

Part-II
Draft Development Agreement
Between
Odisha State Housing Board
And

For
**Development of an Integrated Residential -cum-
Commercial Complex over Ac 06.589 patch of
land at Patrapada, Bhubaneswar**

On Dtd -----

DEVELOPMENT AGREEMENT

This **Development Agreement** is made onth day of2020 at Bhubaneswar. ("**Agreement**")

BETWEEN

ODISHA STATE HOUSING BOARD established under the Orissa State Housing Board Act, 1968 , having its office at Sachivalaya Marg, Bhubaneswar-751001 (hereinafter referred to as "**OSHB**", which expression shall include its successors and permitted assigns) of the one part;

AND

----- The Developer having its registered office at -----
----- (hereinafter referred to as the "**Developer**" which expression shall, where context so admits, be deemed to include its successor or successors and permitted assign or assigns) of the other part.

WHEREAS -

- (A) OSHB entered into the lease deed bearing No 6303 & 2766 dated 9.06.2008 & 18.03.2008...respectively (Ac 05.039+Ac01.550=Ac 06.589). with Govt. of Orissa in Revenue and Disaster Management Department for leasing out the land described in Schedule '2 ' on the terms and conditions attached there-to (which forms part of this Development Agreement), to develop an integrated residential project over the said land, either directly or **through public private partnership (PPP) basis by selecting the developer through E-auction of land.**
- (B) OSHB invited proposals from prospective bidders for development of Integrated Residential -cum-Commercial Complex at Bhubaneswar on PPP basis through the competitive bidding route and selected the Developer, **through E-auction basis** , as the Preferred Bidder for the development of Project on PPP basis consequent upon and subsequent to directions of Hon'ble Supreme Court in W.P(C) No.(s) 940/2017(Bikram Chatarjee & others Vs. Union of India & others) , dated 14.10.2019 ;
- (C) OSHB vide its letter No.----- /OSHB dated ----- . awarded the development of the Project to the Developer which has been duly accepted by the Developer;
- (D) OSHB is executing this Development Agreement subject to terms & conditions specified in clause 3.3 A & B and schedule 1(Development Milestone) of the Development Agreement
- (E) The agreement contains 52 numbered pages including the cover page.

NOW THEREFORE THIS AGREEMENT WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:-

1. DEFINITIONS AND INTERPRETATION

- 1.1** In this Agreement (including the recitals above and the Schedules and Exhibits hereto), except where the context otherwise requires, the following words and expressions shall have the following meanings, namely:-

1.1.1. "Agreement Date" means the date of execution of this Agreement;

1.1.2. "Applicable Law" means and includes all applicable statutes, enactments, Acts of state legislature or Parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Governmental Authority, Statutory Authority, Tribunal, Board, Court or recognised stock exchange, as may be applicable ;

1.1.3. "Approvals" means all approvals, permissions, authorisations, consents and notifications from any Governmental Authority, whether Central or State Government, Regulatory and/or departmental authority including, but not limited to, the approvals of the Department of Company Affairs, Foreign Investment Promotion Board, Secretariat for Industrial Assistance, Reserve Bank of India and any other authority, as may be applicable ;

1.1.4. "OSHB indemnified Party" shall have the meaning ascribed to it in Article 27;

1.1.5. "Built up Project Area" means that portion of the total Project area on which the Developer can build up in accordance with the provisions of Article 6;

1.1.6. "Business Day" means a day, except Saturdays and Sundays, on which banks are generally open for business in the city of Bhubaneswar, Orissa, India;

1.1.7. "Charges" means (a) all amounts payable by the Tenants to the Developer at any time and from time to time pursuant to any sub-lease granted by the Developer to such Tenant or (b) all amounts payable by the Tenants to the Developer at any time and from time to time for the Services rendered or made available by the Developer to such Tenant and/or (c) all amounts payable at any time and from time to time by any other Person who utilises the Services, to the Developer ;

1.1.8. "Commercial Operations Date" means the date on which **the Occupancy Certificate is issued by the Competent Authority(s).**

1.1.9. "Conditions Precedent" means the conditions set out in Article 22;

1.1.10. " Company Grace Period " is equal to 365 days;

1.1.11. "Contractor" means any Person appointed by the Developer for the provision of any services with respect to the construction and/or development of the Project and includes a Sub-Concessionaire;

1.1.12. "Development Milestone(s)" means the minimum parameters, standards and targets to be achieved by the Developer in the construction and development of the Project in accordance with sound engineering practices, and more specifically set forth in Schedule 1 ;

1.1.13. "Development Milestone Date(s)" means the date on or before which the Developer must achieve or satisfy the Development Milestones, which has been more specifically set forth in Schedule 1;

1.1.14. "Development Mix" shall have the meaning assigned to it in Article 6.1;

1.1.15. "Effective Date" Effective Date shall mean the Agreement Date;

1.1.16. "Engineer Default" means a default on the part of the Independent Engineer under the terms of the Engineering Contract;

1.1.17. "Expert" shall mean a person with recognized expertise of Internationally accepted standards in relation to the matter and whose selection and remuneration shall be jointly decided by the Arbitrators under Article 32. If the Parties fail to decide on an Expert, then the matter shall be referred to the office of Institution of Engineers located at New Delhi, India, which is the largest multi-disciplinary engineering professional society;

1.1.18. "FAR" means Floor Area Ratio allowable in accordance with the **prevailing** Bhubaneswar Development Authority (Planning and Building Standards) Regulations-2018, as amended from time to time and adopted by BMC & any further conditions, if any, specified by BMC.

1.1.19. "Force Majeure" shall have the meaning ascribed to it in Article 28;

1.1.20. "GOO" means Government of Odisha;

1.1.21. "GOO Lease" i.e. Principal Lease shall have the meaning ascribed to it under Article 26.2 (g);

1.1.22. "Governmental Authority" means any government or political subdivision thereof; any department, agency or instrumentality of any government or political subdivision thereof; any court or arbitral tribunal;

1.1.23. "Independent Engineer" means the Person appointed by the Developer from amongst the panel of three Independent reputed and qualified Entities, in consultation with OSHB pursuant to Article 14, for the determination whether the Developer has successfully achieved the Development Milestones, as applicable ;

1.1.24. "Lease Deed" shall have the meaning ascribed to it in Article 18.1;

1.1.25. "Leased Land" shall have the meaning ascribed to it in Article 18.1 and schedule 2;

1.1.26. "Maintenance Standards" shall mean the development and maintenance standard set out in Schedule 3 ;

1.1.27. "Open Land or Open Area" means open space as defined in the **relevant** clause of the **prevailing** Bhubaneswar Development Authority (Planning and Building Standards) Regulations-2018, as amended from time to time and adopted by BMC and any further conditions, if any, specified by BMC.

1.1.28. "PAPs" means project affected persons who may have been displaced from the Demised Land;

1.1.29. Performance Security shall mean 10% of Quoted Bid Amount in the form of Demand Draft or a Bank Guarantee from a Nationalised bank to be paid by the Developer before execution of the Development Agreement as defined in section 5.16.2 of Part I of the RFP.

1.1.30. "Person" means any natural person, firm, company, Governmental Authority, joint venture, partnership, association or other entity (whether or not having a separate legal personality) ;

1.1.31. "Progress Report" means the report to be submitted by the Developer to OSHB, in the format specified in the Schedule 4, substantially setting out in reasonable detail the progress made in achieving the Development Milestones in the last preceding Quarter to which such report pertains ;

1.1.32. "Project" means the development of the Integrated Residential cum Comercial Complex over Ac. 06.589 of land in Mouza Patrapada under Bhubaneswar Tahasil. Khurda , Orissa as described in detail in Schedule 2 and on the terms of this Agreement between the Developer and OSHB ;

1.1.33. "Project Area" means the Leased Land within which the Project has to be developed;

1.1.34. "Project Commencement Date" shall mean the date of obtaining registration from ORERA;

1.1.35. "Quarter" means a period of 3 (three) calendar months commencing on the first day of the month immediately after the Effective Date and each subsequent period of 3 (three) calendar months till the expiry of the Term ;

1.1.36. "Quoted Bid Amount" shall mean the **auctioned amount quoted by the Bidder in the E-auction process;**

1.1.37. "Regulations" means prevailing Bhubaneswar Development Authority/Bhubaneswar Municipal Corporation (Planning & Building Standards) Regulations/ORERA regulations , as amended from time to time;

1.1.38. "Rs" or "INR" means Indian Rupees being the lawful currency of the Republic of India;

1.1.39. "Security Interest" means any existing or future mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, assignment, security interest or other encumbrances of any kind securing or conferring any priority of payment in respect of any obligation of any Person and includes without limitation any right granted by a transaction which, in legal terms, is not the granting of security but which has an economic or financial effect similar to the granting of security in each case under any Applicable Law ;

1.1.40. "Services" means provision of Infrastructure Services such as internal roads, street lighting, sewerage, drainage, power supply back up and distribution of water supply within the Project Area;

1.1.41. "SPV" means Special Purpose Vehicle . Where the Preferred Bidder is single entity , it may be required to form a appropriate special purpose vehicle incorporated under the Indian Companies Act to execute the agreement (s) and implement the project.

1.1.42 "Sub-Lease Deed(s)" shall have the meaning ascribed to it in clause 17;

1.1.43. "Sub-Concessionaire" means any Person who has agreed to provide any Services under legally binding agreement(s) between the Developer and such Person and shall include sub- Sub-Concessionaires;

1.1.44. " Substitute Party " means any competent party chosen by the Company and agreed to by OSHB which may takeover the assets created or provided by the Company on terms and conditions specified in the Development Agreement which includes the Lender (s) providing credit facility to the Company , upon payment of compensation;

1.1.45 "Taxation" or "Tax" means all forms of taxation whether direct or indirect, **GST** 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 (without limitation to social security contributions and any other payroll taxes), whenever and wherever imposed (whether imposed by way of a withholding or deduction for or on account of tax or otherwise) and in respect of any person and all penalties, charges, costs and interest relating to it ;

1.1.46. "Tenants" means those Persons who have entered into a Sub-Lease Deed with the Developer for use/occupation of a portion of the built up Project Area and shall include tenants of the subsequent sub-lessors under the deed executed between the sub-lessors and its sub sub-lessee ;

1.1.47. "Term" means a period of **90 (Ninety years)** years from Dt.18.04.2004 i.e the date of execution of lease deed with Govt. of Odisha.

1.1.48. "Third Party Agreements" means all agreements entered into between the Developer and third Persons, including, but not limited, to the Sub-Lease Deed and other agreements with Contractors, sub-contractors, and vendors of any goods or services to the Developer.

1.2 In this Agreement unless the context requires otherwise:-

- (a) reference to the singular includes a reference to the plural and vice versa, and reference to any gender includes a reference to all other genders ;
- (b) reference to an individual shall include his legal representative, successor, legal heir, executor and administrator ;
- (c) reference to statutory provisions shall be construed as meaning and including references also to any amendment or re-enactment (whether before or after the Agreement Date) for the time being in force and to all statutory instruments or orders made pursuant to statutory provisions ;
- (d) references to any statute or regulation made using a commonly used abbreviation, shall be construed as a reference to the short title of the statute or full title of the regulation ;
- (e) references to any Article, Schedule, Annexure or Exhibit shall be deemed to be a reference to such Article, Schedule, Annexure or Exhibit of or to this Agreement ;
- (f) reference in a provision of this Agreement to any approval of any Party required under another provision of this Agreement shall be deemed to have expired or terminated if the second provision has expired or terminated ; and

- (g) the Article headings used in this Agreement are intended for convenience only and shall not be deemed to supersede or modify any provisions of the Agreement.

- 1.3 The Exhibits, Annexures and Schedules to this Agreement shall form an integral part of this Agreement **including the RFP**.

2. TERM

- 2.1 This Agreement shall be valid for a period of **90 (Seventy Five)** years from Dt. 18.04.2004, if not extended as per Article 24 of this Agreement.

3. PROJECT SCOPE

- 3.1 OSHB proposes to develop an integrated Residential -cum-Commercial complex with modern amenities and facilities at Bhubaneswar. The Project is aimed towards meeting the growing need for quality housing space in Bhubaneswar. OSHB has identified a strategic area spread over an area of around Ac. 06.589 for the project. The Project site is located in Mouza Patrapada under Bhubaneswar Tahasil. Khurda Orissa .
- 3.2 The objective of this project is to provide quality residential along with associated complementary commercial facilities. With this over arching objective, the Project is expected to provide the following minimum facilities:
- a. Residential Built-up Space (minimum 2/3rd of the built-up area);
 - b. Commercial Built-up Space (maximum 1/3rd of the built-up area) including a Shopping complex which can serve the daily requirements of the residents;

- c. EWS (Economically Weaker Section)/LIG(Low Income Group) - The Developer has to utilise minimum 20 % of the land for development of EWS & LIG categories of houses keeping in view that the area for EWS category of houses/flats shall not be less than 10 % of the total land. The Development and allotment of both categories of houses/flats shall be according to the **"Policy for Housing for All in Urban Areas, Odisha, 2015" or any Govt/OSHB guide lines as amended from time to time.** One family will be eligible for allotment of one EWS/LIG flat only. For this purpose, family is defined as husband, wife and dependent minor children.
- d. MIG(Middle Income Group) and HIG (High Income Group) category of flats: The size, sale price and number of such flats will be decided by the Developer.
- e. Entertainment Centres, Food Courts, etc.
- f. Uninterrupted quality power supply, water supply, internal roads and such other services required for the Project;
- g. Landscaping, Garden, Parks, Water bodies, Community centers; and
- h. High quality round the clock facility management and maintenance services.

3.3 (A) The various activities to be carried out by the Developer after execution of this Development Agreement shall be:-

- (a) Project conceptualisation, design, planning, processing and obtaining statutory permission , approval and clearances ;
- (b) Survey , subsoil exploration and investigation ;

(B) The various activities to be carried out by the Developer after execution of the Lease Deed shall be:-

- a) Raising finances for the Project as required;
- b) Development of the Project including services and amenities as may be required within the project area ;
- c) Development of necessary infrastructure such as internal roads, street lighting, sewerage, drainage, etc;
- d) Development of linkages with external infrastructure at the Project boundary required for the Project like electricity supply, water supply, waste water and solid waste disposal and rain water harvesting;
- e) Development of social amenities as may be required;

- f) Marketing the Project ;
- g) Operation, maintenance and management of the Project; and
- h) Any other activities that may be required for the successful development of the Project.

4. GENERAL OBLIGATIONS OF THE DEVELOPER

- 4.1 The Developer shall obtain (or cause its agents, contractors and sub-contractors to obtain) all the permissions required to carry out the construction activity. The Developer shall comply with all applicable law including the rules and regulations laid down by statutory or other authorities with respect to development and sub-lease of units in the Project area;
- 4.2 The Developer shall achieve the Effective Date and will commence the Project within thirty days of obtaining all approvals;
- 4.3 The Developer shall comply with the Development Milestones;
- 4.4 The Developer shall develop and maintain the Project as per the standards specified in Schedule 3 of this Agreement or as may be agreed between the Parties;
- 4.5 The Developer shall submit quarterly reports comprising the process for meeting the Development Milestones, marketing, operation and maintenance of the Project to OSHB in the form as at Schedule-4 ;
- 4.6 The Developer may employ third parties (including agents, contractors and sub-contractors) for the construction phase but shall be fully and exclusively responsible for all acts, omissions, deeds and things of such persons. Such employment shall not absolve the Developer of any of its obligations and liabilities (express or implied) under the Agreement, it being further clarified that any payments or sums to be paid to such third parties or any compliance with any Applicable Law shall be the sole responsibility of the Developer. In no way, OSHB will be liable for any statutory liability under any Act including but not limited to the Employees Provident Fund Act, Employees State Insurance Act, Minimum Wages Act etc. in respect of the employees, agents, workers engaged by the Developer, it's Agents and Sub-lessees/Sub-concessionaires ;
- 4.7 The Developer shall be solely responsible for the development of the Project and for all costs and expenses incurred by it in connection therewith. The Developer and other third parties contracted or employed by them shall be solely responsible for directing and supervising the activities of all persons involved in the implementation of the Project;

- 4.8 The Developer will be responsible for internal infrastructure linkages required for the Project like road, electricity supply, water supply, waste water and solid waste disposal and storm water drainage. OSHB will facilitate for the provisions with respective Government department and agencies at no cost to itself and it shall be the responsibility of the Developer to fulfil any monetary or other compliances as may be required by such Government Department and Agencies ;
- 4.9 The Developer shall ensure that no damage is caused to any property belonging to OSHB in the execution of the construction activity;
- 4.10 The Developer shall allow the Independent Engineer and OSHB's nominated persons clear access to the Project site and all its facilities during the pre-construction, and construction period. Access to OSHB's nominated person shall be allowed by the Developer during post-construction operation period on written request and during reasonable hours;
- 4.11 The Developer shall be solely responsible for marketing the Built-up Project Area and shall bear all the costs associated with the marketing activity;
- 4.12 The Developer shall be solely responsible for the security of its assets in the Project area at its own cost;
- 4.13 The Developer shall be responsible for the security of the Project land from the Effective Date and shall ensure that there are no encroachments on the entire area allocated for the proposed complex;
- 4.14 The Developer shall be responsible for payment of all statutory taxes **including GST**, duties in respect of the Project land and the assets built over the same to the appropriate authority including OSHB from the Effective Date; and
- 4.15 The Developer shall be responsible for the operations, management and maintenance of the Project.

5. RIGHTS OF THE DEVELOPER

- 5.1 The Developer shall have the following rights under this agreement, namely:-
- (a) To plan and design the Project including the facilities and the amenities;
 - (b) To build and develop the Project as per the approved development mix set out in Article-6 ;
 - (c) To grant sub-leases in respect of portions of the Built-up Project area in terms of Article 17 of this Agreement;

- (d) To market the Built-up Project Area and appropriate the proceeds;
- (e) To operate, maintain and manage the Project;
- (f) To provide and maintain the Services within the Project Area and to levy, collect and appropriate the user charges;
- (g) To mortgage, hypothecate its right, title, interest in the land or the assets built-over it for securing financial assistance required for the development of the Project after execution of the Lease Deed as specified in clause 18.1 , Part II of RFP ; and
- (h) To engage Agencies or Facility providers for providing any of the services required for construction, operation, management and maintenance of the Project.

6. APPROVED DEVELOPMENT MIX

- 6.1 The Developer shall not use the Open land in the Project for construction of any building. The Developer shall be required to develop the Project area based on the following approved development mix ("**Development Mix**") :-

| Sr. No. | Land Use | Area |
|----------------|--|--|
| 1. | Total Project Area | Ac. 06.589 |
| 2. | Open Area | As per BDA/BMC norms |
| 3. | Covered Area | As per BDA/BMC norms |
| 4. | FAR on Total Project Area(Maximum permissible at present) | 3.00 |
| 6 | Maximum Permissible Built-up Area | As per BDA/BMC norms |
| 7 | Built-up Residential Space | (minimum 2/3 rd of the total built-up area) |
| 8 | Built-up Commercial Space | (maximum 1/3 rd of the total built-up area) |

- 6.2 Non-adherence to the above mentioned Development Mix shall be deemed as an event of default.
- 6.3 If the Regulations are subsequently amended to increase the FAR the Development Mix would be accordingly amended.
- 6.4 If and only if the Company decides to enhance the FAR of the Project before execution of the Lease Deed and in case the plan is approved by OSHB and BDA, the Company would pay OSHB a consideration pro rata to the Quoted Bid Amount to be calculated as per example cited in clause 6.5.

- 6.5 As abundant clarification, if the FAR approved by OSHB / BDA for the project site is 'XYZ', the Company would pay an additional consideration of (XYZ- 3.00) (Quoted Bid Amount)/ 3.00 for such increase in FAR.
- 6.6 In case approval is sought for after execution of the Lease Deed and the plan is approved by OSHB and BDA subsequently, the Company/the Developer shall pay the pro rata, to be calculated as per article 6.5 and an interest @8%per annum over the pro rata computed cumulatively on quarterly basis for the period from the date of execution of the Lease Deed till the date of approval obtained from BDA.

As abundant clarification, no escalation of any kind on the Quoted Bid Amount would be admissible for the above computation.

7. CONSTRUCTION AND DEVELOPMENT OF THE PROJECT

- 7.1 The Developer shall construct and develop the Project and do all such acts, deeds and things as may be necessary and expedient for that purpose and the Developer shall -
- (a) Obtain or cause its agents, Contractors and sub-contractors to obtain all the approvals required to carry out the construction of the Project in accordance with Applicable Law. OSHB will facilitate in the process of getting such approvals;
 - (b) either itself or through Contractors appointed in accordance with the terms of this Agreement, procure at its own risk all services necessary for the construction and development of the Project including electricity, water, materials and labour; and
 - (c) provide the services and shall bear and pay the entire costs and expenses with regard to all such acts, deeds and things as stated in (a) and (b) above.
- 7.2 The Developer shall furnish to ORERA/OSHB and to the Independent Engineer the Progress Report within 15 (fifteen) Business Days after the expiry of each Quarter.
- 7.3 In the event of any delay in execution of the project as per development phasing/mile stone submitted to ORERA, any penalty if imposed by ORERA/ any court of law / any complaint from the allottees for such delay / deviation from approved plan of BDA/BMC/ any statutory authorities, the developer will be solely held responsible before the appropriate authority for such lapses.

8. MARKETING OF THE PROJECT

- 8.1 The Developer shall be solely responsible for the marketing of the Built-up Project Area to potential Tenants and shall make its best endeavours in this regard. The Developer shall undertake all marketing activities in this regard at its own costs and expenses. OSHB agrees to provide marketing support to the Developer on a best-effort basis, including participating in marketing road shows to be organised by and at the cost of the Developer.

9. OPERATION & MAINTENANCE OF THE PROJECT

- 9.1 The Developer shall operate and maintain the Project as per the maintenance standards defined in Schedule 3 of this Agreement 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, contractors and sub-contractors to obtain all the Approvals required for the operation and maintenance of the Project and the Services in accordance with Applicable Law;
- (b) provision and maintenance of the Services within the Project Area to the Tenants on terms and conditions to be mutually agreed between the Tenants and the Developer, and in accordance with the terms and conditions that may be agreed to between the Developer and such Sub-Concessionaires ;
- (c) provision and maintenance of the Services within the Project Area including ensuring security and safety of the constructions of the Project as a whole and ;
- (d) the determination, levying and timely collection of the Charges.

10. DEVELOPMENT MILESTONES

- 10.1 The Developer shall be responsible for achievement of the Development Milestone within the time frame stipulated in Schedule 1 of this Agreement;
- 10.2 The Developer shall necessarily have to develop a minimum of 2/3rd of the total built-up space as residential space. The remaining 1/3rd shall be permitted to be developed as either residential or commercial. The Developer will achieve this ratio at the end of the development. However, at no stages, the non-residential area will exceed the residential area.

11. INSURANCE COVERAGE

11.1 The Developer shall at its cost and expense, purchase and maintain such insurance as are necessary, including but not limited to the following:

11.1.1 Builders' all risk insurance;

11.1.2 Workmen's compensation insurance; and

11.1.3 Any other insurance that may be necessary to protect the Developer, its employees and its assets against loss, damage or destruction at replacement value including all Force Majeure events (as defined) those are insurable.

12. THIRD PARTY AGREEMENTS

12.1 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 and undertakes that in the event of any conflict or inconsistency between such Third Party Agreements on the one hand and this Agreement the provisions of the latter shall prevail. The Developer further undertakes that the terms and conditions as may, in the reasonable opinion of the Developer, be necessary to ensure that the Third Party is required to perform his part of the contract(s) in conformity with the Developer's obligations under this Agreement, shall be incorporated in the Third Party Agreements.

13. OSHB'S OBLIGATIONS

13.1 Transfer of land as outlined in Schedule 2 of this Agreement to the Developer within thirty days of the Developer paying OSHB 50% of Quoted Bid Amount in two equal instalments within six months of the agreement date , Bank Guarantee for outstanding 50% Quoted Bid Amount , Performance Security of 10% of Quoted Bid Amount and execution of the Development Agreement.

OR

Transfer of land as outlined in Schedule 2 of this Agreement to the Developer within thirty days of the Developer paying OSHB 100% of Quoted Bid Amount in two instalments within six months of the agreement date as outlined in clause 18.1.

14. INDEPENDENT ENGINEER

- 14.1 Within 3 months of execution of Agreement the Developer shall submit a panel consisting of at least three independent, reputed, and qualified entities to OSHB for appointment as Independent Engineer. OSHB will select one entity, which will be appointed as Independent Engineer by the Developer. The fees, remuneration and all incidental expenses of the Independent Engineer shall be borne by the Developer;
- 14.2 The role of the Independent Engineer would be to oversee the implementation of the Project by the Developer, to determine whether the Development Milestone has been met, and whether deviations, if any, are material from the agreed Development Milestone and the approved plans, designs and drawings have been made. The Independent Engineer shall be required to inspect and submit monthly reports to OSHB directly.
- 14.3 Information and access to facilities, designs, drawings, survey reports, samples etc., shall be provided to the Independent Engineer by the Developer as would be necessary for such determination; and
- 14.4 If OSHB has reason to believe that the Independent Engineer is not discharging its duties in a fair, appropriate and diligent manner, OSHB may seek termination of the appointment of the Independent Engineer which will be immediately acted upon by the Developer and a new Independent Engineer shall be appointed in accordance with the provisions mentioned in preceding paragraph.

15. LEASE

- 15.1 The Developer shall pay following annual charges in respect of Leased Land to OSHB subject to revision by the concerned authority/GOO and shall be intimated to the Developer from time to time:

| Sr. No. | Charges | Amount per annum |
|---------|---|------------------|
| a. | Annual Ground Rent | As Applicable |
| b. | Cess @ 75% of Annual Ground Rent subject to modification made time to time | As Applicable |
| c. | Any other taxes , fees , premium if any levied by Govt. (central and state), instrumentality of the Govt. / Statutory/ Local bodies and etc imposed / to be imposed time to time for the land and the construction thereon | As Applicable |

- 15.2 The Developer shall pay directly to the concerned authorities all charges for the consumption of electricity, water etc. and shall also pay all other statutory charges in respect of assets, built over the Leased Land to the concerned Authorities
- 15.3 The Developer shall not use the property for any purpose other than the purpose specified under this Agreement.
- 15.4 The Developer will take possession of the property on "as it is" condition and no further demand for any development such as earth filling, raising the level etc. shall be entertained. Any other improvement or development is purely the responsibility of the Developer;
- 15.5 If the dues payable to OSHB by the Developer or any other statutory charges or other charges which are the responsibility of the Developer or any part thereof shall at any time remain arrears and unpaid for three calendar months after the date on which the same shall have become due whether the same shall have been lawfully demanded or not, it will be deemed as an Event of Default and appropriate actions as per Articles 33, 34 and 35 shall be followed;
- 15.6 All instalments and other dues payable by the Developer shall be recoverable as a public demand under the Orissa Public Demand Recovery Act, 1962;
- 15.7 OSHB reserves the right to the mineral wealth including minor minerals on, in or under the area covered by the lease and the Developer will have the surface rights over the land. The rights of the GOO and the OSHB to the public, roads and paths bounding the Leased Lands are in no way affected by the lease;
- 15.8 The Developer shall duly comply with the provisions of the Environment Protection Act, the rules made there under as also with any condition which may from time to time be imposed by the Orissa State Pollution Control Board as regards collection, treatment and disposal or discharge of effluents or waste or other wise how so ever and shall indemnify and keep indemnified OSHB against the consequence of any breach or non compliance of any such provisions or conditions as aforesaid;
- 15.9 The Developer shall not keep on the designated land any horses, cattle, poultry or other animals nor do or permit to do anything thereon which may be nuisance, annoyance or disturbance to OSHB occupiers or resident of other premises in the vicinity; and
- 15.10 All cost and expenses for preparation, execution and registration of this Agreement including stamp duty will be borne and paid by the Developer.

16. SUB-CONCESSION

- 16.1 The Developer may fulfil its obligation to construct and market the Project by granting sub-concessions to third parties;
- 16.2 All sub-concessions granted by the Developer to third parties and long term commercial agreements entered into by the Developer with third parties shall not be inconsistent with the terms and conditions of this Agreement, and shall terminate on termination of this Agreement;
- 16.3 The Developer shall:-
- (a) Ensure that the sub-concessions are granted on an arm's length basis;
 - (b) Ensure that the assets created and/or constructed pursuant to the sub-concession vest in OSHB upon expiry/ termination of this Agreement;
 - (c) Ensure that the sub-concessionaire perform their obligations in the same manner that the Developer is required to perform their obligations under this Agreement;
 - (d) Deliver copies of all contracts with sub-concessionaires to OSHB within 30 days of execution;
 - (e) Unless otherwise agreed to by OSHB, OSHB shall not be liable for any costs whatsoever in relation to such sub-concessions and long-term commercial agreements entered into by the Developer with third parties as a result of the expiry or termination of this Agreement; and
 - (f) Be liable for all acts of the sub-concessionaries and to ensure that there is no change in the end-use by the sub-concessionaires.

17. SUB-LEASES

- 17.1 The Developer shall be entitled to grant sub-leases in respect of portions of the built up Project area in favour of Tenants in order to fulfil its obligations pursuant to this Agreement and to develop, operate and maintain the Project.

Provided that all such sub-leases shall be by way of Sub-Lease Deed.

Provided further that all such Sub-Lease Deeds shall be in conformity with the terms and conditions of this Agreement and shall include provisions to the effect that in the event of a conflict (direct or indirect) between the provisions of this Agreement in one hand and the Sub-Lease Deed on the other, the provisions of this Agreement (as the case may be) shall prevail and such Sub-Lease Deed shall stand modified to that extent.

- 17.2 The aforesaid sub-leases shall not be for a period longer than the Term of this Agreement.
- 17.3 The Developer agrees, undertakes and covenants with OSHB that it shall, with regard to the grant of sub-leases in respect of portions of built up Project area, grant sub-leases to Tenants in accordance with the respective Sub-Lease Deeds and this Agreement (to the extent applicable) .
- 17.4 The Developer shall ensure that the Sub-Lease Deeds executed by it in favour of the Tenants shall be duly stamped and registered and shall furnish to OSHB relevant details Sub-Lease Deeds within 30 (thirty) days of the execution of each such Sub-Lease Deed.

18. PAYMENT OF QUOTED BID AMOUNT

- 18.1 The total consideration in respect of Leased Land as per the Quoted Bid Amount is Rs -----/- (Indian Rupees -----). The payment schedule of the Quoted Bid Amount by the Developer to OSHB is agreed as follows:

An upfront payment of 25% of the Quoted Bid Amount (Installment I) is already made by the Developer to OSHB prior to execution of the Development Agreement.

The balance 75% of the Quoted Bid Amount is to be paid to OSHB on either of the following schedules. The Developer may choose one of the options (A) or (B)

(A) 25% of the Quoted Bid Amount i.e. Installment No. II is to be paid by the Developer to the OSHB within a period of 180 days to be counted from the date of execution of the Development Agreement. The Developer shall furnish bank guarantee from a Nationalized Bank for the balance 50% of the Quoted Bid Amount with interest accrued there upon on tentative calculation for a period of 2 (two) years at the rate specified hereunder. The Lease Deed shall be executed by both the parties on compliance of the aforesaid condition and the unencumbered Project area will be transferred to the Developer. The Bank guarantee referred to above shall be valid for a period of 2 (two) years on and from the date of execution of the Lease Deed. In case, the Developer fails to pay the Quoted Bid Amount with interest accrued thereon , directly to the account of OSHB within the period of 23 months from the date of execution of the Lease Deed, the OSHB shall encash the Bank guarantee towards premium due with interest accrued thereon which shall be at the cost and risk of the Developer.

N.B. 1. An interest of **SBI MCLR rate (in percentage) + 2%** per annum compounded **mothly** will be levied by OSHB on the outstanding Quoted Bid Amount from the date of execution of the Lease Deed referred to above. Payment received if any, from the Developer during the aforesaid period will be appropriated in the following order

- i. Outstanding Ground Rent, Cess;
- ii. Outstanding interest; and
- iii. Consideration of land.

N.B. 2. The Developer shall be entitled to and /or will be authorized to grant sub-lease right as specified in clause 17 of Part-II of RFP Development Agreement, after payment of the Quoted Bid Amount in full including interest accrued if any, thereon to OSHB and in case any sub-lease granted in violation of this condition, shall be deemed void and invalid and consequently it would be presumed as a Developer's Event of Default entailing termination of the Lease.

(B) The Developer may prefer payment of 75% of the Quoted Bid Amount lump sum within a period of 180 days to be counted from the date of execution of the Development Agreement and in such event , the Lease Deed with sub-lease right as referred to in clause -17 , Part II of RFP shall be executed with the Developer.

19. CONSULTANT FEES- N/A

20. FINANCING

- 20.1 The Developer shall be solely responsible for arranging all the funds for the Project, construction and development of the Project in accordance with the provisions of this Agreement;
- 20.2 The Developer may assign its rights, title or interest or create a Security Interest in respect of its rights under the Agreement or any part thereof in favour of Lenders. The Developer shall be entitled to create a Security interest on its rights, title and interest pursuant to this Agreement including but not limited to the Leased Land, its right to receive money from the Tenants or other persons.

21. RESTRICTIONS

Except as stated in Article 20.2 above, the Developer shall not assign its rights, title, interest or obligation or create a Security Interest with respect to its rights under the Agreement or any part thereof in favour of any Person without the prior written consent of OSHB.

22. CONDITIONS PRECEDENT

- 22.1 The following conditions would have to be met by the Developer on the Effective Date or such extended period as may be agreed by OSHB :-
- (a) Payment of upfront amount of 25% of Quoted Bid Amount to OSHB; and
 - (b) Submission of Performance Security of 10% of Quoted Bid Amount; and
 - (c) Finalisation and Execution of Development Agreement;

23. PROJECT COMMENCEMENT TIME FRAME

- 23.1 The Developer shall complete the following activities within a period of One Hundred and Eighty (180) days from the Effective Date.
- (a) Finalisation of the plans, designs and drawings for the Project including that of the services and amenities; and

- (b) Applying for all requisite statutory and other approvals including that from the Ministry of Environment & Forest (MOEF), Government of India or Department of Forest & Environment, Government of Orissa /BDA/BMC/ORERA as the case may be, required for commencing the Project construction.
- 23.2 The project construction will commence within 30 days on receipt of all approvals including environmental clearance and ORERA registration, which is the Project Commencement Date.

24. PRE-EXPIRY PROCESS

- 24.1 On the completion of **85 (Eighty Five)** years from Dt. 18.04.2004, the parties shall enter into good faith negotiations to renew this Agreement. OSHB shall make best effort to renew the lease agreement with GOO. If the lease agreement with GOO is renewed OSHB shall also renew this Agreement with the Developer in accordance with the prevailing policy of the GOO.
- 24.2 In the most unlikely event if the Agreement is not renewed, the Developer shall hand over to OSHB, free of cost, the peaceful possession of the leased land and transfer the buildings and other structures erected upon the Project land as on the date of the expiry of the term.

25. APPROVALS

- 25.1 The Developer shall submit all applications and make efforts to obtain all approvals from Governmental Authorities and other persons for the purposes of the Project including approvals for (i) constructing and developing the Project and (ii) operating and maintaining the Project in accordance with the terms of this Agreement and Applicable Law;
- 25.2 OSHB shall exercise best efforts in assisting the Developer to obtain approvals from the Government of Orissa departments and agencies, as may be applicable.

26. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 26.1 The Developer hereby represents warrants and covenants to OSHB for itself that- (**"Developer Warranties"**):

- (a) The Developer has been duly incorporated and organised, and is validly existing and in good standing, under Applicable Law. 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;
- (b) The copies of the charter documents of the Developer (having attached thereto copies of all such resolutions as are by law required to be attached thereto and all amendments made to date) that have been delivered to OSHB are true, accurate and complete. All legal and procedural requirements and other formalities concerning such charter documents have been duly and properly complied with in all material respects;
- (c) 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 board of directors of the Developer necessary for the authorisation, execution, delivery of and the performance of all obligations of the Developer has been taken;
- (d) 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;
- (e) This Agreement is, and 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, reorganisation, moratorium or similar laws affecting creditors' rights generally. As of date, the Developer, is not subject to any bankruptcy, insolvency, reorganisation, moratorium or similar laws affecting creditors' rights generally;
- (f) The execution and delivery by the Developer of this Agreement and the performance by the Developer of its respective obligations under this Agreement do not and will not-
 - (i) constitute a breach of or a default under any charter document of the Developer;
 - (ii) 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;

- (iii) result in a violation or breach of or default under any applicable law or regulation or of any order, judgement or decree of any Governmental Authority to which the Developer is a party or by which the Developer is bound;
- (g) 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 of its assets. The Developer is not insolvent or unable to pay its debts as they fall due.

26.2 OSHB represents and warrants to the Developer for itself that (**“OSHB Warranties”**):

- (a) It is a statutory corporation of GoO established under the Orissa State Housing Board Act, 1968;
- (b) It has obtained the required approvals from the GOO and its Board to assign developmental rights for the development of the Project. It has the full power, authority and legal right to own assets and carry on its business. It is not in receivership or liquidation and has taken no steps to enter into liquidation, and no petition has been presented for the winding-up of OSHB. There are no grounds on which a petition or application could be based for the winding-up or appointment of a receiver of OSHB; and
- (c) The execution, delivery and performance of this Agreement by OSHB will not-
 - (i) violate any provision of the organisational documents of OSHB;
 - (ii) 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 OSHB is a party or by which OSHB is bound;
 - (iii) violate any court order, judgement, injunction, award, decree or writ against, or binding upon, OSHB or upon its securities, properties or business; and
 - (iv) violate any law or regulation of India.
- (d) It has a clear and marketable title to the Project Area free of encumbrance;

- (e) That the lease land is not subject to any mortgage, lien, charge or similar or other encumbrance.
- (f) Deleted
- (g) OSHB is in sole and absolute possession of the Leased Land and has valid title and right to the Leased Land pursuant to lease deed executed between the GOO and OSHB dated 2004 and is authorized under the GOO Lease to Lease the Lease Land to the Developer and enjoys the uninterrupted, quiet, peaceful, physical vacant and legal possession of the Leased Land without any interference Whatsoever;
- (h) There exist no claims, actions, litigations, arbitrations, land acquisition proceedings, garnishee or other proceedings relating to the Leased land under the GOO Lease or otherwise. OSHB shall give the Developer immediate notice of any claim, litigation, proceeding or investigation which becomes known to it during the Term;
- (i) OSHB does not have any liability for any taxes, or any interest or penalty in respect thereof, of any nature, that may be become lien against the Leased Land;
- (j) OSHB 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 this Agreement;
- (k) 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 OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer in this regard.

27. INDEMNITY

- 27.1 The Developer shall indemnify, defend and hold OSHB harmless, against any and all proceedings, actions and third party claims arising out of a breach by Developer of any of its obligations under this Agreement except to the extent that any such claim has arisen due to breach by OSHB of any of its obligations under this Agreement or a Force Majeure Event which is a Political Event.

27.2 OSHB 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 OSHB, its officers , servants and agents of any obligations of OSHB 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 .

27.3 Any payment made under this Agreement pursuant to an indemnity or claim for breach of any provision of this Agreement shall be net of applicable Taxes.

28. FORCE MAJEURE

28.1 Force Majeure would include civil disorders, riots, war, cyclone, floods, storms, lightning, earthquakes, washouts, high water, fire and other Acts of God;

28.2 The following procedure shall be adopted upon the occurrence of a Force Majeure event:

(a) The affected party shall give notice to the other party of any event constituting Force Majeure as soon as is reasonably practicable, but not later than thirty (30) days after the date on which the affected party knew or should have reasonably known of the commencement of the event constituting Force Majeure. Notwithstanding the above, if the event constituting Force Majeure results in a breakdown of communications rendering it not reasonably practicable to give notice within the time limit specified herein, then the affected party shall give such notice as soon as it becomes reasonably practicable after the reinstatement of communications, but not later than seven (7) days after such reinstatement;

(b) Notice shall, inter-alia, include full particulars of-

- (i) the nature of such Force Majeure event;
- (ii) the date and time effective when the Party materially adversely affected by the Force Majeure event, was so affected;
- (iii) the material adverse effect of such Force Majeure event on the affected party;
- (iv) the measures which the Party affected by the Force Majeure event has taken, or proposes to take, to alleviate the impact of those Force Majeure events or mitigate the damage;

- (v) an estimate of the period of time that the affected party shall be unable to perform the affected obligations / continue to be materially adversely affected by the Force Majeure event; and
 - (vi) any other relevant information.
- (c) Failure by the affected party to give notice to the other party within the time period specified above shall not prevent the affected party from giving such notice at a later time, provided however that in such case the affected party shall not be eligible for the remedies for any failure or delay in complying with its obligations under or pursuant to this Agreement until the notice has been given and provided that a Force Majeure event shall not absolve the Developer from the obligation of payments in respect of liabilities incurred prior to the occurrence of the Force Majeure event.

28.3 Reporting Requirements

- (a) For so long as the party affected by the Force Majeure event continues to claim to be affected by a Force Majeure event, it shall provide the other party with regular (and not less than fortnightly) written reports containing -
 - (i) the information as sought above; and
 - (ii) such other information as the other party may reasonably request.
- (b) The affected party shall also make available to the other party reasonable facilities for obtaining further information about the event or circumstance alleged to constitute Force Majeure, including facilities for site inspection.

28.4 Remedies for Force Majeure

The affected party must at all times since the occurrence of the Force Majeure event comply with the obligations of mitigation as provided above and shall continue to comply, for which the affected party shall be entitled to the following relief:

- (a) The obligations of the affected party to the extent they are affected by the Force Majeure shall be suspended for the period of the Force Majeure;
- (b) The time period for the performance of obligations of the affected party to the extent they are affected by the Force Majeure shall be extended on a day for day basis for the period of Force Majeure; and

- (c) The term of this Agreement shall be extended on a day for day basis for the period of the Force Majeure.

29. EVENTS OF DEFAULT

29.1 Developer's Events of Default

The following events shall be construed as events of default on the part of Developer ("**Developer Default Event**"):-

- (a) The Developer fails to meet the Development Milestones and the period for remedy has expired without such failure having been remedied;
- (b) Non-adherence to the Development Mix as mentioned in Article 6;
- (c) Non payment of dues to OSHB as per Articles 15.2 and 18 by the due date;
- (d) The Developer commits any material breach, or is otherwise in violation of any of its obligations listed under Article-4 of this Agreement ;
- (e) The Developer abandons the Project for a period of 60 consecutive days;
- (f) Any bank guarantee or performance security is not renewed, replaced or provided in accordance with this Agreement or becomes inoperative or ceases to remain valid or in force;
- (g) The Developer repudiates, or otherwise evidences an intention not to be bound by this Agreement;
- (h) An order is made or a resolution is passed for the liquidation, bankruptcy, dissolution or appointment of a receiver of the Developer which is not, if capable of being so, discharged or, as the case may be, revoked within 90 days thereafter;
- (i) As a result of a default by the Developer under any arrangement or agreement with its Lenders, such Lenders enforce or otherwise take steps to enforce any Security Interest on any of the assets of the Developer (including the lease assigned) other than substitution of the Developer with another Developer; and
- (j) Any assets or shares of the Developer are expropriated, confiscated, compulsorily acquired or nationalised by any government, authority, entity or agency due to an act or omission of the Developer or its shareholders.
- (k) Deleted
- (l) Non allotment of EWS and LIG flats as per the guideline specifically mentioned in Article 3.2 (c) of this Development Agreement.

- 29.2 If any of the aforesaid are caused due to default of OSHB under this Agreement or due to the occurrence of the Force Majeure, the Developer shall not be treated to be Defaulter.

29.3 OSHB Events of Default

The following events shall be construed as events of default on the part of OSHB ("**OSHB Default Event**"):-

- (a) OSHB fails to transfer unencumbered possession of the Leased Land to the Developer;
- (b) OSHB repudiates or otherwise evidences an intention not to be bound by this Agreement.
- (c) OSHB committing a breach of any of its representations or warranties under this Agreement ;
- (d) OSHB committing a breach of any of its obligations under the Agreement ; and
- (e) OSHB committing a breach of any of its obligations under the GOO Lease.

29.4 If any of the aforesaid are caused due to default of the Developer under this Agreement or due to the occurrence of Force Majeure, OSHB shall not be treated to be defaulter.

30. NOTICES

30.1 Unless otherwise stated, all notices, approvals, instructions and other communications for the purposes of this Agreement shall be given in writing and may be given by facsimile, by personal delivery or by sending the same by prepaid registered mail addressed to the Party concerned at its address stated in the title of this Agreement or the fax numbers set out below and/or any other address subsequently notified to the other Parties for the purposes of this Article and shall be deemed to be effective (in the case of registered mail) 10 (ten) calendar days after posting, (in the case of facsimile) two Business Days after receipt of a transmission report confirming despatch or (in the case of personal delivery) at the time of delivery:

(a) **If to OSHB:**

Address: Odisha State Housing Board
Sachivalaya Marg, Bhubaneswar – 751 001

Tel. No: +91 674 2393524, +91 674 2390141
Fax No: +91 674 2393952

Attention: The Housing Commissioner-cum-Secretary.

(b) **If to the Developer:**

Address:

- 30.2 Such notices and other communication duly given shall be deemed to be effective if given by personal delivery, upon such delivery; or if sent by facsimile upon the next business day after sending thereof, or if sent by certified or registered mail, upon delivery or the twelfth (12) business day following the date of dispatch thereof, whichever is earlier. Any change in the address of any Party shall be given in the same manner provided for in this section.

31. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of India.

32. DISPUTE RESOLUTION

32.1 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 a senior authorised representatives of each of the Parties with authority to settle the relevant dispute. If the dispute is not been settled through negotiation within 14 days from the date on which either Party has served written notice on the other of the dispute (the **"Notice"**) then the remaining provisions of this Article shall apply;

32.2 Arbitration

(a) Procedure

Subject to the provisions of Clause 32.1, any Dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration and Conciliation Act, 1996.

on the request being made by either of the parties, The Housing Commissioner-cum-Secretary, OSHB, will place the matter before the next Board meeting of OSHB and the Board shall refer the name of three (3) proposed arbitrators unconnected with the affairs of both parties and the Developer shall have the option to choose any one of them as arbitrator . The arbitrator shall commence the proceeding and conclude the same in accordance with Arbitration and Conciliation Act, 1996.

- (b) In case any dispute arising out of Construction of Works and are of technical matters, the same shall be referred to the Independent Engineer who shall dispose of the dispute summarily within 15 days and such decision shall be final and binding to the parties.
- (c) For all purposes the principal Civil Court, Bhubaneswar shall have jurisdiction only in exclusion to any jurisdiction specified under any other Act, Rule or instructions in force and/ or to be brought in force.
- (d) In case any other dispute not covered under the arbitration clause shall lie before the Civil Court, Bhubaneswar only in exclusion of any other jurisdiction irrespective of cause of action / part of cause of action arises if any within the jurisdiction of any other Civil Court./ Tribunal/ Forum
- (e) **Place of Arbitration**
The place of arbitration shall be at Bhubaneswar but by agreement of the Parties, the arbitration hearings, if required, may be held elsewhere in India.
- (f) **English Language**
The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings. The Award shall be a speaking order.
- (g) **Performance during Arbitration**
Pending the submission of and/or decision on a dispute and until the arbitration award is published, the Parties shall continue to perform their respective obligations under this Agreement without prejudice to a final adjustment in accordance with such award.
- (h) **Costs**
During Arbitration the party shall bear their own respective costs which shall be subject to arbitration award.

33. TERMINATION OF AGREEMENT

33.1 Termination by OSHB: OSHB shall be entitled to terminate this agreement in any or all of the events of default of the Developer;

33.2 Termination by Developer: The Developer shall be entitled to terminate this agreement in any or all of the events of default of OSHB;

33.3 The following procedure shall be adopted for terminating the agreement:

- (a) **Issue of Notice of Intention to Terminate:** On the happening of any events of default as set out in Article 29, the non-defaulting party may initiate termination of this agreement by delivering a notice to the defaulting party stating its intention to terminate this agreement. The notice must specify the defaults committed by the defaulting party. The non-defaulting party shall also send a copy of the notice of intention to terminate to the lenders, if any;
- (b) **Consultation Period:** Following the issue of the notice of intention to terminate, the parties shall consult for a period of 30 days or for such further period as the parties may mutually agree ("the **Consultation Period**") to determine the steps that are proposed to be taken to rectify or remedy the cause of the issue of the notice. During this period, both parties shall continue to perform their respective obligations;
- (c) **Withdrawal of Notice:** If the defaulting party rectifies or remedies the default within the consultation period to the satisfaction of the non-defaulting party or suitable steps are taken towards rectification or if the event of default ceases to exist, the notice shall be withdrawn;
- (d) **Termination Notice:** Upon expiry of the consultation period, if the event of default still exists, the non-defaulting party may terminate this agreement by giving a written notice ("**Termination Notice**") to the defaulting party with copies to the lenders, if any. The termination notice shall expire at the end of 90 days from the Consultation Period ("**Termination Date**"). During the period of termination notice, both parties continue to perform their respective obligations under this agreement;
- (e) **Replacement Notice by the Developer:**
On or before expiry of 30 days from the date of issue of termination notice the Developer may choose a suitable substitute party who on principle shall agree to abide by the terms and conditions of the Development Agreement and Lease Deed and such other terms and conditions are fixed to be specified by OSHB after consulting the substitute developer. The OSHB may be requested with a 45 days replacement notice to assess the suitability of substituted party and to take final decision in the matter and to communicate the decision. In the event the OSHB agrees to accept the substituted party, may require the parties to enter into the agreement on approval of the same by OSHB terms and conditions fixed , if any, in order to ensure completion of the project. The decision of the Orissa State Housing Board in this regard shall be final and binding.

34. CONSEQUENCES AND PROCEDURE AFTER TERMINATION

- 34.1 The Developer shall remove all construction equipment and other movable assets in the Project premises at their own cost within 30 days from the date of issue of Termination Notice;
- 34.2 If OSHB agrees to substitute the Developer by another party ("**Substitute Party**") as per clause **33.3(g)**, it shall do so within a period of 150 days from the date of issue of Intention to Terminate . The Substitute Party shall takeover the assets created or provided by the Developer, other than the construction equipment and movable assets, upon payment of compensation;
- 34.3 In case the Developer abandons or fails to execute the work and /or leaves the work half way and in such contingency failed to find out a substitute party within the stipulated time the OSHB shall endeavour to find out suitable party to be chosen through public advertisement at the cost and risk of the Developer and in such event any structure if any found to be replaced/ removed shall also be at the cost and risk of the Developer which shall be recovered in addition to forfeiture of the amount specified in the Development Agreement.
- 34.4 OSHB, the Substitute Party and the Developer will have the following rights and obligations in the event of termination:-
- (a) The Substitute Party shall pay the amount of compensation as per Article 35 within a period of 120 days from the date of selection or a mutually agreed date between the Substituted Party and Developer;
 - (b) The Developer shall hand over and put OSHB and the Substitute Party in peaceful possession of the Project premises and also transfer all its rights, titles and interests in all contracts/ agreements/ licenses/ permits/ insurance policies, etc;
 - (c) Subject to Article 33, the Developer shall terminate all contracts and sub-contracts that they have entered with other parties; and
 - (d) Transfer fees and charges, if applicable and other incidental expenses incurred at the time of termination shall be borne as follows:

| Head of Charge | Party to bear the cost |
|---|--|
| Transfer fees or stamp duties, notary fees, etc | Defaulting party |
| Fees to third party experts for any required inspection and certification | Defaulting party |
| Internal costs and expenses of each party | To be borne by each party respectively |

35. AMOUNT DUE TO BE PAID CONSEQUENT UPON TERMINATION

- 35.1 **Termination due to default by OSHB, before transfer of land:** If this agreement is terminated by the Developer due to OSHB's event of default before transfer of Leased Land, the Developer shall be refunded the Quoted Bid Amount paid by the Developer to OSHB in lieu of the land till date, without any interest and the Performance Security shall be returned to the Developer ;
- 35.2 **Termination due to default by the Developer, before transfer of land:** If the Agreement is terminated by OSHB due to the Developer's default before transfer of Leased Land, no compensation will be paid by OSHB and the Performance Security will be forfeited to the account of OSHB. The Quoted Bid Amount paid by the Developer to OSHB in lieu of the Leased Land till date, will be returned to the Developer without any interest within 30 days of realisation of the Performance Security.
- 35.3 **Termination due to default by Developer, after transfer of land:** If the Agreement is terminated by OSHB due to the Developer's default after transfer of Leased Land, the Quoted Bid Amount inclusive of the subsisting bank guarantee (in case non-payment of the total premium amount paid by the Developer to OSHB) paid by the Developer to OSHB in lieu of the leased land and the Performance Security will be forfeited to the account of OSHB and the Leased Land shall be deemed vested to OSHB free from all encumbrances. The Company shall have no claim whatsoever against OSHB in respect of the amount forfeited and / or for any compensation and damage if any claimed.
- 35.4 OSHB shall ensure that payment of termination compensation shall be a contractual obligation of the Substitute Party at the time of entering into arrangements with the Substitute Party for replacement of the Developer. OSHB shall however not be liable for any default on part of the Substitute Party towards payment of Termination Compensation to the Developer.

36. MISCELLANEOUS

- 36.1 Schedule 1 (one) to 5 (five) of this document forms part of the Development Agreement. Schedule 5 (five) is the lease document which is subject to addition/alteration/modification and/or deletion at the discretion of the Board.
- 36.2 The conditions of the Principal Lease and the draft indenture of the Lease deed to be executed between the parties, form part of this documents and for all purpose (s) parties to this Agreement shall be bound by the same and any condition of this Development Agreement contrary to the lease deed and / or the Principal lease deed, shall stand modified to the extent specified in the Lease Deed and the Principal Lease Deed respectively.
- 36.3 **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.

36.4 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.

36.5 Counterparts

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

36.6 Variation

The provisions of this Agreement may be varied to provide for any change as might, in the reasonable opinion of the Parties, be necessary for the effective implementation of the Project.

Provided that no such variation shall be binding on any Party unless such variation is in writing and signed by each Party.

36.7 No Assignment

Subject to the provisions of this Agreement, this Agreement is personal to the Parties and shall not be capable of assignment, except with the prior written consent of the other Party.

36.8 Waiver

No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same of any other provisions hereof and no waiver shall be effective unless made in writing and signed by an authorised representative of the waiving Party.

36.9 Severability

If any provision of this Agreement is invalid, unenforceable or prohibited by law, this Agreement shall be considered divisible as to such provision and such provision shall be inoperative and shall not be part of the consideration moving from either Party hereto to the other, and the remainder of this Agreement shall be valid, binding and of like effect as though such provision was not included herein.

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

Signed and delivered for and on behalf of

Signed and delivered for and on behalf of

Orissa State Housing Board

Name:

Name:

Title: The Housing Commissioner-cum-Secretary

Title:

Witness:

Witness:

SCHEDULE 1
DEVELOPMENT MILESTONES

[See Definitions: "**Development Milestone(s)**" (Article 1.1.12), (3.3 A&B)]

The Developer should achieve the following milestones:

| Sr. No | Description of Milestone | Time for Achieving the Milestone |
|----------------|--|--|
| PHASE 1 | | |
| Milestone 1 | Finalization of the Engineering Documents, Designs & drawings for the entire project in consultation with OSHB | Within 180 days from the Effective Date. |
| Milestone 2 | Application to the different statutory authorities for all the project approvals | Within 180 days from the Effective Date. |
| PHASE 2 | | |
| Milestone 3 | Submission of Plan of Completion | Within 09 months from the Effective Date |
| Milestone 4 | Submission of report from Independent Engineer that Developer has successfully achieved the Development Milestones as stated in Plan of Completion | Within 18 months from the Effective Date |
| Milestone 5 | Submission of report from Independent Engineer that Developer has successfully achieved the Development Milestones as stated in Plan of Completion | Within 30 months from the Effective Date |
| Milestone 6 | Development / Construction of required of Built-up Space and occupancy(residential + commercial space). | As per ORERA/BDA/BMC approvals. |

SCHEDULE 2
LEASED LAND

[See Definitions: "Leased Land"]

Area measuring Ac.06.589 in Mouza: Patrapada. P.S Khandagiri in the New Capital, Bhubaneswar, Dist: Khurda, Odisha under the jurisdiction of District Sub-Registrar, Bhubaneswar.

| Khata No. | Revenue Plot No. | Area |
|----------------------|-------------------------|-------------|
| 778 | 441/2729 | Ac.05.039 |
| 778 (Anabadi) | 441/2677 | Ac. 01.550 |
| Total | | Ac. 06.589 |

Bounded by :-

North - Plot No. 437
South - Village Boundary
East - Road
West - Plot No. 441 & 442

SCHEDULE 3
DEVELOPMENT AND MAINTENANCE STANDARDS
[See Definitions: "Maintenance Standards"(Article 1.1.26)]

Broad Specifications of the Project Components

1. THE COMPLEX SHOULD BE SUCH THAT IT ENSURES-

- (a) Elegance meets efficiency- impressive façade, landscaped gardens, adequate circulation space ;
- (b) Gracious spaces, increased floor-to-floor height, large column-free space and ample parking areas;
- (c) Round-the-clock services;
- (d) Assured quality power, diesel Generator backup, server room, Air-conditioning, Air Handling Units and all common services and reasonable communication facilities.

2. An illustrative list giving desirable features is as follows-

- (a) Built Up space ;
- (b) Reinforced Cement Concrete (RCC) framed structure or glass & steel structures ;
- (c) Dedicated Electric Substation backed by diesel Generator ;
- (d) Building Automation Systems;
- (e) Adequate nos. of high-speed elevators ;
- (f) Comprehensive Fire Protection System comprising of Hydrant, Automatic Sprinkler and Fire Alarm System ; and
- (g) Rain water harvesting.

3. Infrastructure

- (a) Dedicated 132/33 KV sub-station;
- (b) Diesel Generation back up in all multi-tenanted building for 100% back up;
- (c) Whole of Complex networked through underground power cables; and
- (d) 24 hours maintenance services.

4. Ambience

- (a) Landscaped gardens & Parks

The entire development should confirm to the requirements of latest National Building Code and as per approval of Orissa State Housing Board (OSHB.).

The following minimum maintenance standard has to be maintained:-

- (1) The quality of drinking water should confirm to the requirements of Manual on Water Supply & Treatment published by Central Public Health Engineering & Environment Organisation (C.P.H.E.E.O.)
- (2) Efforts should be made to achieve Zero based discharge. However, in case effluent is to be discharged beyond the periphery of the allotted land, the same should be treated as per requirements of Manual of Sewerage & Sewage Treatment published by Central Public Health Engineering & Environment Organisation (C.P.H.E.E.O.) and as per guidelines of Central Pollution Control Board (C.P.C.B.).
- (3) Emission and noise limit of Diesel Generators should be maintained within the parameters prescribed by Central Pollution Control Board.
- (4) Fire fighting and fire alarm & detection system should be maintained as per requirements of Part 4 of latest edition of National Building Code relating to Fire and Life safety.
- (5) Disposal of solid waste should be as per guidelines of Central Public Health Engineering & Environment Organisation and Central Pollution Control Board.
- (6) Illumination level of the office space, commercial space and all other places should be maintained as per latest edition of National Building Code Part-8, relating to Building Services.
- (7) Air conditioning, heating and lightening protection system should be maintained as per guidelines of latest National Building Code Part-8 relating to Building Services.
- (8) Parking area and land scaped area is to be properly maintained as per approval of Orissa State Housing Board.
- (9) Internal roads, drains should be maintained as per the plans approved by Orissa State Housing Board.
- (10) Air pollution and noise pollution standard in the entire campus should be maintained as per National Ambient Air Quality Standard prescribed by Central Pollution Control Board.
- (11) Discharge of rainwater beyond the periphery of the allotted land should be restricted by properly maintaining the recharge wells as per guidelines of Central Ground Water Board.
- (12) Lifts should be maintained as per requirements of National Building Code.
- (13) Security system should be foolproof and maintained round the clock.
- (14) Reliable broadband connectivity should be available as per the demand.
- (15) The provision of all service/facilities and maintenance of all facilities will be as per the relevant National Standards, as applicable from time to time.

* * *

SCHEDULE 4
FORM OF PROGRESS REPORT

[To be decided by Independent Engineer in consultation with OSHB and Developer]

SCHEDULE 5
DRAFT FORMAT OF LEASE OF LAND FOR DEVELOPMENT OF RESIDENTIAL AND COMMERCIAL USE ZONE PURPOSE IN NEW CAPITAL AREA AT BHUBANESWAR

(Note : Condition specified in this draft format are subject to correction, variation and modification in case of contingencies if any required by OSHB)

THIS INDENTURE ("Indenture") is made and executed on this the day of

BETWEEN

Orissa State Housing Board, established under the Orissa State Housing Board Act, 1968, having its office at Sachivalaya Marg, Bhubaneswar, Orissa (hereinafter referred to as "**OSHB**") which expression shall, where the context so admits be deemed to include its successors-in-interest and permitted assigns) 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**

'**OSHB**' and the "**Developer**" are, where the context demands, individually referred to as "**Party**" and collectively as "**Parties**".

WHEREAS :

- A.** The Revenue and Disaster Management Department, Government of Orissa (hereinafter referred to as the "**Principal Lessor**") has executed a registered Lease Deed (details of the Lease Deed) in favour of OSHB (hereinafter referred to as the "**Principal Lease**") with respect to 06.589 Acres of land more fully described in **Schedule-I** annexed thereto and also attached herewith and marked as Schedule-I (hereinafter referred to as the "**Demised Land**"). A copy of the Principal Lease is annexed to this Indenture as **Annexure-A**.

- B.** It has been acknowledged by the Principal Lessor under the Principal Lease that the Demised Land would be transferred to the Developer for development thereof as Residential Use Zone on the terms contained thereunder and the Developer in turn is entitled to construct and develop and transfer their Lease hold rights for the specified and demarcated portions of the construction (hereinafter referred to as the **"Developed Units"**) raised on the Demised Land to sub-lessees (which term shall include their sub sub-lessees and persons similarly deriving rights from such sub sub-leases and so forth hereinafter referred to as the **"Sub-Lessees"** and the Developer or its Sub-Lessees shall in turn be entitled to execute further sub-lease deeds (hereinafter referred to as the **"Sub-Lease"**) in favour of such sub-Lessees.
- C.** Any Sub-Lease executed by the Developer or the Sub-Lessee shall be in conformity with the Principal Lease and this Indenture.
- D.** OSHB 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.
- E.** Through this Indenture, OSHB 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, OSHB hereby demises the Demise Land to the Developer for the development, construction of buildings and structures for the activities permissible in Residential Use Zone (as described in Clause-5 (iii) hereinafter) for a period of **90 [Ninety]** years from Dt. 18.04.2004/until expiry of the Development Agreement/Principal Lease, whichever is earlier (**"Term"**).
- 02.** That the Developer and its Sub-Lesses 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.** OSHB represents and warrants to the Developer that:

- (a) It has obtained the required approvals from the Government of Orissa and at the meeting of OSHB, to assign developmental rights for the development of the Demised Land;
 - (b) It has a clear and marketable title to the Demised Land free of encumbrances;
 - (c) That the Demised Land is not subject to any mortgage, lien, charge or similar or other encumbrances;
 - (d) 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. OSHB 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);
 - (e) OSHB 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;
 - (f) OSHB 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;
 - (g) 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 not shall it be liable to pay any cost to OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer to this regard.
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 OSHB 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 OSHB the annual rent of Rs.on the days and in the manner fixed by OSHB 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 Government Policy from the date of such revision ;
- (iii) That the Developer 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 OSHB, 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 ;
- (vii) That the Developer shall conform to all rules, regulations and by-laws of the Bhubaneswar Municipal Corporation, Bhubaneswar or such other local authority for the area as may hereafter be constituted relating to roads, buildings, public health, safety, convenience and sanitation which may for the time being be enforced ;

- (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 OSHB 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 Government of Orissa;
- (x) That all sums of money due to OSHB on account of rent under these presents, shall be recoverable by OSHB in addition to any other remedy open to it as a public demand under the Orissa Public Demand Recovery Act, 1962 (Orissa Act, IV of 1963). In the event of the Developer not paying any instalment of the rent on or before the date fixed for the purpose, it shall in addition to the arrears pay interest as may be fixed by the Government of Orissa from time to time.
- (xi) That the Developer shall keep intact the boundaries of the Demised Land and shall ensure inspection when required by OSHB, subject to 7 (seven) days advance written notice;
- (xii) That the Developer shall not, without the consent in writing of OSHB, use or permit the use of the Demised Land for any purpose other than that for which it is leased.
- (xiii) Any contingencies which is not covered and /or specified in this indenture , but , however covered under the conditions of the "Principal lease deed" shall be dealt with in accordance with such conditions of the Principal lease deed and for the aforesaid purpose , the conditions of the Principal lease deed (annexure A) shall be deemed as part and parcel of this indenture and the parties in this indenture so also the sub lessees created under this indenture shall be bound by the same .

07. OSHB 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 OSHB, the Principal Lessor, or any other person whatsoever;

- (ii) That, if the Principal Lessor 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 OSHB 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 prior to the expiry of the Term of this Indenture, the Parties shall enter into good faith negotiations to renew this Lease granted hereunder. OSHB shall make best effort to renew the Term of this Indenture with the Developer. OSHB shall make best effort to renew the Principal Lease with Government of Orissa. If the Principal Lease is renewed, OSHB shall renew this Agreement with the Developer in accordance with the prevailing policy of the Government of Orissa ;

In the most unlikely event that Lease granted hereunder is not renewed the Developer shall hand over to OSHB , free of cost, the peaceful possession of the Demised Land and transfer the buildings and other structures erected upon the Demised Land as of the date of the expiry of the Term ;

- (iv) 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;

- (v) That there exists no claim, actions, litigations, arbitrations, land acquisition proceedings, garnishes or other proceedings relating to the Demised Land. OSHB 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 ;
 - (vi) 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 OSHB in that regard and OSHB further represents that OSHB shall indemnify the Developer from any claims or cost incurred or suffered by the Developer in this regard ;
 - (vii) OSHB 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 OSHB, its officers , servants and agents of any obligations of OSHB 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-Lessees**" 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.
10. Interpretation : That the Development Agreement and the conditions of the Principal Lease Deed forms part of the deed entered into with the Developer and for all purpose (s) such conditions shall be deemed part of the lease deed and in case any contingency of any incoherency between and among the conditions of the Principal Lease Deed executed with the Government and with that of the present indenture the conditions of the Principal Lease Deed shall prevail and accordingly any conflict between the Lease Deed and the Development Agreement arises , both the conditions should be read harmoniously with reference to the objectives of the Project.

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

Signed and delivered for an on behalf of
Orissa State Housing Board

Name:

Title:

Witness:

1.

2.

Signed and delivered for and on behalf of
.....

Name :

Title:

Witness:

1.

2.

SCHEDULE - I
[Particulars of the Land hereby demised]

Area measuring Ac.06.589 in Mouza: Patrapada. P.S Khandagiri in the New Capital, Bhubaneswar, Dist: Khurda, Odisha under the jurisdiction of District Sub-Registrar, Bhubaneswar.

| Khata No | Revenue Plot No | Area |
|----------------------|------------------------|-------------------|
| 778 | 441/2729 | Ac. 05.039 |
| 778(Anabadi) | 441/2677 | Ac. 01.550 |
| | Total | Ac.06.589 |

Bounded by :-

North - Plot No. 437
South - Village Boundary
East - Road
West - Plot No. 441 & 442

OSHB

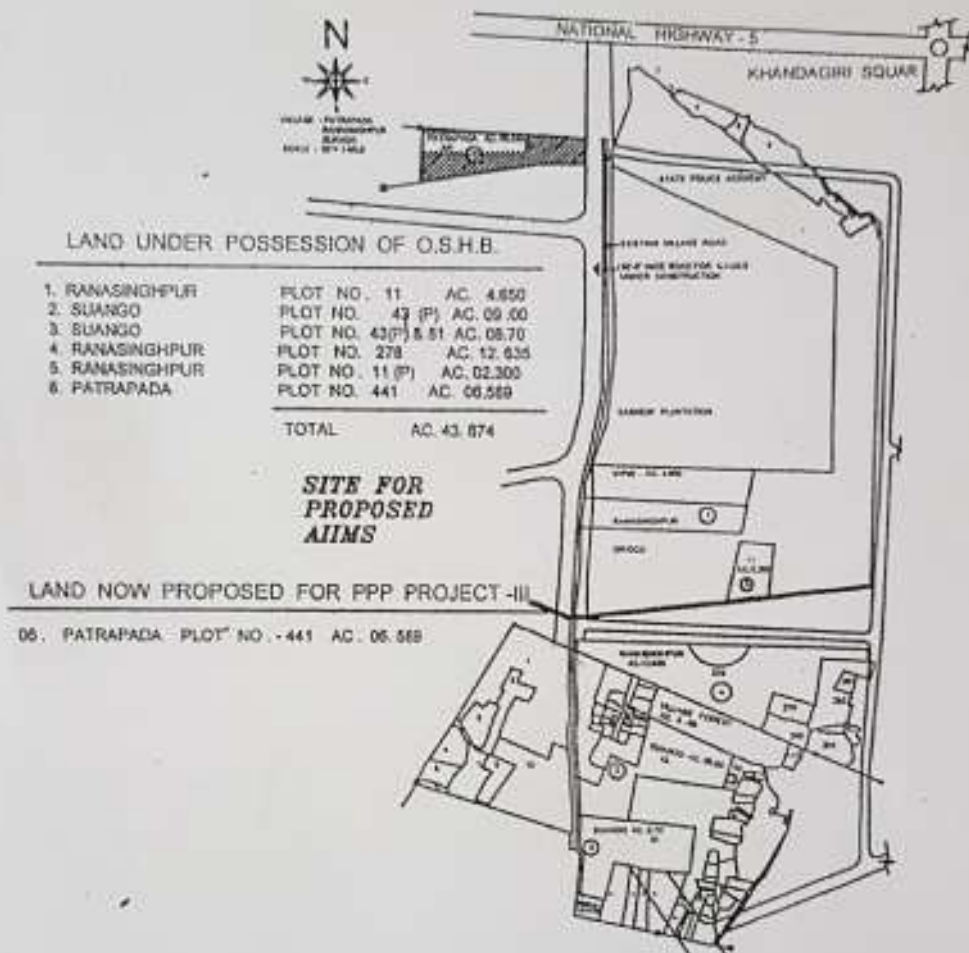
DEVELOPER

Bounded by :-

North - Plot No. 437
South - Village Boundary
East - Road
West - Plot No. 441 & 442

OSHB

DEVELOPER



SITE PLAN OF MEGA HOUSING SCHEME UNDER PPP MODE AT RANASINGHPUR, SUANGO AND PATRAPADA BHUBANESWAR