on part of the Developer. If the Developer is in default in the due and faithful performance of its obligations under this Agreement and failing to remedy such default within the Cure Period, NRDA shall without prejudice to its other rights and remedies hereunder be entitled to encash and appropriate the Performance Security as Damages for such default. Upon such encashment and appropriation of the Performance Security, NRDA shall grant a period of 30 (Thirty) days to the Lessee to replenish, in case of partial appropriation, to its original level of the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Developer shall within the time so granted replenish or furnish fresh Performance Security as aforesaid to NRDA failing which NRDA shall be entitled to Terminate this Agreement in accordance with this Agreement.

6.13 Deleted

6.14 Third Party Agreements

The Developer shall ensure that the terms of any Third Party Agreements, 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 provision of this Agreement shall prevail and such Third Party Agreement shall stand modified to that extent.

6.15 Obligations of the Developer

6.15.1 Development phase

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

- a) In accordance with the Project Schedule, commence and complete to the satisfaction of NRDA.
- b) Entrust responsibility for Project management and construction to professionally competent Person;
- c) Obtain all necessary Approvals from the Ministry of Commerce, Ministry of Finance and Department of Industrial Development (if foreign funds are invested in the

- project), Ministry of Environment & Forests either at the State level or at statutory and Governmental Authority, and such other Approvals and permits as may be needed during the construction / operation of the Project.
- d) Comply with Applicable Laws and give priority to safety in its construction and planning activities in order to protect life, health, property and environment;
 - e) 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 requirements of this Agreement.
 - f) Promptly carry out at its cost further works as may be necessary to remove any defects or deficiencies observed by the Steering Committee and ensure completion of construction of the Project in all respect in accordance with the provisions of this Agreement.
 - g) Furnish operational information as and when requested for by NRDA, within a reasonable time.
 - h) Furnish details of amount collected in respect of residential Units transferred on monthly basis or as and when required by NRDA.
 - i) Meet all the costs of operation , maintenance and repairs of the Project or any part thereof;
 - j) 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 / buyers/ members upon expiry of the Development Period are in good condition, normal wear and tear excepted;

6.15.2 Post development phase

The Developer after completion of the Project fully and completely in terms of this Agreement, clear the Project Land of all debris and remove all unused materials, plant, machinery, equipment and clearing the site of all temporary structures, site offices, labour, utility lines, etc. constructed/ erected for the development of the Project and shall, thereafter apply to the NRDA for issuance of the Completion Certificate for the respective components of the Project i.e, Sports Component, Compulsory Residential Component, and Premium Residential Component issued after having regard to the extensions in the Development Period pursuant to Article 6.11.1 hereof which shall be used by the NRDA in terms of and subject to the provisions contained in, Article 6.11 thereof. The Project shall be treated as complete, only after Completion Certificate is issued by the NRDA .

6.15.3 Operations and Maintenance Period

In addition to any of its other obligation under this Agreement and subject to the provisions of Article 2.9.3.1 of requirement of vesting of the operation and maintenance

of the Residential Zone in favour residential welfare association in accordance with the Applicable Law, during the Operation and Maintenance Period, the Developer shall manage, operate, maintain and repair the Premium Residential Units, Sports Component and the Compulsory Residential Components entirely at its cost, charges, expenses and risk in accordance with the provision of this Agreement. The Developer's obligations under this Agreement shall include but should not be limited to the following:

- a) Make available all necessary financial, technical, technological, managerial and other sources of operation, maintenance, repair and replacement of the Project Land timely manner;
- b) Manage and operate the Project on a common-user basis, open to any and all users and from indulging in any unfair or discriminatory practice against any user or potential user thereof;
- c) Ensure maintenance of proper and accurate record/ data/ accounts relating to operations of the Project and the revenue earned therefrom;
- d) Comply with the Applicable Laws including those relating but not limited to health, environment, and labour;

6.15.4 Obligations relating to Change in Ownership

The Developer shall not undertake or permit any Change in Ownership, except with the prior written approval of the NRDA. Promoters of the Developer shall collectively hold at least 51% (fifty one percent) of the subscribed and paid up equity share capital of the Developer at all times until the second anniversary of the commercial operation date of Phase I of the Project. Each shareholder of the Developer whose equity stake in the Developer is 26% or more, will maintain their equity stake at least upto 26% at all times until the second anniversary of the commercial operation date of Phase I of the Project.

6.16 Obligations of the NRDA

In addition to any of its other obligation under this Agreement, during the Development Period, the NRDA shall;

- a) Grant to the Developer, the requisite right(s) to develop the land required for the development of the project. The Project Land shall be made available to the Developer by NRDA free from all encumbrance and occupations

- b) Assist the Developer in obtaining Approvals required by the Developer in accordance with this Agreement; and
- c) Extend the assistance of its good offices on a reasonable effort basis to assist the Developer in the provision of electricity supply and telecommunication lines, sewerage and drainages to be brought to the periphery of the Project Land. However, the cost for the same shall be borne by the Developer.

6.17 General Requirements

6.17.1 Additional altered work

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

6.17.2 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 Developer. The location and layout of these ancillary structures will get approved by the Developer from the NRDA.

6.17.3 Security Arrangements

The Developer shall make arrangements for security of the Project from time to time.

6.17.4 Employment of Personnel

The Developer shall employ/ engage qualified and skilled personnel required to implement the Project. The terms of employment / engagement may be as deemed fit by the Developer and the Developer shall bear and pay all costs in this regard. All such personnel shall always remain the Developer's responsibility. For efficient operation and maintenance of the Project, the Developer shall engage adequate number of trade / professionally qualified administrative and other personnel.

The Developer shall not carry out any activity that may be considered detrimental to the interest of the NRDA 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 Developer shall render this Agreement liable for Termination. However, a notice of 30 days shall be given to the Developer for remedying the breach. Depending on the nature and seriousness of breach / violation, the Developer 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 or termination, without any claim on the part of the Developer or other authorised agents.

6.17.5 Law and Order

The NRDA will assist the Developer 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 developer.

ARTICLE 7: OTHER CONDITIONS OF DEVELOPMENT**7.1 Tax Concession**

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

7.2 Quarries

No quarries will be acquired or made available by NRDA for the project.

7.3 Environmental Requirements

The Developer will have to make his own arrangements to fulfill environmental requirement and obtain necessary environmental clearance from competent authority of Government of India and other requirements of the concerned authorities without any cost or liability to NRDA.

7.4 Deleted**7.5 Additional Conditions of Agreement****7.5.1 Project Land Conditions**

The Developer 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. Developer shall be deemed to have carried out his own surveys and investigations and assessment of site conditions. Developer 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 Developer 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 Resident Engineer

The Developer shall engage authorised engineer representative (resident engineer) on the works. He shall co-ordinate with the the NRDA and shall be responsible for carrying orders if any. The work order book shall be promptly acknowledge the orders given therein by the NRDA and comply with them from time to time.

7.5.3 Patent Material

If the Developer desires to use any designed device materials or any process covered under letters of patent or copy right, the right of 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.

7.5.4 Staff Administration

The Developer at his own cost shall make his own arrangements for housing of his staff with necessary amenities and protective measures. Developer shall take all necessary precautions for the safety of the workers and preserving their health while working on such jobs.

7.5.5 Explosives

The Developer shall at his own cost, construct and maintain proper magazines, if required for the storage of explosive for the use in connections with the works. Such magazines shall be located, constructed and maintained in accordance with Government rules applicable in that behalf. The Developer shall get permission from the concerned department for use of such prohibitive materials.

7.5.6 Precautions

The Developer 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 Developer shall comply with all rules and regulations by laws and directions given from time to time by any local or public authority in connection with this work and shall pay all fees which are leviable on it. On execution of this Agreement Developer shall at its own expenses assume possession of the Project Land and start development of the Project.

7.5.7 Safety

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

7.5.8 Treasure

In the event of discovery by Developer or its employees, during the progress of the work, of any treasures, fossils, minerals or any other articles of value or interest, the Developer shall give immediately to the NRDA, such treasure or things which shall be the property of the NRDA.

7.5.9 Labour Laws

The Developer 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 Labor Act, 1986, as amended from time to time) in respect of all the employees employed by it and in relation to the Project.

ARTICLE 8: FURTHER DUTIES AND OBLIGATIONS**8.1 Of the Developer**

8.1.1 In consideration of receiving the Development Right subject to the obligations and covenants hereinafter provided, the Developer hereby covenants with the NRDA to execute the Project in conformity in all respect with the provisions of this Agreement, at its own cost and expenses.

8.1.2 Approvals

The Developer shall at all times during the Development Period maintain the Approvals.

8.1.3 Tax, duties, etc.

The Developer shall pay in a timely manner all Tax, Duties, Levies, Cess and charges including but not limited to income tax, sales tax, work contract tax, excise duty, service tax, customs duty that may be levied, claimed or demanded from time to time by any Government Authority including any increase therein effected from time to time from any Government Authority, in respect of the Project. The Developer shall provide regular half-yearly "assessment order" or "returns" in respect of service tax and other indirect taxes borne and paid by "the Developer in respect of the Project during such periods as may be reasonably advised by the Developer.

8.1.4 NRDA's other development activities

The Developer shall not create any hindrance, disturbances, obstruction or impediments in or in respect of any other development activity that NRDA may undertake in and around the Project Land during the Development Period and thereafter.

8.1.5 Copies of documents

Unless otherwise expressly provided in this Agreement, any documentation required to be provided or furnished by the Developer to NRDA and/ or the external auditor shall be provided free of cost and in three copies and if NRDA and/ or the external auditor are required to return any such documentation with their comments and/ or approval, they shall be entitled to retain two copies thereof.

8.2 Obligations of NRDA and the Developer

8.2.1 Compliance with Laws and Regulations

The Parties shall perform their respective obligations under this Agreement in accordance with the Applicable Laws.

8.2.2 Right to Documents

All essential information and documents (whether financial, technical or otherwise) provided by either Party to the other shall not, unless compelled by law or the process of a Government Authority, be disclosed to any person without the consent of the other Party. The covenant shall survive the Development Period. The Developer shall be permitted to furnish information required by the Lenders, and the same shall be utilized in a confidential manner by the Lenders for specific purpose.

8.3 Obligation to Co-operate

The Developer shall co-operate with the NRDA in order to achieve the objectives of this Agreement.

ARTICLE 9 REPRESENTATIONS AND WARRANTIES

- 9.1 The Developer hereby represents warrants and covenants to NRDA for itself that ("**Developer Representation and Warranties**"):
- 9.1.1 The Developer has been duly incorporated and organized, and is validly existing under Applicable Laws. The Developer has the corporate power and authority to own and operate its assets and properties and to carry on its business as currently conducted and proposed to be conducted.
- 9.1.2 The copies of the Charter Documents (having attached thereto copies of all such resolution are by law required to be attached thereto and all amendments made to date that have been delivered to NRDA are true, accurate and complete. All legal and procedural requirements and other formalities concerning such Charter Documents have been duly properly compiled with in all material respects.
- 9.1.3 The Developer has the legal right, power and authority to execute, deliver and perform this Agreement. All action on the part of the Developer and all corporate action on the part of the record of director of the Developer necessary for the authorisation, execution, delivery and the performance of all obligations of the Developer has 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 This Agreement when executed is valid and would constitute the binding obligations of the Developer enforceable against the Developer in accordance with their respective terms. This Agreement is, when executed be, the valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditor's rights generally. As of date, as regards the Developer, there is no applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.
- 9.1.6 The execution and delivery by the Developer of this Agreement and the performance by the Developer of its respective 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 Developer 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 Developer is a party or by which the Developer is bound.
- 9.1.7 No order has been made and no resolution has been passed for the winding up of the Developer or for a provisional liquidator to be appointed in respect of the Developer and no petition has been presented and no meeting has been convened for the purpose of winding up the Developer. No receiver has been appointed in respect of the Developer or all or any its assets. The Developer is not insolvent or unable to pay its debts as they fall due.
- 9.2 **NRDA represents and warrants to the Developer for itself that (“NRDA Representation and Warranties”)**
- 9.2.1 It is a body corporate established and constituted under the laws of India and has been the power to enter into contracts.
- 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 registrable 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 on understanding in relation to the development of the Project with any third party, or for the sale, 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 Developer ought and should reasonably know of, for purposes of the Project and has/ will not conceal any facts/ information/ matters/ issues from the Developer.

- 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, decree or writ against, or binding upon, NRDA or upon its securities, properties or business.
 - (b) Violate any law of India.

ARTICLE 10: OWNERSHIP AND CERTAIN RIGHTS**10.1 Ownership****10.1.1 Land Area**

The ownership of the NRDA's Assets shall always remain vested with the NRDA. The Developer shall have leasehold right over such part of the Project land as may be indentified in the Lease Deed specified at Schedule IV hereto and incorporated herewith by reference.

10.1.4 Charge on Assets

The Developer shall be entitled to mortgage, hypothecate or otherwise create any charge or encumbrance as security upon the land for which Leasehold rights as per the Schedule IV have been transferred in its favour, as per the provisions of Chhattisgarh Vishesh Kshetra (Achal Sampatti Ka Viyayan) Niyam, 2008.

10.1.5 Compulsory Acquisition

In the event that the Project Land or any part thereof shall become affected by any notice of compulsory or intended acquisition by any Governmental Authority, or under any legislation in India for any reason whatsoever, NRDA shall immediately notify the Developer thereof in writing.

Thereupon NRDA shall deal with all matters in respect of the Project Land under Law and shall endeavour to secure the best compensation payable to the Developer upon such compulsory acquisition of the Project Land. Provided, however, that the Developer may, if permissible under Applicable Laws, make appropriate representations and submissions to the concerned authority for identification of the said compensation payable to the Developer.

If the Compulsory acquisition affects the commercially exploitable area (CEA) whereupon the Residential Units and the Commercial Units are proposed to be developed to the Developer, then in the best commercial judgment of the NRDA

- a) If the acquiring Authority does not compensate the Developer through compensatory floor area ratio (FAR) equivalent to the CEA lost, then NRDA shall reduce the Bid Value proportionately.
- b) If the Developer is compensated by compensatory FAR equivalent to the CEA lost, then there shall be no charge in the Bid Value.

- c) If the Developer is compensated with compensatory FAR, which is more than the CEA lost, then NRD shall be entitled to an additional Bid Value proportionately, in accordance with Article 5.4.

ARTICLE 11: CHANGE IN LAW**11.1 Change in Law**

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

- a) Adoption, promulgation, modification, reinterpretation or repeat after the date of this Agreement by any Government authority of any statute, rule, regulation, order, treaty, convention, directive, guidelines, policies; or
- b) The imposition by any Government authority or 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 Developer of any of the terms of this Agreement impossible or unviable.
- c) Any Approval previously granted, ceasing to remain in full force and effect for reasons other than breach/ violation by or the negligence of the Developer or if granted for a limited period, being renewed on terms different from those previously stipulated.

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 Developer’s Remedy

In the event of a Change in Law the Developer 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 Developer 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 is 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 endeavor to identify the manner in which the Developer shall fulfill its obligations hereunder, under the changes circumstances, due regard being had to principles of equity and fair play.

ARTICLE 12: FORCE MAJEURE

12.1 Force Majeure Event

As used in this Agreement, the expression “Force Majeure” or “Force Majeure Event” shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in this Article, if it affects the performance by the Party claiming the benefit of Force Majeure (the “Affected Party”) of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Change on the Affected Party.

12.1.1 Non-Political Event

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

- (a) act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionising radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Site);
- (b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project Highway 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 34.3;
- (c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (d) any judgement or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;
- (e) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discovered through a site inspection; or
- (f) any event or circumstances of a nature analogous to any of the foregoing.

12.1.2 Indirect Political Event

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

- (a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;
- (b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7

(seven) days in an Accounting Year;

- (c) any civil commotion, boycott or political agitation which prevents collection of Fee by the Concessionaire for an aggregate period exceeding 7 (seven) days in an Accounting Year;
- (d) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;
- (e) any Indirect Political Event that causes a Non-Political Event; or
- (f) any event or circumstances of a nature analogous to any of the foregoing.

12.1.3 Political Event

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

- (a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 41 and its effect, in financial terms, exceeds the sum specified in Clause 41.1;
- (b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;
- (c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;
- (d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or
- (e) any event or circumstance of a nature analogous to any of the foregoing.

12.2 Duty to report Force Majeure Event

- A. Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:
- (a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article with evidence in support thereof;
 - (b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;
 - (c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
 - (d) any other information relevant to the Affected Party's claim.

The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

- B. For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Article 12.2A, and such other information as the other Party may reasonably request the Affected Party to provide.

12.3 Effect of Force Majeure Event

Upon the occurrence of any Force Majeure Event prior to the Effective Date, the Effective Date shall be extended by a period equal in length to the duration of the Force Majeure Event. At any time after the Effective Date, if any Force Majeure Event occurs before issuance of the Completion Certificate, the Development Period and the dates set forth in the Project Milestone Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists.

12.4 Allocation of costs arising out of Force Majeure

Upon occurrence of any Force Majeure Event prior to the Effective Date, the Parties shall

bear their respective costs and no Party shall be required to pay to the other Party any costs thereof. Upon occurrence of a Force Majeure Event after the Effective Date, the costs incurred and attributable to such event and directly relating to the Project (the “**Force Majeure Costs**”) shall be allocated and paid as follows:

- (a) upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;
- (b) upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the insurance cover for such Indirect Political Event, shall be borne by the Developer,
- (c) upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the NRDA to the Developer.

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

12.5 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

12.6 Termination Payment for Force Majeure Event

If Termination is on account of a Non-Political Event, the Authority shall not make any payment to the Developer. If Termination is on account of an Indirect Political Event or Political Event, as the case may be the Authority shall make a Termination Payment to the Developer in an amount equal to 50% of the cost of infrastructure created by the Developer. The cost of infrastructure created by the developer shall be calculated as the lower of the standard cost estimates as per CPWD norms and the certified cost by the

independent engineer.

12.7 Dispute resolution

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

12.8 Excuse from performance of obligations

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

- (a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
- (b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
- (c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 13: EVENT/S OF DEFAULT**Events of Default**

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

13.1 The Developer Event of Default

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

- i) The Developer fails to obtain all necessary approvals required for commencement of work on the Project Land within twelve Months from the date of execution of this Agreement; or
- ii) The Developer fails, neglect, refuses, or is unable to pay the Bid Value in accordance with the payment schedule indicated at clause 5.2.
- iii) The Developer fails to complete the development of the Project within the period of agreed herein.
- iv) The Developer repeatedly and persistently remains in breach of any of its obligations under this Agreement; or
- v) If any representation made or warranties given by the Developer under this Agreement is found to be false or misleading
- vi) The Developer fails to comply with any of the terms and conditions of the Lease Deed
- vii) The Developer does not issue, renew, replace or provide the Bank Guarantee in accordance with the terms of this agreement or if the Bank Guarantee ceases to be in effect prior to the discharge of payment obligations of the Developer to NRDA as under Article 5.
- viii) The Developer 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 Developer by a

court of competent jurisdiction in proceedings for winding up or any other legal proceedings.

- x) Upon levy of an execution or restraint on the Developer'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 Developer with any other company or reconstruction or transfer of the whole or part of the Developer'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 Developer under this Agreement, necessary approval shall be granted by the NRDA.
- xii) Upon the Developer 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.
- xiii) The developer 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.

13.2 Termination Procedure

13.2.1 Upon the occurrence of Developer Event of Default, NRDA shall deliver a default notice to the Developer, which shall specify in reasonable detail the Developer Event of Default giving rise to the Default notice.

13.2.2 if the Developer 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 and the Lease Deed at any time after expiry 30 days after issuing of written notice advising Termination of this Agreement ("Termination Notice") to the Developer.

13.2.3 The Termination Notice shall be effective from such date not exceeding thirty (30) days from the date of issue of notice a may be specified in the Termination Notice. During

the period specified in the termination Notice, the parties shall, subject to 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 users, failing which the Developer shall compensate NRDA for any loss or damage occasioned or suffered on account of the underlying failure / breach.

13.3 Right to Operate the Project

13.3.1 If NRDA issues Termination Notice for Developer Event of Default under Article 13.1, above, then NRDA shall have the right (but not the obligation) to develop the project itself or through its agents/ affiliates from the date of such termination notice up to the date of expiry of this Agreement, at the cost and expenses of Developer or otherwise as NRDA may deem fit.

13.3.2 If NRDA decides to as develop the Project as aforesaid that NRDA shall provide during the period in which termination notice is in effect to step in (whether itself or through its agents/ affiliates) and assume the role of Developer vis-à-vis the development of the Project (“the Step-in Notice”).

13.3.3 NRDA shall have no liability to the developer for any such resulting from a breach by Developer of its obligations under this Agreement or any other provision of this agreement during the period of assumption of such NRDA. NRDA’s rights under this Article shall be terminated and/ or transferred by NRDA to any other person deemed fit and proper by and exclusively in NRDA’s discretion.

13.4 Lenders Option to Assume Obligations of Developer

If, at any time following the service by NRDA of a Termination notice, the Lenders can pay all sums, if any, which are due and payable to NRDA assume date of the Termination Notice and perform or cause to be performed any obligations as at such date, then;

- a) Such termination shall be revoked and all existing right of Termination in favour of NRDA under this Agreement shall terminate (but without prejudice to any rights of NRDA in respect of any future breach of this Agreement)
- b) NRDA shall continue to perform its obligations under the agreement as if it rights of termination had not arisen (but without prejudice so any rights of NRDA in respect of any such future breaches).

ARTICLE 14: OTHER CONSEQUENCES OF TERMINATION**14.1 Consequence of Termination**

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

14.2.1 Project Assets

All rights including leasehold rights, endeavor privileges and benefits in the project assets accruing to and to the benefit of the developer under this Agreement shall automatically stand terminated and vested in NRDA on the termination of this Agreement. Developer shall peacefully hand over the possession of Project Land including the structures therein/ upon, within such reasonability as may be prescribed by NRDA .

14.2.2 Project Agreements

The Developer shall at its cost transfer/ assignment of the project Agreements which the NRDA may required to be transferred in its favour of a third party, upon the instructions and advise of the NRDA. The Developer shall entirely at its cost, terminate any/ all such Project Agreements.

14.2.3 Approvals

The Developer shall, at its cost, transfer to the NRDA all such Approvals, which the NRDA may require.

14.2.4 Guarantees

The NRDA shall be entitled to encash any submitting Bank Guarantee provided by the Developer, if the termination is on account of Developer Event of Default.

14.2.5 Liability to Residential Unit/Commercial Unit owners

The Developer shall be solely and exclusively liable to Residential Units/Commercial Unit owners towards non performance of its obligations and shall be liable to refund the advances collected if any from the Residential Unit owners.

14.2 Conditions Survey

- i) The Developer agrees that on the service of a Termination Notice, it shall conduct or cause to be conducted under the supervision of an registered valuer (Expert) to be appointed by NRDA , a condition survey of the Project including the NRDA 's Assets to ascertain the condition thereof, verifying compliance with the Developer's obligations under this Agreement and to prepare an inventory of the assets comprised in the Project.
- ii) In the event the Developer fails to comply with the provision of this Agreement, the NRDA may itself cause the conditions survey and inventory of NRDA 's assets and the project to be conducted through the Expert. The NRDA shall be compensated by the Developer for any costs incurred in conducting such survey and preparation of inventory as also in putting the Project in good working conditions.
- iii) If, as a result of the conditions survey, the Expert shall observe/ notice that the NRDA 's assets and/ or the Project or any part thereof have/ has not been constructed as reported by the Developer month/ quarterly and has claimed the amount as per provisions of article 5.4, the Developer shall, at its costs and expenses, shall construct the work as reported to be done.

ARTICLE 15: COMPENSATION**15.1 Compensation****15.1.1 Termination due to Developer Event of Default**

If the termination is due to a Developer Event of Default, no compensation shall be payable by the NRDA to the Developer. Performance Security deposited by the Developer shall be encashed by NRDA.

15.1.2 Due to NRDA event of default

Subject to the provisions of this Agreement, in the event of the NRDA being in material default or breach of this Agreement at any time after the Effective Date, it shall pay to the Developer by way of compensation, all direct costs suffered or incurred by the Developer and verified and certified by the Independent Engineer as a consequence of such material default within 90 (ninety) days of receipt of the demand supported by necessary particulars thereof; provided that no such compensation shall be payable for any breach or default in respect of which damages have been expressly specified in this Agreement. Interest @ Bank Rate⁸ plus 4% per annum calculated on the default amount for the number of days delayed shall be payable by the NRDA.

15.1.3 Delayed payment to Developer

If for any reason, other than those attributable to the Developer, the NRDA fails to pay the due and legitimate consideration as contemplated herein to the Developer on the due date, then NRDA shall be liable to pay delayed interest from the due date till payment thereof.

15.1.4 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 of one or more remedies by NRDA shall not limit or preclude the exercise of or constitute a waiver of any other remedies by NRDA.

⁸ Bank Rate published by Reserve Bank of India in its website <http://www.rbi.org.in/home.aspx>

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 Developer 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, of 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 either party, in an effort to resolve such dispute, difference or claims.

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 authorised representatives of each of the parties with authority to settle the relevant dispute. If the Dispute has not been settled through negotiations 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 provisions 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 with the Arbitration & Conciliation Act, 1996.

In case the dispute is referred to arbitration under the Arbitration & 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.

Party requiring arbitration shall appoint an Arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its Arbitrator. If the other Party fails to appoint its Arbitrator, the Party appointing 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.

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, -- rules of evidence which are to apply shall be in accordance with the Arbitration and 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, to 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 wherever they may be found and that a judgment upon the arbitral award may be entered in the court having jurisdiction thereof.

16.8 Fees and Expenses

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

16.9 Performance during Arbitration

Pending the submission of and/or decision on a dispute, difference or claim or until the arbitral award is published, the Parties shall continue to perform all of their obligations under the Agreement without prejudice to a final adjustment in accordance with such award.

ARTICLE 17:INDEPENDENT ENGINEER

17.1 NRDA shall appoint a consulting engineering firm to be the independent consultant under this Agreement (the “**Independent Engineer**”). The appointment shall be made no later than 90 (ninety) days from the date of this Agreement and shall be for a period of 5 (five) years extendable by another five year period. On expiry or termination of the aforesaid period, the Authority may in its discretion renew the appointment, or appoint another firm to be the Independent Engineer for a term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment.

17.2 Role and functions of the Independent Engineer

The role and functions of the Independent Engineer shall include the following:

- (i) review of the Drawings and Documents;
- (ii) review, inspection and monitoring of Construction Works;
- (iii) conduct Tests on completion of construction and issuing Completion/ Provisional Certificate;
- (iv) review, inspection and monitoring;
- (v) determine, as required under the Agreement, the costs of any works or services and/or their reasonableness;
- (vi) determine, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
- (vii) assist the Parties in resolution of disputes; and
- (viii) undertake all other duties and functions in accordance with the Agreement.

17.3 The Independent Engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

17.4 Development Period

- (i) During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings furnished by the Developer along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials from borrow areas and quarry sites, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its

comments/observations to the NRDA and the Developer within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

- (ii) The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Developer and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
- (iii) The Independent Engineer shall review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.
- (iv) The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Developer and furnish its comments within 15 (fifteen) days of receipt thereof.
- (iv) Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC Contract or any other contract for construction of the Project, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

17.5 Development Period

- (i) The Independent Engineer shall inspect the Construction Works and the Project once every month, preferably after receipt of the monthly progress report from the Developer, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "**Inspection Report**") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project Site. The Inspection Report shall also contain a review of the maintenance of the existing lanes in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Developer within 7 (seven) days of the inspection.
- (ii) The Independent Engineer may inspect the Project Site more than once in a month if any lapses, defects or deficiencies require such inspections.
- (iii) For determining that the Construction Works conform to Specifications and

Standards, the Independent Engineer shall require the Selected Bidder to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Developer for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.

- (iv) The timing of tests and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shall be in addition to, and independent of, the tests that may be carried out by the Developer for its own quality assurance in accordance with Good Industry Practice.
- (v) In the event that the Developer carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Developer to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph shall apply to such tests.
- (vi) In the event that the Developer fails to achieve any of the Project milestones in accordance with Project Milestone Schedule, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project Site is not feasible within the time specified in the Agreement, it shall require the Developer to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which the Project Completion Date shall be achieved. Upon receipt of a report from the Selected Bidder, the Independent Engineer shall review the same and send its comments to the Authority and the Selected Bidder forthwith.
- (vii) If at any time during the Development Period, the Independent Engineer determines that the Selected Bidder has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.
- (viii) In the event that the Developer carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended

works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.

- (ix) If suspension of Construction Works is for reasons not attributable to the Developer, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Developer is reasonably entitled, and shall notify the Authority and the Developer of the same.
- (x) The Independent Engineer shall carry out, or cause to be carried out, all the Tests and issue a Completion Certificate or Provisional Certificate, as the case may be. For carrying out its functions under this Paragraph and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of the Development Agreement
- (xi) Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in the Development Agreement and certify the reasonableness of such costs for payment by the Authority to the Developer.

ARTICLE 18: MISCELLANEOUS PROVISIONS**18.1 Articles to survive 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.

18.2 Responsibility

In the event that any damage is caused in part only due to the negligence or default or omission on the part of the NRDA and in part only due to the negligence or default or omission on the part of the Developer, each Party shall be liable to the other Party only in proportion to its respective degree of negligence or default or omission as the case may be.

18.3 Several Obligations

Nothing contained in this Agreement shall be construed to create an association, trust, partnership or agency among the Parties and Parties shall be liable to perform their respective duties and discharge their respective liabilities or obligations in accordance with the Provisions of this Agreement.

18.4 Severability

If for any reason whatsoever any provision or any part(s) of this Agreement is held or shall be declared to be void or illegal or invalid under present or future laws or regulations effective and applicable during the Development Period, by any competent arbitral tribunal or court, such provisions shall be fully separable and this Development shall be constructed as if such provision or such part(s) of this Agreement never comprised part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by such void or illegal or invalid provision or by its severance from this Agreement.

18.5 Notices

Any notice, approval, consent, request or other communication required or permitted to be given or made under this Agreement shall be in writing in English language and delivered by Registered mail to the address of the recipient shown below or to such

other address, as the recipient may have notified the sender and shall be deemed to be effective 10 calendar days after posting.

DEVELOPER _____

NRDA _____⁹
Naya Raipur Development Authority
Mahanadi Dwar,
Mantralaya,
Raipur- 492001,
Chhattisgarh

18.6 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 provision of the contract or as a waiver of any right under the Agreement.

18.7 Amendments, Modifications; etc.

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

18.8 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.

18.9 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.

⁹ Please insert name of the officer or designation

18.10 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.

18.11 Time

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

18.12 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 of the Party, whether under this Agreement or otherwise.

18.13 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 once or more of such originals or counterparts.

18.14 No Assignment

Except as otherwise provided in this Agreement, the Developer 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 therefore.

ARTICLE 19: LIABILITY AND INDEMNITY**19.1 General Indemnity**

19.1.1 The Developer shall indemnify and keep indemnified and 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 Developer or as a result of failure on the part of the Developer to perform any of its obligations under this Agreement or on the Developer committing breach of any of the terms and conditions of this Agreement or on the failure of the Developer 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 Developer or its Contractor(s) and/or 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 Developer's use and occupation of NRDA 's Asset and/or construction, operation and maintenance of the Project.

19.1.2 Without limiting the generality of Article 19.1 the Developers shall fully indemnify and defend NRDA including its officers, servants and agents (the "NRDA Indemnified Person") from and against any and all loss and damages arising out of or with respect to (a) failure of the Developer to comply with Applicable Laws and Approvals, (b) payments of taxes relating to the Developer, Developers, suppliers and representatives, income or other taxes required to be paid by the Developer without reimbursement hereunder, or (c) non-payment of amounts due as a result of materials or services furnished to the Developer or any of its Contractors which are payable by the Developer or any of its Contractors.

19.1.3 Without limiting the generality of the provisions of this Article 18, the Developer shall fully indemnify, and defend the NRDA Indemnified Persons from and against any and all damages which the NRDA Indemnified Persons may thereafter suffers, 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 Developer or by the Developer's Developers in performing the Developer's obligations or in any way incorporated in or related to the project. If in any such suit, claim or proceedings, a temporary restraint or preliminary

injunction is granted, the Developer 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 on constitute an infringement and its use is permanently enjoined, the Developer shall promptly make every reasonable effort to secure for NRDA a license, at no cost to the NRDA , authorizing continued use of the infringing work. If the Developer is unable to secure such 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.

19.1.4 In the event that NRDA receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 19 (“Indemnified Party”) it shall notify the Developer (“Indemnified Party”) within 14 (fourteen) days of receipt of the claim and shall not settle or pa 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 tits reasonable satisfaction.

19.2 Defence of Claims

19.2.1 The Indemnified party shall have the right, but not the obligations, 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 19, the indemnifying party shall be entitled, at its option, extent provided by this Article 19, the Indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding liabilities, payments and obligations at its expense and through counsel of its choice provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburse the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defense. The Indemnifying Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnified Party unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure, the loss to be indemnified hereunder to the extent so compromised or settled.

19.2.2 If the Indemnifying Party has exercised the rights under article 19.2.1 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 unreasonably withheld or delayed).

19.2.3 If the Indemnifying Party exercise its rights under Article 19.2.1, then the Indemnified Party shall nevertheless have the right to employ its own counsel and such counsel may participate in such action, but the price 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 authorised 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 defense of such action; or
3. The Indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the indemnified party to assume the defense of such action and shall have been notified by the indemnifier party; or
4. The Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:
 - I) That there may be specific defenses available to it which are different from or additional to those available to the indemnifying party; or
 - ii) that such claim, action, suit or proceeding involves or could have a material adverse change upon it beyond the scope of this Agreement.

19.2.4 Provided that if clauses 2,3, or 4 of Article 19.2.3 shall be applicable, counsel for the indemnified party shall have the right to direct the defense of such claim, action, suit or proceeding on behalf of the indemnified party and the reasonable price and disbursements of such counsel shall constitute legal or other expenses hereunder.

ARTICLE 20: DEFECT LIABILITY CLAIM

The Developer shall be responsible to the Residential Unit owners and NRDA for all defects in the Project and shall be solely and exclusively responsible for maintenance and upkeep of the Project.

Provided however, if NRDA is required to make any payments/costs/charges arising out of unit owners claims or any third party claims against the NRDA in respect of any defective workmanship or construction of a Residential Unit or otherwise, then the Developer shall indemnify NRDA for the same as well as for the litigation expenses incurred by NRDA .

ARTICLE 21: VARIATIONS

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

ARTICLE 22 : 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 23 : EFFICIENCY OF DOCUMENTS

- 23.1 The documents forming the Agreement (hereinafter also called the contract documents) are to be taken as mutually explanatory of one another.
- 23.2 If the Developer shall find 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 the them, the Developer shall immediately give a NRDA a written notice specifying the discrepancy or divergence and NRDA shall issue instruction in regard thereto provided always that such discrepancy or divergence shall not vitiate this Agreement.

This Agreement has been made in duplicate, each Agreement on Rs. 100/- stamp paper. Each party to this Agreement has retained one stamped copy reach.

SIGNED, SEALED AND DELIVERED BY

FOR AND ON BEHALF OF
NAYA RAIPUR DEVELOPMENT AUTHORITY

In the presence of.....

1. (Signature)

2. (Signature)

SIGNED AND DELIVERED BY

FOR AND ON BEHALF OF
DEVELOPER

Pursuant to this Board resolution dated []

SCHEDULE I: PROJECT LAND/NRDA ASSET

ALL THAT the piece and/or parcel of land measuring located at _____ including the existing peripheral road which although are owned by NRDA but are not within the scope of development, operations and management by the Developer. It is therefore clarified that the possession of existing peripheral road is not being given to the Developer. The Project Land is bounded as follows:

ON THE NORTH : _____

ON THE EAST : _____

ON THE SOUTH : _____

ON THE WEST : _____

SCHEDULE II: SURVEYED SITE PLANS OF THE PROJECT

The final survey map to be appended after approval of the Master Plan by NRDA

SCHEDULE III: FORMAT OF PERFORMANCE SECURITY**BANK GUARANTEE IN LIEU OF PERFORMANCE SECURITY**

Guarantee No: Date: Date of expiry:

This Deed of Guarantee executed at _____ by _____ (Name of the Bank) having its Head / Registered Office at _____ and having one of its branches at _____ Chhattisgarh (hereinafter referred to as "the **Guarantor**") which expression shall unless it be repugnant to the subject or context thereof include its heirs, executors, administrators, successors and assigns;

In favour of

Naya Raipur Development Authority, _____, _____, _____ - _____ (hereinafter referred to as "NRDA ") which expression shall unless it be repugnant to the subject or context thereof include its heirs, executors, administrators, successors and assigns;

Whereas Naya Raipur Development Authority (hereinafter called "NRDA ") has selected M/s _____ (Company's name and full address) (hereinafter called the "Developer" or "Concessionaire"), the successful bidder against the RFP dated ___ March _____ for the Development of the Project involving development of the Residential, Commercial and other related Infrastructure facilities as an integrated Sport City at _____ on private sector participation basis and whereas NRDA has issued a Letter of Acceptance (LOA) vide letter No. _____ in favour of the Developer and has signed a Development Agreement with the Developer.

Whereas in accordance with the terms of the Development Agreement dated _____ ("DA"), in order to demonstrate its commitment to due and faithful performance of its obligations under DA, the Developer is required to submit an unconditional and irrevocable Bank Guarantee for an amount of Rs. _____ (Rupees _____ Only) by way of security for guaranteeing the due and faithful compliance of its obligations under the Agreement.

Whereas, the concessionaire approached the Guarantor and the Guarantor has agreed to provide a Guarantee being these presents:

We hereby submit a Performance Security of Rs. _____ Crore. (Rupees _____ Only) by way of a Bank Guarantee.

1. The Developer shall develop the Project, in accordance with the terms and subject to the conditions of the Development Agreement, and fulfill all its obligations there under.
2. We, the Guarantor, without demur, pay to NRDA an amount not exceeding Rs. _____ Crore. (Rupees _____ Only) within 7 (seven) days after receipt of a written demand therefore from NRDA stating that the Developer has failed to fulfill its obligations as stated in Article 1 above.
3. The above payment shall be made by us without any reference to the Developer or any other person and irrespective of whether the claim of the NRDA is disputed by the Developer or not and without questioning the right of NRDA to make such demand or the propriety or legality of the demand.
4. The guarantee shall come into effect from _____ (start date) and shall continue to be in full force and effect till the expiry of _____Months on the Expiry Date, shall survive the expiry of this Guarantee till such time that all the moneys payable under this Guarantee by the Guarantor to NRDA has been fully paid.
5. In order to give effect to this Guarantee, NRDA shall be entitled to treat the Guarantor as the principal debtor and the obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Agreement or other documents by NRDA or by the extension of time of performance granted to the Developer or any postponement for any time of the power exercisable by NRDA against the Developer or forebear or enforce any of the terms and conditions of the Agreement and we shall not be relieved from our obligations under this Guarantee on account of any such variation, extension, forbearance or omission on the part of NRDA or any indulgence by NRDA to the Developer to give such matter or thing whatsoever which under the law relating to sureties would but for this provision have effect of so relieving us.
6. This Guarantee shall be irrevocable and shall remain in full force and effect until all our obligations under this guarantee are duly discharged.
7. The Guarantor has power to issue this guarantee and the undersigned is duly authorized to execute this Guarantee pursuant to the power granted under_____.
8. The reference to Development Agreement in this Guarantee should not be construed as conditional to encashment of this bank guarantee.

Notwithstanding anything contained in the foregoing, our liability under this guarantee is restricted to Rs. _____ (Rupees _____ only). Our guarantee shall remain in force until the discharge certificate is issued by NRDA , in writing.

9. The Bank Guarantee number ____, dated ____ shall be operative at Raipur and if invoked, be encashable at _____(name of bank and its branch in Raipur and branch code__).

In Witness whereof the Guarantor has set its hands hereunto on the day, Month and year first hereinabove written.

Signed and Delivered by _____ Bank
By the _____ and of Shri _____
Its _____ and authorized office.
Dated the _____ day of

Signature of the Bank's authorized Officer & Seal
For _____ Bank

Note : A covering letter of confirmation is also to be given by the bank along with this bank guarantee.

SCHEDULE IV: DRAFT FORMAT OF LEASE OF LAND FOR DEVELOPMENT OF RESIDENTIAL ZONE PURPOSE IN SPORT CITY, NAYA RAIPUR

THIS INDENTURE (“Indenture”) is made and executed on this theday of . .

BETWEEN

Naya Raipur Development Authority (“NRDA”) established under the [●], having its registered office near Mahanadi Dwar, Mantralaya, Raipur- 492001, Chhattisgarh (hereinafter referred to as “NRDA or Authority” which expression shall unless the context otherwise requires, include its successors/ successors in business and permitted assigns and substitutes) of the FIRST PART;

AND

....., a Developer having its registered office at.....(hereinafter referred to as the “Developer” which expression shall, where context so admits be deemed to include its successors in interest and assigns) of the OTHER PART

‘NRDA’ and the “Developer” are, where the context demands, individually referred to as “Party” and collectively as “Parties”.

WHEREAS :

A. NRDA and the Developer have also entered into a Development Agreement (hereinafter referred to as the “Development Agreement”), which Development Agreement shall bind the Parties hereto with respect to all the matters dealt with therein.

B. Through this Indenture, NRDA wishes to lease the Demised Land to the Developer on the terms and conditions agreed between the Parties set out below.

NOW, THEREFORE, THIS INDENTURE WITNESSETH AS UNDER :

01. That in consideration of the sum of Rs.....Crore (Indian Rupees

..... only) and signing of the Development Agreement between the Parties and of the rent hereinafter reserved and of the covenants on the part of the Parties hereinafter contained, NRDA hereby demises the Demise Land to the Developer for the development, construction of buildings and structures for the activities permissible in Residential Use Zone for a period of 30 [thirty] years automatically extendable for two consecutive terms of the same duration on identical terms and conditions at no additional costs thereto /until expiry of the Development Agreement, whichever is earlier ("Term").

02. That the Developer and its Sub-Lessees shall be entitled to execute the Sub-Lease in favour of further Sub-Lessees in respect of the Developed Units as also provided under the Development Agreement.

03. That the Developer and the Sub-Lessees are permitted to create mortgage or charge or lien on the Demised Land for borrowing funds from any financial institutions or corporate bodies.

04. NRDA represents and warrants to the Developer that:

(a) It has a clear and marketable title to the Demised Land free of encumbrances;

(b) That the Demised Land is not subject to any mortgage, lien, charge or similar or other encumbrances;

(c) There exist no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Demised Land under the Principal Lease or otherwise. NRDA shall give the Developer immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term (as Defined in Clause 1 hereinafter);

(d) NRDA does not have any liability for any taxes or any interest or penalty in respect thereof, of any nature, that may become a lien against the Demised Land;

(e) NRDA is in compliance with all applicable environmental laws in relation to the Leased Land such as would impact the Development of the Demised Land as per the said Development agreement;

05. Both Parties represent and warrant to each other for itself that execution of this Indenture will not:

- (a) violate any provision of its organisational documents;
- (b) conflict with or result in any material breach or violation of any of the terms and conditions of, or constitute (or with notice or lapse of time or both constitute) a default under, any agreement to which it is a party or by which it is bound;
- (c) violate any court order, judgement, injunction, award, decree or writ against, or binding upon it or upon its securities, properties or business, and
- (d) violate any law or regulation of India.

06. The Developer covenants with NRDA as follows:

- (i) That it shall execute the Sub-Lease in conformity with the terms of the Principal Lease and of this Indenture and in the event of any conflict between such Sub-Lease and the Principal Lease or this Indenture, the offending terms of such Sub-Lease shall stand modified to that extent ;
- (ii) That, the Developer or its agents shall during the Term hereof pay to NRDA the annual rent of Rs. . . . on the days and in the manner fixed by NRDA for this purpose from time to time. The Developer agrees that, it shall be liable to pay the rent herein reserved, as revised from time to time as per the NRDA Policy from the date of such revision
- (iii) That the NRDA shall hold and use the Demised Land only for activities permissible in Residential Use Zone;
- (iv) That the Developer or its agents of the Sub-Lessees shall during the said Term pay all rates, taxes and charges of every description now payable or hereafter to become payable in respect of the Demised Land or buildings to be erected there upon whether the same be payable by the land lord or tenant ;
- (v) The Developer will ensure that any construction on the Demised Land is undertaken as per the plan approved by the competent authority. A copy of the said approved plan will be submitted by the Developer to NRDA, for information;

(vi) That the Developer shall not erect or build or permit to be erected or built on the Demised Land any building other than that specified in a plan approved by the competent authority nor make an addition to any existing building or structures at any time except with the written approval of such competent authority ;

(vi) That the Developer shall conform to all rules, regulations and by-laws of the NRDA ;

(viii) That no act, shall be done or caused to be done on the Demised Land or building which is likely to be or become a nuisance or a disparagement, annoyance or inconvenience to NRDA or to the other lessees in the neighbourhood ;

(ix) That all mines, mineral products, buried treasure, coal, petroleum, oil and quarries whatsoever, under the said land shall be the property of NRDA;

(x) That all sums of money due to NRDA on account of rent under these presents, shall be recoverable by NRDA in addition to any other remedy open to it.

(xi) That the Developer shall keep in tact the boundaries of the Demised Land and shall ensure inspection when required by NRDA, subject to 7 (seven) days advance written notice;

(xii) That the Developer shall not, without the consent in writing of NRDA, use or permit the use of the Demised Land for any purpose other than that for which it is leased.

07. NRDA hereby covenants with the Developer as follows:-

- (i) That the Demised Land is free of all encumbrances and that the Developer/Sub-Lessees paying the rent hereby reserved and perform all the covenants herein contained, shall hold and enjoy the Demised Land during the term hereof without any unlawful interruption by NRDA or any other person whatsoever;
- (ii) That, if the Govt. of Chhattisgarh/Govt. of India at any time, before the expiry of the Term desires to resume the Demised Land or any part thereof for any "Public Purpose" (however, the term "Public Purpose" shall only be applicable for

- circumstances where the said resumption or re-entry is necessary for ensuring national security or in cases of National Emergency and shall be mandated by the Designated Constitutional Authority) as stipulated in the Principal Lease, the /Developer shall vacate the Demised Land or the part of the Demised Land as required for the above mentioned public purpose within three months from the notice in writing given by NRDA and the Developer as well as all other affected parties (including Sub-Lessees and/or other lawful occupants holders of interest for the time being, who shall be using part of the Demised Land or any building or structure or improvements on the Demised Land at that point of time when the notice for re-entry is served) shall be entitled for compensation at prevailing market price and payable in accordance with the principles laid down under the Land Acquisition Act, 1894. The Developer (including Sub-Lessees and/or other lawful occupants holders of interest for the time being) shall also be entitled to compensation on account of the loss of use and occupation of the holding of the Demised Land or part of it and structure on the Land which may be fixed at such amount which may be considered equitable according to the circumstances of each case;
- (iii) That it is in sole and absolute possession of the Demised Land and has a clear and marketable title to the demised land and is in compliance with all applicable laws in relation to the demised land;
 - (iv) That there exists no claim, actions, litigations, arbitrations, land acquisition proceedings, garnishes or other proceedings relating to the Demised Land. NRDA shall give the Developer and the Sub-Lessees immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term of this Indenture;
 - (v) There exists no claims for the rehabilitation and/or relocation of the PAPs and that the Developer shall not be responsible for the rehabilitation and/or relocation of the PAPs and nor shall it be liable to pay any cost to NRDA in that regard and NRDA further represents that NRDA shall indemnify the Developer from any claims or cost incurred or suffered by the Developer in this regard;
 - (vi) NRDA will indemnify, defend and hold harmless the Developer against any and all proceedings, actions , third party claims for loss, damage and expense of whatever kind and nature arising out of breach by NRDA, its officers , servants and agents of any obligations of NRDA under this Agreement except to the extent that any such claim has arisen due to

breach by the Developer of any of its obligations under this Agreement .

08. That the expression “Developer” or the “Sub-Lessee” hereinbefore used shall include its sub-lessee(s) and its subsequent sub-lessee(s), heirs, executors, administrators and agents and assigns.

09. All registration fees and other costs and expenses payable for the execution and registration of this Indenture shall be borne and paid by the Developer.

IN WITNESS WHEREOF the undersigned have executed this Agreement as of the date first above written;

Signed and delivered for an on behalf of
on behalf of
Cuttack Development Authority

Signed and delivered for and

Name:

Name :

Title:

Title:

Witness:

Witness:

1.

1.

2.

2.

SCHEDULE I [TO THE LEASE AGREEMENT]

[Particulars of the Land hereby demised]

Mouza

Khata No.

Plot No.

Area (Acres

Bounded by:-

North -

South -

East -

West -

NRDA

DEVELOPER

**SCHEDULE V: SPECIFICATIONS AND STANDARDS FOR CONSTRUCTION OF
COMPULSORY RESIDENTIAL COMPONENTS**

Minimum Acceptable Specifications for Civil Works for Buildings

Description	Minimum Specifications
Minimum Built up Area for EWS should be 350 sq ft with at least one bathroom with water closet	
Foundation and plinth: As per approved design	
Brick work in Superstructure	The detailed dimensions & mix of RCC to be adopted shall be as per approved structural design
Half brick work	The detailed dimensions & mix of RCC to be adopted shall be as per approved structural design
Brick work under kitchen platform	The detailed dimensions & mix of RCC to be adopted shall be as per approved structural design
RCC work	
RCC in columns, beams and slabs	The detailed dimensions & mix of RCC to be adopted shall be as per approved structural design.
Lintels	As per approved structural design and BIS / CPWD specifications.
Lintels band. Seismic resistance	As per approved structural design and BIS / CPWD specifications.
Triangular portion of steps in staircase	The detailed dimensions & mix of RCC to be adopted shall be as per approved structural design
Conduits for electrical and Telecommunication cables	To be laid as per National Building Code/ BIS standards and to be concealed mostly.
Wood work	
Door shutters, entrance door, Bath room door, toilet, WC and kitchen door	35mm thick Commercial block board with both side painted (synthetic enamel) for rooms & extra Aluminium flushed for balcony, Bath & W.C. door shutters.
Door fittings	Anodised aluminium fittings eg Tower bolts, handles, door stopper etc will be provided. Anodised aluminium sliding door bolts will be provided only at the entrance doors. All other doors will be provided with nickel plated MS pull lock bolts.
Door frames	Hard wood
Steel Work	
Window	As per approved structural design and BIS / CPWD specifications.

Description	Minimum Specifications
Window fittings	As per approved structural design and BIS / CPWD specifications.
Roof Treatment	As per approved structural design and BIS / CPWD specifications.
Treatment on sloping roof slabs (like mumty slab)	As per approved structural design and BIS / CPWD specifications.
Rain water pipes	AC rainwater pipe except the bottom length of about 2 M which shall be of SCI pipe.
Finishing	
Plastering on walls	As per approved structural design and BIS / CPWD specifications.
Kitchen Platform Top/Counter	As per approved structural design and BIS / CPWD specifications.
Finished bottom of RCC slab	As per approved structural design and BIS / CPWD specifications.
Primer	As per approved structural design and BIS / CPWD specifications.
Painting on wood and steel work	As per approved structural design and BIS / CPWD specifications.
Plinth protection	As per approved structural design and BIS / CPWD specifications.
Wall Painting	
Kitchen	Apex Ultra Emulsion or similar quality
wash basin area	Apex Ultra Emulsion or similar quality
Bed Room	Apex Ultra Emulsion or similar quality
Living Room	Apex Ultra Emulsion or similar quality
Common area	Apex Ultra Emulsion or similar quality
External Water Supply	As per approved structural design and BIS / CPWD specifications.
Painting of GI/ SCI pipes	As per approved structural design and BIS / CPWD specifications.
Fittings	As per approved structural design and BIS / CPWD specifications.
Overhead tank	As per approved structural design and BIS / CPWD specifications.
Flooring	PCC as per the approved design