LEASE AGREEMENT

FOR RAILWAY LAND AT Pocket-F, Vibhuti Khand, Gomti Nagar Railway Station, Gomti Nagar, Lucknow

BY AND BETWEEN

RAIL LAND DEVELOPMENT AUTHORITY

(A Statutory Authority under Ministry of Railway, Govt. of India)

(Unit-702-B, 7th Floor Konnectus Tower-II, DMRC Building, Bhavbhuti Marg, Delhi-110002)

("RLDA")

AND

M/s LUCKNOW BUILDWELL PRIVATE LIMITED

(Plot No. 94, N.N No 22/51/A/2, Vijay Nagar, Agra-282004)

("LESSEE")

(Lease Agreement No. RLDA/2025/LA/03)

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सत्यमेव जयते

INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

₹500

e-Stamp

Certificate No.	:	IN-DL99451265538265X
Certificate Issued Date	:	11-Jun-2025 05:51 PM
Account Reference	:	IMPACC (IV)/ dl859003/ DELHI/ DL-NWD
Unique Doc. Reference	:	SUBIN-DLDL85900336058434176095X
Purchased by	:	LUCKNOW BUILDWELL PVT LTD
Description of Document	:	Article 35(vi) Lease upto 100 years
Property Description	:	Not Applicable
Consideration Price (Rs.)	:	0 (Zero)
First Party	:	RAIL LAND DEVELOPMENT AUTHORITY
Second Party	:	LUCKNOW BUILDWELL PVT LTD
Stamp Duty Paid By	:	LUCKNOW BUILDWELL PVT LTD
Stamp Duty Amount(Rs.)	:	500 (Five Hundred only)

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Please write or type below this line

IN-DL99451265538265X

LEASE AGREEMENT

This LEASE AGREEMENT (**"Lease Agreement" No. RLDA/2025/LA/08**) made at 11th day of June, 2025 (**"Effective Date 11.06.2025"**) is entered into at **New Delhi** by and between:

i. **Rail Land Development Authority**, a Statutory Authority constituted under the Railways (Amendment) Act, 2005 (No 47 of 2005) having its office Unit No.702-B, 7th Floor, Konnectus Tower-II, DMRC Building, Ajmeri Gate, New Delhi-110002 (hereinafter referred to as **"RLDA"**, which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) represented herein through **Mr. Pavas Yadav S/o Shri D. K. Yadav**, its **Joint General Manager/Civil/LKO**, the Authorized Signatory, as authorized vide Office Order No._______ dated _______ of the **FIRST PART**;

AND

ii. **M/s Lucknow Buildwell Private Limited**, a company incorporated on 30[th]Sep, 2024 having its registered office at Plot No. 94 N.N. No., 22/51A/2 Vijay Nagar, Agra- 282003 U.P. under the Companies Act, 2013 (18 of 2013) (hereinafter referred to as the **"Lessee"**, which expression shall, unless repugnant to or inconsistent with the context, mean and include its successors and permitted assigns) represented herein through **Mr. Nikhil Agarwal (Director)**S/o of **Shri Anil Agarwal**, its Director and Authorized signatory, as authorized vide Board Resolution dated 30.09.2024 of the **SECOND PART**.

(Each of the parties of the **FIRST and SECOND parts** are hereinafter, as the context may admit or require, individually referred to as a **"Party"** and collectively as the **"Parties"**).

WHEREAS

A. RLDA is a statutory authority constituted under the Railways (Amendment) Act, 2005 (No 47 of 2005) with the obligation, *inter alia*, of development on Railway Land for commercial use, entrusted to it by the Central Government (Ministry of Railways) for the purpose of generating revenue (required by Railways for up gradation / maintenance of its network) by non – tariff measures.

B. RLDA intends to undertake Commercial Development over a land area of approximately **21215 Sqm** of Railway Land at **Railway land of Pocket-F in Vibhuti Khand, Gomti Nagar Lucknow for 60 years with FAR of 2.0** as described, more particularly in Schedule-I of RFP Part-V-Schedule and Specifications of RLDA LDHB "(the **'Site')**

C. As part of the proposed development of the Site, RLDA had conducted a competitive Bidding Process by inviting proposal in the form of bids (the **"Bid"**) vide its Bid Notice No. **RLDA/2024/RFP/CD-23 dated 24.06.2024** to undertake the development of the site, on the terms and conditions specified herein.

D. **M/s Ganpati Infrastructure Development Company Limited**, Ganpati Square, Plot No 94, 2[nd] Floor, Old Vijay Nagar Colony, Near Police Booth, Agra-282004 (the **'Selected Bidder'**) was the successful bidder and was issued the Letter of Acceptance (the **"LOA"**) vide letter No. RLDA/2020/Project/Consultancy/GomtiNagar/2327 dated 18.09.2024 by RLDA.

E. The Selected Bidder has, in accordance with the LOA, promoted and incorporated the Lessee i.e. **M/s Lucknow Buildwell Private Limited**,as a company registered under the provisions of the Companies Act, 2013 and the Selected Bidder and the Lessee have, by their letter dated 22/11/2024, requested RLDA to accept the Lessee as the entity, which shall undertake and perform the obligations and enjoy the rights as specified herein.

F. The Lessee/Selected Bidder, in compliance of the terms and conditions of the LOA, has:

a) **Paid to RLDA** following amount towards the 1[st] Installment of the Lease Premium as specified in the LOA/Schedule of payment, along with the interest for the delayed payment in the following manner:

Payment of Lease Premium/ Interest				
SN	**Firm Name**	**Date of Deposit**	**Transaction Details**	**Amount (in Rs)**
1	**M/s Ganpati Infrastructure Development Company Limited**	12.08.2024	NEFT payment No. "INDBN14084126202" dated 14.08.2024	1,00,00,000/-
2		25.11.2024	UTR No. PUNBR52024112515284151, Punjab National Bank	4,00,00,000/-
3		03.12.2024	UTR No. PUNBR52024120315614551, Punjab National Bank	2,00,00,000/-

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4		10.12.2024	UTR No. PUNBR52024121015897677, Punjab National Bank	2,00,00,000/-
5	M/s Ganpati Infrastructure Development Company Limited	12.12.2024	UTR No. PUNBR52024121215982247, Punjab National Bank	1,00,00,000/-
6		12.12.2024	UTR No.PUNBR52024121215993801, Punjab National Bank	1,00,00,000/-
7		19.12.2024	UTR No. PUNBR52024121916255933, Punjab National Bank	1,00,00,000/-
8		19.12.2024	UTR No. PUNBR52024121916275936, Punjab National Bank	2,00,00,000/-
9		20.12.2024	UTR No. PUNBR52024122016311911, Punjab National Bank	1,00,00,000/-
10		27.12.2024	UTR No. PUNBR52024122716585317, Punjab National Bank	1,00,00,000/-
11		18.01.2025	UTR No. PUNBR52025011817430399, Punjab National Bank	1,00,00,000/-
12	Lucknow Buildwell Private Limited	10.02.2025	UTR No. PUNBR52025021018297529, Punjab National Bank	3,42,75,000/-
13		11.02.2025	UTR No. PUNBR52025021118328319, Punjab National Bank	1,00,00,000/-
14		13.02.2025	UTR No. PUNBR52025021318432873, Punjab National Bank	2,25,86,668/-
			Total (Rs.) Towards LP	**23,68,61,668/-**
(Rupees Twenty-Three Crore Sixty-Eight Lakh Sixty-One Thousand Six hundred Sixty-Eight only)				

i. For the subsequent installments of Lease Premium (2nd, 3rd, and 4th), Selected bidder/SPC Vide letter NIL dated 19.02.2025 has submitted their option for opting escrow mechanism as per RFP Provisions.

G. Deposited with RLDA **"Performance Guarantee Bond"** No. 0607225IPG000005 dated 29.05.2025 issued by Indian Bank, Khandari Branch, Agra (U.P.) for **Rs.4,28,55,000/-** (Rupees Four Crore Twenty-Eight Lakh Fifty-Five thousand only) with a validity up to 28.05.2030 with claim expiry date 28.05.2031.

H. The Lessee is desirous of acquiring lease rights over the Site for the purposes of conceptualizing, designing, financing, construction, marketing, leasing, operating and maintaining the Assets upon the Site.

I. RLDA has agreed to grant to the Lessee, the lease rights and other rights in the site subject to the fulfillment of the Conditions Precedent and upon the fulfillment of the other obligations of the Lessee as contained herein in accordance with the terms and conditions of this Lease Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions and understandings set forth in this Lease Agreement and related Lease Documents (the receipt and adequacy of which are hereby mutually acknowledged), the Parties, with the intent to be legally bound, hereby agree to the terms and conditions specified herein:

RLDA grants to the Lessee, the Site on lease for a period up to **14thJanuary 2085** i.e **59 (Fifty Nine) years 07 (Seven) months 04 (Four) days** from the **Effective Date 11.06.2025,** on the terms and conditions contained in the following documents which shall be deemed to form a part of this Lease Agreement:

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1) Letter of Acceptance (LOA) No RLDA/2020/Project/Consultancy/GomtiNagar/2327 dated 18.09.2024

2) NIT, RFP (Part-I, II, III, IV, & V of Bid Document) and its Addendum 1.

3) Bid Form 12 (Financial Proposal) submitted by the bidder and opened at the time of financial bid opening.

4) Other related Documents:

i. Letter from Govt. of India, Ministry of Railways, (Railway Board) New Delhi Entrustment Letter No.2016/LMB/WCS/22/01/15 Dated 29.08.2018 addressed to Vice Chairman RLDA.

ii. PAN Card of Rail Land Development Authority.

iii. Selected Bidder/SPC Board resolution dated 30.09.2024 authorizing SPC's Director for signing of Lease Agreement.

iv. Bidder/Lessee's Indemnity Bond for GST liability dated 11.06.2025.

v. Bidder/Lessee's letter dated 19.02.2025 regarding opting of Escrow mechanism as per RFP document.

vi. Legal Opinion letter dated NIL from Adv. Prabhanshu Agarwal (Reg, No. 540404).

vii. Performance Guarantee Bond Bank Guarantee Bond No. 0607225IPG000005 dated 29.05.2025 issued by Indian Bank, Khandari Branch, Agra (U.P.) for Rs. 4,28,55,000/- (Rupees Four Crore Twenty-Eight Lakh Fifty-Five thousand only) with a validity up to 28.05.2030 with claim expiry date 28.05.2031.

viii. Documents of Special Purpose Company (SPC) and its Paid up Share Capital, along with Certificate from the Company Secretary in respect thereof.

ix. PAN Card of SPC "M/s Lucknow Buildwell Private Limited".

x. Bid Form 1,2,3 (b),4,7, 9A, 11,16,17 submitted by the bidder.

The Lessee shall execute the Development Project on the Site leased out to it in accordance with the provisions of the Lease Agreement.

IN WITNESS WHEREOF, the Parties hereunto have caused the Lease Agreement signed in their respective names set the hands on the day and year first above written.

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FOR AND ON BEHALF OF **Rail Land Development Authority** **Shri Pavas Yadav,** **Joint General Manager/Civil/LKO,** Authorized Representative of **RLDA** **Stamp/Seal**	Witnesses: 1. Signature Name Vikas Dahiya Address RLDA, HQ/New Delhi 2. Signature Name Pushkar Rai Address RLDA, HQ / New Delhi
FOR AND ON BEHALF OF **M/s Lucknow Buildwell Private Limited** **Shri Nikhil Agarwal,** **Director,** Authorized Signatory of **M/s Lucknow Buildwell Private Limited.** **Stamp/Seal**	Witnesses: 1. Signature Name Rahul Sharma, Address 94. Vijay Nagar Agra 2. Signature Name Rahul Singhal Address 94. Vijay Nagar Agra

रेल भूमि विकास प्राधिकरण
Rail Land Development Authority

No: RLDA/2020/Project/Consultancy/Gomti Nagar/2327

Dated: 18.09.2024

M/s Ganpati Infrastructure Development Company Limited
Ganpati Square, Plot No. 94,
2d Floor, Old Vijay Nagar Colony,
Near Police Booth,
Agra- 282004.
Contact No: 9837009757
Email: ceo@ganpatigroupindia.com

(Kind Attn: Mr. Nikhil Agarwal, the Authorized Signatory)

Letter of Acceptance (LOA)

Sub: *Grant of Lease for Commercial Development of approximately 21215 sqm of Railway land of Pocket-F in Vibhuti Khand, Gomti Nagar, Lucknow for 60 years Lease period.*

Ref: *(i)* RFP Notice No. RLDA/2024/RFP/CD-23 dated 24.06.2024 read with all the corrigenda/addenda thereto.
(ii) Your Eligibility Proposal and Financial Proposal opened on 13.08.2024 & 09.09.2024 respectively.

1. We are pleased to inform you that your Eligibility Proposal and Financial Proposal at ref (ii) with respect to the RFP at ref (i) above, have been accepted by the Competent Authority, at your offered value of **₹85,71,00,000/- (Rupees Eighty Five Crore Seventy One Lakh Only)** towards Lease Premium in respect of lease for **"Commercial Development of approximately 21215 sqm of Railway land of Pocket-F in Vibhuti Khand, Gomti Nagar, Lucknow for 60 years Lease period".**

2. You are requested to sign and return the duplicate copy of this LOA as a token of acknowledgement within 07 (Seven) days of receipt of this LOA. In the event the duplicate copy of the LOA duly signed by you is not received within the stipulated time, RLDA may, unless it consents to extension of the time for submission thereof, *forfeit the Bid Security* as mutually agreed genuine pre-estimated loss and damage *suffered by RLDA* on account of failure of the selected bidder to acknowledge the LOA.

3. As per your Financial Offer in **Bid Form 12,** read with **Clause 6.0** of Part-III of ITB of Bid Document, you have to make payment of First Instalment of **₹21,42,75,000/- (Rupees Twenty One Crore Forty Two Lakh Seventy Five Thousand Only)**, to RLDA within interest free period of 60 days towards the payment of First Instalment of Lease Premium from the date of issue of this letter, failing which, note (2) & (3) of Bid Form 12 will apply. Applicable GST to be deposited by the developer on RCM method. In case, you fail to deposit the first instalment of Lease Premium within stipulated time, the LOA shall be cancelled without any notice to the Selected

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Bidder. Bid Security shall also be forfeited beside other actions as stipulated in Bid Document.

4. As per your Financial Offer in **Bid Form 12**, read with **Clause 6.0** of Part-III of ITB of Bid Document the Annual Lease Rent is **₹1,00,000/- (Rupees One Lakh Only)** per Annum shall be payable to RLDA every year in advance (not later than 10th April). Applicable Taxes/GST etc. thereon as per prevailing rates & rules to be deposited by the Lessee under RCM method. The Annual Lease Rent shall be revised upwards by 15% (Fifteen percent) every three years (compounded) during the entire term. The first revision will be effected from the beginning from the third financial year subsequent to the one in which the payment of first Annual Lease Rent become due. The payment of Annual Lease Rent shall commence from the day after the execution of Lease Agreement and shall continue to be paid every year in advance at the beginning of each financial year (not later than 10th April) till the expiry of the term of the lease agreement.

5. Further in term of **Clause 4.0 (C) (ii)** of Part-III (ITB) of RFP Document, you are desired to submit the relevant information as per Bid Form 3B along with necessary supporting documents like agreement with the contracted entity, Letter of award of work, and completion certificate of concerned projects from the competent authority and any other documents as called by RLDA. The decision of RLDA regarding fulfillment of construction experience shall be final and binding. The Construction Experience of self or of the contracted Entity shall be submitted by you within **105 days** from the date of issue of this LOA. The Entity contracted by you shall be continued till the completion of project.

6. You are requested to fulfill the conditions as per **Clause 26.0** of Part-I (Regulations for Bids and Lease Agreement), along with **Clause 11.0** of Part-III (Instruction to Bidders and Bid Forms) of the Bid Documents leading to execution of Lease Agreement with Rail Land Development Authority (RLDA) and all other conditions of the Bid Document referred above.

7. Till such time the Lease Agreement is executed between RLDA and the Special Purpose Company (SPC) created by you (hereby referred to as the "Lessee"), this Letter of Acceptance (LOA) shall constitute a binding contract with you for fulfilling the requirement of execution of Lease Agreement.

8. As per Note-9 of **Bid Form 12**, RLDA, being an authority of the Union of India under Ministry of Railways, is part of the Government and deduction of income tax at source (TDS) would not be applicable on the payments to be made by the *Selected Bidder/ Lessee* to RLDA.

9. *It is agreed that any communication from your side containing any condition contrary with respect to agreed conditions either implied or otherwise would be treated as cancellation of LOA and it will lead to forfeiture of Bid Security.*

10. *In addition to the above, you will comply with all the other requirements set out in the Bid Document referred above.*

11. The LOA shall be read in conjunction with the Bid Document referred above. All terms and conditions of the Bid Document will be binding on you and in case of any conflict between LOA and Bid Document, the Bid Document shall prevail over LOA.

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12. In the instant lease, the court of New Delhi shall have exclusive jurisdiction on matters pertaining to or arising from the LOA.

13. The payments can be remitted through RTGS/NEFT directly into RLDA account or through the other instrument as indicated in **Bid Form 12**. While using online mode please submit the item-wise details of payment to RLDA. The particulars of RLDA account are as under: -

Name of Bank	**State Bank of India, Rail Bhavan, New Delhi**
Beneficiary Name	**Rail Land Development Authority**
Current Account No.	**3023 1544 682**
IFSC Code	**SBIN 000 3771**

14. The GSTIN of RLDA is **07AAAGR0030G1ZT** (Zero Seven A A A G R Zero Zero Three Zero G One Z T).

15. The TAN of RLDA is DELO02988G (D E L O Zero Two Nine Eight Eight G).

16. Further communication in the matter may kindly be made with JGM/P-3/RLDA.

Yours Sincerely,

(Neeraj Kumar Gupta)
JGM/Expert/Tender
Mobile: 9711305031

For Rail Land Development Authority,
(A Statutory Authority under Ministry of Railways, Government of India)

We hereby acknowledge receipt of this Letter of Acceptance.
Signature of Authorized Signatory (With Company Seal)
Date & Place

(Nikhil Agarwal)
Authorized Signatory
For and behalf of **M/s Ganpati Infrastructure Development Company Limited**.

Copy to:

1. *General Manager*, North Eastern Railway for kind information.
2. *Principal Chief Engineer*, North Eastern Railway for kind information.
3. *Divisional Railway Manager*, Lucknow Division of North Eastern Railway for kind information.
4. GM/Accounts & CPM/LKO/RLDA for kind information.
5. DGM/P/LKO/RLDA (Nodal Officer) for information and liaisoning with selected bidder for timely payment of Lease Premium and submission of construction experience, etc.

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.2016/LMB/WCS/22/01/15 New Delhi, dated 29.08.2018

Vice Chairman,
Rail Land Development Authority (RLDA),
Motibagh-I, Near Safdarjung Railway Station,
New Delhi-21.

Sub: Entrustment of land for development/redevelopment of Gomtinagar railway station

Ref: 1. RLDA's letter No.RLDA/2017/Project/MoU/Smart Cities (Pt.)/CFS-106, dated 12.07.2018
2. N.E. Railway's letter No. W/286/PA/Pt. XVIII/W-7 dated 30.07.2018 addressed to PED/SD Railway Board.

With reference to RLDA's letter cited above, Board has approved the proposal for entrustment of railway land at Gomtinagar to RLDA for development/redevelopment, in terms of section 4D(2)(i, ii & iv) of Railway(Amendment) Act, 2005 and authorizing RLDA to exercise powers as per section 4E of Railways (Amendment) Act 2005 and RLDA (Constitution) Rules 2007 as detailed below:

(i) Entrustment of land totelling 1,17,028.99 Sqm (Pocket A, C, F, G & H of plan) to RLDA and air-space of 33524 Sqm (Pocket-E) at Gomtinagar station to RLDA for commercial development of the station.

(ii) Temporary entrustment and licensing right of spare space and air space of Pocket-B & D measuring 31,244.49 Sqm and air space of 33524 Sqm (Pocket-E) subject to no curtailment of Railway Rights for operational amenities and without causing hindrance to passenger movement.

Copy of Land plan is attached.

(Anish Kumar)
Director/Station Development (Engg.)
Railway Board
Tele Fax-011 23383245

RAIL LAND DEVELOPMENT AUTHORITY NEW DELHI

LUCKNOW BUILDWELL PRIVATE LIMITED

Rail Land Developement Authority

BID FORM 12: Financial Proposal

RFP No.: (RLDA/2024/RFP/CD-13 Dated 24.06.2024)

Name of Site: - Railway land at Pocket-F in Vibhuti Khand, Gomti Nagar, Lucknow
Sub: - Bid for Grant of Lease for Commercial Development of approximately 23215 sqm of Railway land at Pocket-F in Vibhuti Khand, Gomti Nagar, Lucknow for 60 years Lease period.

Reserve Price for Lease Premium: Rs.85.20 Cr. for Area 23215 Sqm and with FAR = 2

I/We agree to abide by this Bid, which consist of my/our financial offer herein, for a period of 120 (one hundred and twenty) days from the Bid Due Date and it shall remain binding on us/me and may be accepted by you any time before the expiration of the said period.

I/We as Lease Premium and Annual Lease Rent for grant of the lease rights on the land area 23215 Sqm with FAR 2 as per break up given below

NAME OF THE BIDDER	GANPATI INFRASTRUCTURE DEVELOPMENT COMPANY LIMITED	
Bidding Parameter	**Bidder's Offer in Rupees (please insert in Figures)	**Bidder's Offer in Rupees (In Words)
1	2a	2b
Lease Premium (LP)	857100000.00	Eighty Five Crore Seventy One Lakh Only
Annual Lease Rent (ALR)	Rs. 1.00 Lakh (Rupees One Lakh Only)(Escalation @15%, every 3 years, compounded)	

The applicable taxes/duties/levies/GST shall be payable extra by the bidder in addition to the above quoted offered rates (LP and ALR).

I/We undertake to make payments of the same to RLDA as per the Payment Schedule given below.

PAYMENT SCHEDULE

A. Lease Premium (LP)

Particulars	Installments as % of Lease Premium	Due Date	Amount
First Installment	25%	Within 60 days from the date of issue of Letter of Acceptance (LOA) by RLDA	25% of the Lease Premium plus interest @ 11.75% or (11.75%+3%) per annum as per note 2 & 3 below, on full amount of Lease Premium for the period of extension, if any, plus applicable GST thereon. Applicable GST will be paid by the developer on RCM Method.
Second Installment	25%	On or before the first anniversary date of Payment of the First Installment	25% of the Lease Premium plus interest @ 11.75% per annum on the total outstanding amount of Lease Premium (Cumulative amount of Second, Third, Fourth installments) for the period from date of Payment of First Installment to the actual date of payment of Second Installment, plus applicable GST thereon. Applicable GST will be paid by the developer on RCM Method.
Third Installment	25%	On or before the second anniversary date of Payment of the First Installment	25% of the Lease Premium plus interest @ 11.75% per annum on the total outstanding amount of Lease Premium (amount of Third &Fourth installments) for the period from date of Payment of Second Installment to the actual date of payment of Third Installment, plus applicable GST thereon. Applicable GST will be paid by the developer on RCM Method.
Fourth Installment	25%	On or before the third anniversary date of Payment of the First Installment	25% of the Lease Premium plus interest @ 11.75% per annum on the total outstanding amount of Lease Premium (amount of Fourth Installments) for the period from date of Payment of Third Installment to the actual date of payment of Fourth Installment, plus applicable GST thereon. Applicable GST will be paid by the developer on RCM Method.

B. Annual Lease Rent I/We offer to pay to RLDA every year in advance (not later than 10thApril) the Annual Lease Rent and the same shall be revised upwards by 15% (Fifteen percent) every three years (compounded) during the entire term. The first revision effected from the beginning from the third financial year subsequent to the year in which the payment of first Annual Lease Rent becomes due. The payment of Annual Lease Rent shall commence from the day after the execution of Lease Agreement and shall continue to be paid every year in advance at the beginning of each financial year (not later than 10th April) till the expiry of the term of the lease agreement.

Notes:

1	All applicable taxes/duties/levies/GST shall be payable extra by the bidder in addition to the above quoted offered rates (LP and ALR).
2	The total Lease Premium is to be paid within 3 (Three) years from the date of payment of the First Installment. An extension of up to 60 (sixty) days beyond the stipulated deadline for the payment of the First Installment as mentioned above, may be granted on written request of the Selected Bidder to RLDA, provided the Selected Bidder pays interest @ 11.75% **(Eleven Point Seven Five Percent)** per annum on the full amount of Lease Premium to be paid along with the First Installment, plus applicable GST. The interest shall be calculated for the number of days of extension availed by the Selected Bidder.
3	Further extension of up to 30 (Thirty) days beyond the above extended period of 60 (sixty) days for the payment of the First Installment, may be granted with an additional Penal interest of 3% (three percent) per annum, over and above the interest of @ 11.75% **(Eleven Point Seven Five Percent)** per annum, on the full amount of Lease Premium to be paid along with the First Installment amount, plus applicable GST. However, no further extension shall be given and the RLDA shall terminate LOA/Lease Agreement, as the case may be, and forfeit the Bid Security and other amounts as per the provisions of the bid document.
3(A)	**Adjustment from Bid Security, PBG & Security Deposit:** There shall not be any payment default on part of bidder/developer. However, in exceptional cases, where there are bonafide reasons to the satisfaction of RLDA, any default/ shortfall in payment by bidder/developer, may be adjusted by RLDA, on the request of the bidder, up to the extent of amount available in any form of Bid Security, PBG & Security Deposit, so as to avoid the payment default case and save the contract from termination. In such eventuality, concerned bidder/developer has to recoup the bid security/ PBG/ Security Deposit amount along with a penal amount @ 3% higher than the highest applicable rate of interest specified in the Schedule of Payment, of amount adjusted, from due date of payment, up to date of recoupment. The recoupment has to be done within a period of six months. In case Bid Security, PBG & Security amount is not sufficient to meet out the short fall amount OR recoupment of Bid Security/ PBG/ Security Deposit is not done within six months period, then matter shall be dealt as per Contract/RFP provisions treating as payment default.
4	The remaining **Second, Third & Fourth** Installments (the "Subsequent Installments") shall be paid by the Lessee to RLDA as per the Payment Schedule shown above. The Lessee may pay part of any of the Subsequent Installments any time after the due date of the preceding Installment but before the due date of that Installment and in such case the interest @ 11.75% **(Eleven Point Seven Five Percent)** per annum as provided in the payment schedule above on such part payment shall be applicable till the date of the part payment.
5	The offered Lease Premium is for the area of Site and FSI/Built-up Area specified above. In case any variation in the area of Site is found at the time of handing over possession of the Site, the Lease Premium shall be revised on pro-rata basis to the actual area of Site and in case there is no change in Built Up Area, the Lease Premium and the Annual Lease Rent shall remain unchanged. In case of a Project involving Redevelopment Works, as may be specified in Schedules, the change in Lease Premium and Annual Lease Rent shall be computed taking into account the Grand Total of the cost of Redevelopment Works (as provided in SCLA) and Present Value of Lease Premium and Annual Lease Rent.
6	If during the Construction Period, in the event FSI gets reduced to less than the extent mentioned hereinabove due to any orders/notification/instruction/road widening/acquisition for public purpose etc. of concerned municipal authority / Government body subsequent to the issue of Letter of Acceptance but during the Construction Period and the Compensatory FSI is not passed on to the Lessee, the Lessee shall be entitled for pro-rata reduction in the Lease Premium as specified in 3.4.4 of part-B, of SCLA.
7	The Lease Premium and Annual Lease Rent shall be paid in the form of Demand Draft or Account Payee cheque in favour of "Rail Land Development Authority" issued by a Nationalized/ Scheduled bank. In case of payment through cheque, the same shall be subject to realization of the cheque. The payment can also be made via Electronic mode i.e. RTGS / NEFT etc. In such case, the details thereof shall be sent to RLDA for tracking the respective Account.
8	For online payment of lease premium /annual lease rent, RLDA 's bank particulars are as under: **Account Name: Rail Land Development Authority** **Name of bank and Branch: State Bank of India, Rail Bhawan, New Delhi** **Current Account Number: 30023544692** **IFSC: SBIN 0003771** In case of online payment, the selected bidder /lessee shall submit break up of payment for proper accountable in their account.
9	RLDA, being an authority of the Union of India under Ministry of Railways, is part of the Government and deduction of income tax at source (TDS) would not be applicable on the payments to be made by the Selected Bidder/ Lessee to RLDA.
10	The GSTIN of RLDA is 09AAAGR0300G1ZP

RAIL LAND DEVELOPMENT AUTHORITY NEW DELHI

LUCKNOW BUILDWELL PRIVATE LIMITED

UNIQUE ... COMPANY NAME: Ganpati Infrastructure Development Company Limited

MINISTRY OF RAILWAYS

RAIL LAND DEVELOPMENT AUTHORITY

(RLDA)

LAND DEVELOPMENT HAND BOOK

March 26, 2014

RAIL LAND DEVELOPMENT AUTHORITY NEW DELHI

LUCKNOW BUILDWELL PRIVATE LIMITED

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DISCLAIMER

The information contained in this RLDA Land Development Hand Book (the "**Handbook**") or subsequently provided to Bidder(s), in documentary form by or on behalf of the RLDA or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this Handbook and such other terms and conditions subject to which such information is provided.

This Handbook is not an agreement and is neither an offer nor invitation by the RLDA to the prospective Bidders or any other person. The purpose of this Handbook is to provide interested parties with information that may be useful to them in making their Bids pursuant to this Handbook. This Handbook includes statements, which reflect various assumptions and assessments arrived at by the RLDA in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This Handbook may not be appropriate for all persons, and it is not possible for the RLDA, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Handbook. The assumptions, assessments, statements and information contained in this Land Development Hand Book Documents, may not be complete, accurate, adequate or correct. Each Bidder should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this Handbook and obtain independent advice from appropriate sources.

Information provided in this Handbook to the Bidder(s) is on a wide range of matters, some of which may depend upon interpretation of law. The information given is not intended to be an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The RLDA accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

The RLDA, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this Handbook or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Handbook and any assessment, assumption, statement or information contained therein or deemed to form part of this Handbook or arising in any way for participation in this Bid .

The RLDA also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this Handbook.

The RLDA may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this Handbook.

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The issue of this Handbook does not imply that the RLDA is bound to select a Bidder or to appoint the Selected Bidder or Lessee, as the case may be, for the Project and the RLDA reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever.

The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the RLDA or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the RLDA shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process.

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PART-I

REGULATIONS FOR BIDS AND LEASE AGREEMENTS

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PART- I

REGULATIONS FOR BIDS AND LEASE AGREEMENT

1. **Introduction**

The Rail Land Development Authority ("RLDA") has been set up by Ministry of Railways through an amendment to The Railways Act, 1989 (Act No.47 of 2005, published vide Extraordinary Gazette Notification dated 16.9.2005), for commercial development of vacant railway land. This amendment essentially contains the following provisions:

i. A new Chapter (IIA) has been inserted in the Railways Act, 1989, authorizing the Central Government to establish RLDA, inter alia to prepare schemes for use of railway land and to develop railway land for commercial use for the purpose of generating revenue by non-tariff measures.

ii. Section 11 of the Railways Act, 1989 which empowers the railway administrations to execute various works required for the purposes of constructing and maintaining railways, has also been amended, by insertion of sub-clause (da), to empower the railway administration for "developing any railway land for commercial use".

iii. In pursuance of the said powers and with the object of carrying out the functions for which it has been established, RLDA has prepared these Regulations for the guidance of the bidders for the land development / leasing projects.

2. **Definitions and Interpretations**

i. **Meanings of Terms**

These Regulations for Bids and Lease Agreements shall be read in conjunction with the Instructions to Bidders (ITB) and Bid Forms at Part-III, the General Conditions of Lease Agreement (**GCLA**) at Part-II and shall be subject to modifications, additions or supersession by Special Conditions of Lease Agreement (**SCLA**) at Part–IV of the Land Development Handbook and Schedule and Specifications, if any, at Part -V.

ii. **Definitions**

In these Regulations the following terms shall have the meanings assigned hereunder except where the context otherwise requires.

a) "**Annual Lease Rent**" shall mean the annual payment required to be made by the Lessee to RLDA in yearly installments, in advance at the

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beginning of each period, as specified in the Schedule of Payment in consideration to the grant of lease rights on the Site.

b) "**Bid**" shall mean the Eligibility Proposal and the Financial Proposal collectively submitted by a Bidder in response to an Invitation of Bid for a Project(s)/ Site(s).

c) "**Bidder**" shall mean and include, subject to any modification through ITB, an entity which may be an individual, a registered limited liability partnership firm (LLP), a registered co-operative society, a registered trust, a public or private limited company incorporated and registered in India under the Companies Act, 1956 or a foreign company duly incorporated in that country applying for the relevant Project(s), either individually or in consortium with other such entities, subject to compliance with applicable laws, policies and guidelines of Government of India, such entities being permitted to Bid and execute the Project(s) as per their object of businesses specified in their charter/registration/incorporation documents and the like and shall include its / their authorized representatives, successors and permitted assigns. For the purpose of this definition, a Proprietary firm will fall under the category of 'individual'.

d) "**Bid Documents**" shall mean and include the following documents collectively:

i. Land Development Hand Book (the "**LDHB**") Part - I, Regulations for Bids and Lease Agreements (the "**Regulations**");

ii. LDHB Part - II, General Conditions of Lease Agreement and Annexures (the "**GCLA**");

iii. LDHB Part - III, Instructions to Bidders and Bid Forms (the "**ITB**");

iv. LDHB Part - IV, Special Conditions of Lease Agreement (the "**SCLA**");

v. LDHB Part - V, Schedule and Specifications;

vi. Additional drawings and Instructions, if any.

e) "**Constituent**" shall mean an entity which directly or indirectly either owns, is owned by or is under common ownership with the Bidder/ Member of Bidder holding more than 50% (fifty percent) of its paid up and subscribed shares. In the case of indirect share holding, for this purpose, the ownership would be considered to have been reduced pro rata as per the percentage shareholding in each stage

f) "**Drawings**" shall mean the maps, drawings, plans and tracings or prints thereof annexed to the Bid Forms or subsequently to be approved by the

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Nodal Officer for construction at the Site.

g) "**Due Date(s)**" shall mean the date(s) on which lump-sum payment of Lease Premium in one or more installment are due as per Schedule of Payment.

h) "**Estimated Cost of Project**" shall mean the sum of the estimated cost of construction and the Lease Premium as assessed by RLDA.

i) "**Financial Eligibility**" shall mean the financial eligibility requirements specified in the Bid Documents that have to be satisfied by the Bidder.

j) "**Lease Premium**" shall mean the lump-sum payment required to be made by the Selected Bidder/Lessee to RLDA in one or more instalments in terms of the Schedule of Payment as consideration for the rights and interest granted by RLDA to the Lessee in relation to the Site.

k) "**Lessee**" shall mean the Special Purpose Company incorporated under the Companies Act, 1956 by the Selected Bidder for implementation of the Project, which executes the Lease Agreement with RLDA for the Project.

l) "**Member(s)**" shall mean members of a consortium of Bidders who join together to bid for a Project jointly.

m) "**Nodal Officer**" shall mean the officer(s) nominated by RLDA as executive in-charge of the Project from time to time and includes other senior officers of the Project wing of RLDA.

n) "**Project**" shall mean all works related to or incidental to the Site to be executed in accordance with the provisions of the Lease Agreement and as permitted in the Bid Documents as per the Applicable Laws and shall include Development and Redevelopment Project, if any, and all incidental and related works thereto.

o) "**RLDA**" shall mean the Executive Board of the Rail Land Development Authority or the administrative officers of the Rail Land Development Authority authorized to deal with matters related to land/air space development on its behalf.

p) "**Railway**" shall mean the 'Railway' as defined in the Railways Act, 1989 and shall also include Railway Administration, as defined therein, where the context so demands.

q) "**Relative**" shall have the meaning as ascribed under Section 2 (41) of the Companies Act, 1956.

r) "**Revenue Share**" shall mean the percentage of the project revenues which the Lessee is required to pay to RLDA in accordance with the

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Schedule of Payment as consideration for the rights and interest granted by RLDA to the Lessee in relation to the Site.

s) "**Selected Bidder**" shall mean the Bidder selected by RLDA for the Project after conclusion of the bidding process and to whom RLDA issues the Letter of Acceptance (the "**LOA**").

t) "**Single Stage Bid**" shall mean the bids invited in two packets viz the 'Eligibility Proposal' and the 'Financial Proposal' submitted together.

u) "**Site(s)**" shall mean the Railway land, the built up space or the air space above existing Railway building/station /track which RLDA intends to offer to the Lessee on lease through the Bid process as contained in the Bid Documents.

v) "**Specifications**" shall mean the specifications for materials and works including mandatory redevelopment works (if any) as contained in Part-V of Land Development Hand Book.

w) "**Special Purpose Company**" or "**SPC**" shall mean the company incorporated under The Companies Act, 1956, by the Selected Bidder, exclusively to carry out the Project.

x) "**Technical Eligibility**" shall mean the technical eligibility requirements specified in the Bid Documents that have to be satisfied by the Bidder.

y) "**Two Stage Bid**" shall mean the bids invited in two stages; the first being a qualification stage involving the submission and evaluation of "Eligibility Proposal" and the second being the main bid stage involving the submission and evaluation of "Financial Proposal".

2.1 Words importing the singular number shall also include the plural and vice versa where the context requires.

2.1.1 reference to laws of India or Indian Law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

2.1.2 the table of contents, headings or sub-headings are for convenience of reference only and shall not be used in, and shall not affect, the interpretation or construction of Regulations;

2.1.3 the words "**include**" and "**including**" are to be construed without limitation and shall be deemed to be followed by "**without limitation**" or "**but not limited to**" whether or not they are followed by such phrases;

2.1.4 any reference to any period of time shall mean a reference to that according to Indian Standard Time;

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2.1.5 a reference to any statutory body or authority includes a reference to any successor as to such of its functions as are relevant in the context in which the statutory body or authority was referred to.

2.1.6 references to a "**business day**" shall be construed as references to a day (other than a Sunday or public holiday) on which banks are generally open for business.

2.1.7 any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

2.1.8 references to any date, period shall mean and include such date, period as may be extended pursuant to this Regulation.

2.1.9 materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognized standards.

3.0 **Eligibility Criteria**

Prequalification for invitation of Financial Proposal (for Two Stage Bid) or short listing of Bidders for opening of Financial Proposals (for Single Stage Bid) shall be based on the Bidder meeting the Financial and /or Technical Eligibility as follows:-

a. **Technical Eligibility**:-

(i) The Bidder should have successfully completed (as a developer or contractor or owner), in the last 10 (ten) years preceding the bid opening date, at least one real estate (or any other category specified in ITB) project equivalent to a minimum of 20% of the size of the proposed Project or multiple real estate projects (or any other category specified in ITB) with aggregate minimum size equal to the size of the proposed Project, the size being measured in terms of built up area. Partly completed projects would also be permitted for accounting of built up area for fulfillment of the above requirements provided construction of that built up area has been completed and the area is ready for occupation and the same is certified as such on the respective Bid Form.

(ii) The technical experience for any project shall not be allowed to be claimed by more than one Member of the Consortium. In other words, no double counting claimed by a Consortium in respect of the same project experience shall be permitted in any manner whatsoever.

(iii) Bidders/their Members shall submit their Technical Eligibility in the specified Bid Form for Technical eligibility duly certified by an architect and the statutory auditor or the chartered accountant as the case may be.

b. **Financial Eligibility:** The Financial Eligibility shall be based on the audited annual financial statements / income tax returns of the last three

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Financial Years of the Bidder ending March 31st preceding the Bid submission date (the "cut off date"). In the case of a Bidder whose financial year does not end on the 31st of March, the annual financial statements of the last three financial years just preceding the cut off date will be considered. Financial Statement for part year will not be accepted. Subject to any modification through ITB, the Financial Eligibility shall be as specified hereunder:

(i) The minimum average annual gross revenue of the Bidder during the last three financial years preceding the Bid submission date shall be as specified in the ITB.

(ii) Deleted.

(iii) In jurisdictions (foreign countries) that do not have Statutory Auditors, the firm of auditors which audits the annual accounts/financial statements of the Bidder may provide the certificates required under Financial Eligibility criteria.

(iv) In case the Bid is called during a period during which the financial year has ended on 31st of March but the financial statement is not due for audit, the audited financial statement of the preceding financial year will be accepted. Similarly, in case the submission of income tax return is not due, the accepted income tax return of the previous year will be accepted.

c. **Eligibility for a Consortium**: In case the Bidder is a consortium, the aggregate Technical Eligibility and Financial Eligibility of individual Members of the consortium can be considered for meeting the minimum required criteria provided each of such Members holds at least 10% of the equity (for consideration of Technical Eligibility) and 26% of the equity (for consideration of Financial Eligibility) in the consortium. Further, the lead Member of the consortium must have a minimum of 50% of the Financial Eligibility specified in sub-para (b) above.

d. **Experience of Holding/Subsidiary Entity:** Technical experience of a direct holding/subsidiary entity (having ownership of or being owned by, as the case be, by more than 50%) of a Bidder/Member can be considered for determining the Technical Eligibility of the Bidder provided such a holding/subsidiary entity furnishes an undertaking for supporting the Bidder in the specified Bid Form. In case the parent and subsidiaries are both foreign companies, the definition of the holding/subsidiary relationship as per the Companies Act 1956 will apply.

4.0 **Consortium Requirements**

4.1 Bids submitted by a consortium of Bidders must comply with following requirements:

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a) The number of Members shall not exceed [4 (four)] Members, each meeting the requirement specified in Clause 3 (c) above.

b) The Consortium shall furnish a joint bidding agreement (the **"Joint Bidding Agreement"**) on a non-judicial Stamp Paper of a minimum of ₹100/- (Rupees one hundred only) as per the format provided in the relevant Bid Form, which shall be legally binding on all the Members. In case the Consortium is selected, the Joint Bidding Agreement shall continue in full force and effect till the Lease Agreement becomes Effective and thereafter the legal liabilities of the Members shall be governed by the relevant equity lock in provisions of the Lease Agreement. However, in case the Consortium does not get selected for award of the Project, the Joint Bidding Agreement will stand terminated upon return of the Bid Security by RLDA.

c) One of the Members of the Consortium holding at least 26% (twenty six percent) of the paid up and subscribed equity/ownership stake in the Consortium as well as contributing a minimum of 50% (fifty percent) of the specified Financial Eligibility shall be authorised and nominated as the Lead Member to act and represent all the Members of the Consortium for bidding and implementation of the Project. This authorization shall be evidenced by submitting a Power of Attorney signed by legally authorized signatories of all the Members as per format provided in the relevant Bid Form.

d) Change of the Lead Member will not be allowed under any circumstance.

e) A Bidder or a Member of a consortium can be a Member in only one consortium of Bidders; if a Bidder/Member participates in more than one Bid for the same Project/ Site, all Bids of which it is a part would be summarily rejected.

f) All Members of the consortium of Bidders shall be liable jointly and severally for the execution of the Project.

4.2 Change in Composition and Equity Participation of the Consortium

4.2.1 After receipt of a Bid, any change in composition of a Consortium (either inclusion of a new Member or substitution of a Member) shall not be permitted. However, in the case of Two Stage Bid under unavoidable circumstances RLDA may at its sole discretion consider a request from the Bidder for change in composition of consortium subject to fulfilment of the following conditions by the Bidder:

a) the Consortium which has submitted the Bid meets the Eligibility Criteria;

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b) application for such change is made not later than 15 days prior to opening of the Financial Bid in case same has been announced by RLDA;
c) the existing Lead Member continues to be the Lead Member of the Consortium;
d) in case of substitution of a member, the substitute is at least equal, in terms of Technical or Financial Eligibility, as the case may be, to the Consortium member who is sought to be substituted and the modified Consortium shall continue to meet the eligibility requirements for the Bidder;
e) the new Member(s) expressly adopt(s) the Bid already made on behalf of the Consortium as if it were a party to it originally, and is not in Conflict of Interest with any other Bidder and will submit documentary compliances as required;
f) approval for change in the composition of a Consortium will be at the sole discretion of RLDA and must be approved by RLDA in writing;
g) The modified /reconstituted Consortium shall submit the revised Joint Bidding Agreement and other documentary compliances.

5.0 **Conflict of Interest**

5.1 RLDA considers conflict of interest ("**Conflict of Interest**") to be a situation in which a party has interests that could improperly influence the bidding process or that party's performance of official duties or responsibilities, contractual obligations, or compliance of applicable laws and regulations. Any Bidder(s), which in the opinion of RLDA has or may have the likelihood of a Conflict of Interest, shall be disqualified. Without limiting the generality of the above, a Bidder shall be considered to have a conflict of interest that affects the bidding process, if:

a) such Bidder, its Member (in case of a consortium of Bidders) or any of its Constituents and any other Bidder for the same Project/Site, its Member or any of its Constituents have cross ownership interest; provided that this disqualification shall not apply in case the direct or indirect ownership/ shareholding (of paid up and subscribed shares) of a Bidder, its Member or any of its Constituent in the other Bidder, its Member or any of its Constituent is less than 10% (ten percent); or

b) such Bidder or a Member of such Bidder is also a Member of another Bidder for the same Project/Site; or

c) such Bidder has the same authorized signatory/representative for a Bid as any other Bidder for the same Project/Site; or

d) such Bidder, its Member or any of its Constituent has participated as a consultant to RLDA in the preparation of any document, design or technical specifications for the same Project/Site; or

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e) if legal, financial or technical adviser of RLDA for the Project/Site is or has been engaged by the Bidder, its Member or any of its Constituent in any manner for matters related to or incidental to the same Project/Site during or prior to the Bidding Process up to the signing of the Lease Agreement; or

f) such Bidder, its Member or any of its Constituent and the consultant of RLDA for the same Project/Site, its Member or any of its Constituent have cross ownership interest; provided that this disqualification shall not apply in cases the direct or indirect ownership/ shareholding (of its paid up and subscribed shares) of a Bidder, its Member or any of its Constituents in the consultant of RLDA for the Project/Site, its Member or any of its Constituent, or vice versa, is less than 10% (ten percent); or

g) such Bidder, its Member or any Constituent thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder for the same Site, its Member or Constituent , or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder for the same Site, its Member or any Constituent thereof: or

h) such Bidder, or any Constituent thereof, has a relationship with any other Bidder for the same Site, or any Constituent thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Bid of either or each other for the same Site.

5.2 The disqualification specified under sub clause 5.1 (a) and (f) shall not apply to the Bidder or its Member that is a public financial institution unless and until such a Bidder or its Member is a Constituent of another Bidder or its Member or RLDA's consultant for the Project/Site.

5.3 Bidders/ each Member of the Consortium shall submit the following documents on the basis of which it has arrived at the conclusion that it does not have any Conflict of Interest:

i. List of Constituents along with their shareholding and registered office address;

ii. The details of each of the shareholders holding more than 10% in the Bidder, each of its Members and their Constituents;

iii. A chart showing the relationship of the Bidder/ Members of the consortium with their respective Constituents.

5.4 Notwithstanding anything contained herein above, RLDA may, after opening of the Eligibility Proposal, seek a reconfirmation (in the format to

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be provided by RLDA) that there is no Conflict of Interest among the Bidders, Members and / or Constituents of the Bidder/ Members of the consortium, within a period to be stipulated by RLDA. RLDA will also seek reconfirmation from its legal, financial or technical advisors that there is no conflict of interest with Bidders.

5.5 In the case of Two Stage Bid, a Bidder may, within 15 (fifteen) days of detecting a Conflict of Interest, remove from its Consortium any Member who suffers from the Conflict of Interest provided, the Consortium which has submitted the Bid meets the Eligibility Criteria and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof. In case substitution of Member is proposed, the process mentioned in sub clause 4.2 shall be followed.

5.6 Any change which affects the eligibility of the Selected Bidder or the Lessee at any point of time till one year after the completion of the Project may lead to termination of the contract by RLDA.

6.0 **Currency Conversion**

For conversion of other currencies to Indian Rupees, the rate of conversion shall be as per the Reserve Bank of India reference rate as on the first day of the month preceding the month of opening of Bid. In case of currencies not indicated under the RBI reference rate, the same shall be converted to US$ as per IMF reference rate as on the conversion date and the amount so derived in US$ shall be converted into Indian Rupees as per the US$ RBI reference rate as on the conversion date.

7.0 **Documents for Eligibility**

The Bidder shall be required to submit the following documents:-

(a) For Bidders/their Members whose financial capacity has been utilized for fulfilling the Financial Eligibility and whose accounts are audited under the relevant laws, copy of audited financial statements along with a certificate of statutory auditor certifying the gross revenues as per the specified Bid Form for Financial Eligibility shall be submitted by the Bidders. For those Bidders/their Members whose financial capacity has been utilized for fulfilling the Financial Eligibility and whose accounts are not required to be audited as per the law shall submit their financial statements which must also contain the profit & loss/ income & expenditure account duly certified by a practicing chartered accountant who is a member of ICAI. Copy of full Income Tax Return duly acknowledged by the Income Tax department and attested by the chartered accountant shall also be submitted by such Bidders. The specified Bid Form for the Financial Eligibility shall also be certified by the chartered accountant.

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(b) If so requested by RLDA, the Bidder shall provide the name, address and contact number of its bankers along with a letter of authority in favour of any authorized person of RLDA in this regard to enable RLDA to make enquiries from the Bidder's bankers.

(c) Certificate of incorporation /registration and respective charter documents. In case of Bidders falling under the category of individuals, a self certified photocopy of proof of photo identity and address as is accepted by a nationalized bank for opening a bank account along with a self certified photocopy of PAN card.

8.0 Special Purpose Company (SPC) and Equity Lock-In

8.1 The Selected Bidder shall incorporate a new SPC under the Companies Act, 1956, with its minimum equity sharing of 99.9% (ninety nine point nine percent), within 90 (ninety) days from the date of issue of the Letter of Acceptance (LOA) by RLDA for implementation of the Project. The Lease Agreement shall be executed with such SPC. RLDA at its discretion and on reasonable grounds may extend this period. The Memorandum of Association (MoA) of the SPC shall be in the prescribed format given at Form No.16.

8.2 The paid-up and subscribed share capital of the SPC should be as specified in the ITB at the time of signing of the lease agreement between SPC and RLDA.

8.3 Selected Bidder shall hold more than 50% (fifty percent) in the paid-up and subscribed equity share capital of the SPC upto a minimum period of one year after the Project Completion Date or till the payment of full amount of Lease Premium including interests thereof, by the SPC to RLDA, whichever is later.

9.0 Instructions to Bidders and Bid Forms

Instructions to Bidders ("ITB") and Bid Forms specified in Part-III shall be prepared by RLDA for each tender and shall be issued on payment of the prescribed fees to the interested Bidders. SCLA (Part–IV) and Schedule & Specification (Part-V) may also be prepared by RLDA and issued to the interested Bidder together with Part-III. These documents can also be downloaded from the official website of RLDA. Bidders who download these documents shall be required to pay the project specific bid document fees along with submission of their Bid.

10.0 Omissions & Discrepancies

If a Bidder finds discrepancies in or omissions from the drawings or in any of the Bid Forms or if it is in doubt as to their meaning, it should at once notify RLDA on or before the date specified by RLDA for pre bid queries,

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which may send written instructions to all Bidders. It shall be understood that every endeavor shall be made to avoid any error which can materially affect the basis of the Bid and the successful Bidder shall take upon itself and provide for the risk of any error which may subsequently be discovered and shall make no subsequent claim on this account thereof.

11.0 Success Fee

The Selected Bidder shall pay to the consultant of RLDA the total sum of Success Fee, if any, as specified in ITB. Default in the payment of Success Fee or part thereof by the Selected Bidder shall entitle RLDA to forfeit the Bid Security and may result in withdrawal of LOA and termination of Contract by RLDA, at its sole discretion.

12.0 Bid Security

12.1 The Bidder shall be required to deposit along with its bid a Bid Security in the form as mentioned in Clause 12.2 and 12.3 having minimum validity of 180 days from the Bid Submission Date, for the due performance with the stipulation to keep the offer open till such date as specified in the Bid or the extended period as mutually agreed between RLDA and the Bidder. By submitting its Bid, the Bidder shall be deemed to have acknowledged and confirm that RLDA will suffer loss and damage on account of withdrawal of its Bid or for any default by the Bidder during the period of Bid validity. No relaxation of any kind will be given to the Bidder on Bid Security. The amount of Bid Security shall be as specified in the ITB:

12.2 Bid Security may be accepted in any of the following forms if the instrument is in favour of Rail Land Development Authority payable at New Delhi or is pledged to RLDA:-

Pay orders, demand drafts, banker's cheques of the State Bank of India or of any of the nationalized banks or any scheduled bank approved by the Reserve Bank of India.

12.3 Bid Security may be accepted in the form of an unconditional and irrevocable Bank Guarantee drawn in favour of "Rail Land Development Authority" payable at New Delhi and issued by a Nationalized/Scheduled Bank having a minimum networth of ₹1000 crore in the format provided at the specified Bid Form. The Bank Guarantee should be sent to RLDA directly by the issuing bank under Registered Post (A.D) prior to the Bid Submission Date. Copy of the Bank Guarantee should also be submitted with the bid. In case the Bank Guarantee in original is received with the bid, the same shall be accepted only after due verification by RLDA. Notwithstanding the above, the Bank Guarantees would be accepted only after due verification by RLDA..

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12.4 The Bid security of Bidders other than the Selected Bidder shall be returned to them without any interest, but RLDA shall not be responsible for any loss or depreciation thereto while the Bid Security is in its possession, nor be liable to pay an interest thereon.

12.5 If a Bid is accepted, the Bid Security of Selected Bidder mentioned above will be refundable only after the signing of Lease Agreement between RLDA and the SPC.

12.6 **Forfeiture of Bid Security**

The Bid Security shall be forfeited if the Bidder/Lessee,

a. Engages in a corrupt, fraudulent, coercive, undesirable or restrictive practice;

b. Withdraws or modifies its Bid during the Bid validity period or the extended period;

c. Imposes any condition within the Bid validity period or the extended period.

d. Is selected as the successful Bidder and fails within the specified time limit:-

(i) to acknowledge the receipt of LOA unconditionally; or

(ii) to pay the first installment of Lease Premium ; or

(iii) to execute the Lease Agreement as per the draft lease agreement enclosed without imposing any condition; or

(iv) to furnish the Performance Guarantee; or

(v) to pay the Success Fee to RLDA's consultant, if payable as specified in the ITB.

13.0 **Submission of Bids**

(a) The Bidder will be deemed to have visited the Site and inspected the same to acquaint itself about all the existing site conditions, laws and regulations, etc. before submitting its Bid. The Site will be leased by RLDA on "as is where is" basis and no claim whatsoever, in respect of the Site or its conditions will be admissible from the Selected Bidder. Once the Bid is submitted to RLDA, no Bidder will be permitted to withdraw its Bid on the ground of any alleged defect in the Site or its conditions or the title of RLDA thereto.

(b) All contents of the Bid should be typed or hand written in indelible

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ink and signed by the Bidder/authorized signatory/representative of the Bidder who shall also initial each page, in **blue ink**. The Bidder should submit a power of attorney as per the specifications and requirements in the Bid Form authorizing the signatory/representative to commit the Bidder. The Power of Attorney must include the specimen signature of the authorized signatory/representative duly attested by an authorised person under applicable laws, which may include a Company Secretary/Director (of Board of Directors) or similar authorized person of the Bidder. In case the Bidder is a consortium, the Members thereof should furnish a power of attorney in favour of the Lead Member as per the format in Bid Form. The Power of Attorney shall be accompanied by a certified copy of resolution of the managing committee of a co-operative society or the board of trustees of a trusts or partners in case of LLP. The Power of Attorney must be signed by the authorised person(s) under applicable laws, which may include respective Company Secretary/Director (of Board of Directors) of the Bidder of all the Members. In case of Bidder falling under the category of an individual the contents of the Bid can be signed either by himself or herself or by his/her authorized representative appointed under a power of Attorney mentioned above. All the alterations, omissions, additions or other amendments made to the Bid shall also be initialed by the Bidder/authorised signatory signing the Bid. The documents/enclosures of the Eligibility Proposal should be submitted together in bound form, with all the pages numbered serially. **Bid Security should not be bound directly but be placed in plastic jackets, which are bound as part of the main booklet**.

(c) Financial Proposal is required to be submitted in the specified format in Bid Form. The financial proposal is to be quoted for the Bid variable specified in the Instruction to the Bidders. Based on the Lease model selected, the Bid Variable may be one or more of the following or similar:

(i) Lease Premium
(ii) Annual Lease Rent
(iii) Percentage Revenue Share
(iv) Present Value of Payments
(iv) Percentage Equity
(v) Share of Built Up Area

(d) Bid proposals should be placed in separate envelopes sealed and marked "**Eligibility Proposal**" and "**Financial Proposal**", as the case may be. However, in case of Single Stage Bid, the two envelopes should be placed in a third Envelope. All the Envelopes should bear the Bid number and name of the Project. All the envelopes must bear the name and address of the Bidder to

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facilitate return of the envelopes unopened, if required. In addition, the Bid submission date should be indicated on the top right hand corner of each envelope.

(e) The deadline for submission of the Bid will be indicated in the Bid Form. However, RLDA may at its discretion, extend this deadline, in which case all rights and obligations of RLDA and Bidders will be subject to the deadline as extended. Any Bid received by RLDA after the deadline for submission of Bids will be summarily rejected and returned unopened to the Bidder. Bidders may take note that there is likelihood of rush at the last minute, therefore, they must submit their Bids well in advance.

(f) Any alteration/modification in the Bid or additional information supplied subsequent to the Bid submission date, unless the same has been expressly sought by RLDA, shall be disregarded.

14.0 **Withdrawal of Bids**

(a) A Bidder may withdraw its Bid after submission, provided a written notice of withdrawal has been received by RLDA prior to the deadline prescribed for Bid submission. A withdrawal notice should be received and duly acknowledged by RLDA prior to the deadline for submission of Bids. The notice for withdrawal shall bear the tender number and name of the Project and the words, "**BID WITHDRAWAL NOTICE**".

(b) No Bid can be withdrawn in the interval between the deadline for submission of bids and the expiration of the Bid validity period. Withdrawal of a Bid during this interval shall result in forfeiture of the Bidder's Bid Security. Bid withdrawal notice sent earlier but received after the deadline for submission of Bids may result in forfeiture of Bid Security. In case the Bidder after the Bid submission date and within the Bid validity period, by any way of communication, imposes any condition that is not acceptable to RLDA, the Bid will be considered as conditional and will be treated as withdrawal of the Bid by the Bidder. In such case, the Bid Security shall be forfeited.

15.0 **Opening of Bids/Proposals**

RLDA will open the Bids/Proposals received on the Bid/Proposal submission date soon after the deadline for submission at the address mentioned in Instructions to Bidders in the presence of the Bidders or Bidder's representatives, who may choose to attend the opening. In case RLDA extends the deadline for submission of Bids, the Bids will be opened 30 (thirty) minutes past such extended deadline at the same address. Bidder's representatives, who desire to attend the opening, shall bring a letter of authority and sign the attendance sheet as a proof of attendance. The Financial Proposal envelope will be kept aside in safe custody of

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RLDA for opening at a later stage and only Eligibility Proposal will be opened.

16.0 **Responsiveness of Bid**

(a) RLDA will determine whether each such Proposal is 'responsive' to the requirements of the Bid Documents. A Bid/Proposal shall be considered 'responsive' only if:-

(i) it is received by the deadline for submission of Bid/Proposal;
(ii) It contains information complete in all respect as required in the Bid Documents(in the formats specified);
(iii) it is signed, sealed and marked as stipulated;
(iv) it is accompanied by receipt of Bid Document Fee;
(v) it is accompanied by the Bid Security;
(vi) it is accompanied by the relevant Power(s) of Attorney(ies) and Undertakings as specified in Bid Forms;
(vii) The document is accompanied by the Checklist as prescribed.

If any of the above criteria is not fulfilled, in any manner whatsoever, the proposal shall be treated as non-responsive. The decision of RLDA on the responsiveness of the Bid shall be final and conclusive and binding on the Bidder and shall not be called into question by any Bidder on any ground whatsoever. Any Bid/Proposal which is not responsive shall be rejected.

(b) To facilitate checking the responsiveness and evaluation of Bids, RLDA may at its sole discretion, without being under any obligation to do so, reserves the right to call for any clarification from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by RLDA for this purpose. If the Bidder does not provide the clarification sought within the prescribed time, its Bid shall be liable to be rejected. In case it is not rejected, RLDA may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding.

17.0 No Bidder shall have the right to give any clarification unless asked for by RLDA or to request either RLDA and/or the Ministry of Railways and/or any ministry or department, authority or body whether statutory or non-statutory of the Government that may be concerned or connected, in any manner whatsoever, with the bidding process, to intervene in, any manner whatsoever, in the bidding process.

18.0 **Evaluation of Bids**

In case a Bidder has submitted its Bid Security in the form of Bank Guarantee the same shall be verified by RLDA from the issuing bank. Eligibility Proposals that are found to be responsive will be evaluated by

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RLDA to check whether they meet the Eligibility Criteria as laid down in the Bid Documents. Thereafter declaration about not having conflict of interest, that the Bid does not contain any condition or qualification, the information given in accordance with the format specified in the Bid Form and other relevant documents may be verified by RLDA as deemed necessary. To facilitate evaluation RLDA may, at its sole discretion, seek clarifications in writing from any Bidder in the format as considered appropriate by RLDA. Notwithstanding anything to the contrary contained in the Bid Documents, RLDA may, at its sole discretion, waive any minor infirmity, non-conformity or irregularity in a Bid that does not constitute a material deviation and that does not prejudice or affect the relative position of any Bidder, provided it conforms to all the terms, conditions of the bidding documents without any material deviations, objections, conditionality or reservations. A material deviation, objection, conditionality or reservation is one (i) that affects, in any substantial way, the scope, quality or performance of the contract; (ii) that limits, in any substantial way, inconsistent with the bidding documents, RLDA's rights or the Selected Bidder's obligations under the contract; or (iii) whose rectification would unfairly affect the competitive position of other Bidders, who are presenting responsive Bids.

19.0 **Invitation/Opening of Financial Proposals**

a) In case of Two Stage Bid, only those Bidders who are found both responsive and eligible as per their Eligibility Proposals shall be invited to submit Financial Proposals.

b) In case of Single Stage Bid, Financial Proposals of only those Bidders who are found both responsive and eligible as per their Eligibility Proposal shall be opened and evaluated.

c) Each eligible Bidder's representative, who desires to attend the Bid/Proposal opening, shall bring an authority letter and sign the attendance sheet as a proof of his attendance. Each Bidder's name, bid price, and other details as RLDA may consider appropriate, may be announced, at the sole discretion of RLDA, at the time of opening of Financial Proposals. The date, time and venue of opening of the financial proposal will be communicated to the eligible Bidders.

20.0 **Evaluation of Financial Proposals**

a) RLDA will evaluate and compare the Bids previously determined to be eligible and responsive. Financial Proposal with any condition will not be evaluated. If there is a discrepancy between words and figures, the amount in words will prevail and shall be binding on the Bidder. Bidders shall note that in case of difference between the calculations submitted by the Bidder and the calculations computed by RLDA (if any), the calculations computed by RLDA shall prevail. The Bidder found eligible and quoting the highest amount in the Proposal shall be declared as the Selected Bidder for the Site(s). In the event that two or more Bidders quote the same amount in the Financial Proposal for the

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Site(s), RLDA may ask the tie Bidders to submit their revised Financial Proposals with the amounts quoted earlier by them as the reserve price for such Financial Proposal for the Site(s). The Bidder among the tie Bidders, which quotes the higher amount in the revised Proposal, will be declared as the Selected Bidder for the Site(s).

b) In the event that the highest Bidder withdraws or is not selected for any reason in the first instance for the Site(s), (the "first round of bidding"), RLDA, without being under any obligations to do so, may, at its sole discretion, either invite all the remaining Bidders to revalidate and/ or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid highest Bidder for the Site(s) (the "Second round of bidding") or annul the bidding process. If in the second round of bidding, only one Bidder matches the highest Bidder, it shall be the Selected Bidder for the Site(s). If two or more Bidders match the said highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said highest Bidder in the second round of bidding, the said third highest Bidder shall be the Selected Bidder.

21.0 **Fraud and Corrupt Practices**

a) The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the bidding process and subsequent to the issue of the LoA during the subsistence of the Lease Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Lease Agreement, RLDA shall reject a Bid, withdraw the LOA, or terminate the Lease Agreement, as the case may be, without being liable in any manner whatsoever to the Selected Bidder/ Lessee, if it determines that the Selected Bidder/ Lessee, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, in addition to exercise of its right of termination, RLDA shall forfeit and appropriate the Bid Security or Performance Bank Guarantee, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to RLDA towards, inter alia, time, cost and effort of RLDA, without prejudice to any other right or remedy that may be available to RLDA hereunder or otherwise.

b) Without prejudice to the rights of RLDA hereinabove and the rights and remedies which RLDA may have under the LoA or the Lease Agreement, if a Bidder or Lessee, as the case may be, is found by RLDA to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice

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undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LoA or the execution of the Lease Agreement, such Bidder, Members and Lessee shall not be eligible to participate in any tender issued by RLDA during a period of 2 (two) years from the date such Bidder, Member or Lessee, as the case may be, is found by RLDA to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

c) For the purposes of this Clause, the following terms shall have the meanings hereinafter respectively assigned to them:

i. "corrupt practice" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of RLDA who is or has been associated in any manner, directly or indirectly with the Bidding Process or the LOA or has dealt with matters concerning the Lease Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of RLDA, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Lease Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Lease Agreement, who at any time has been or is a legal, financial or technical adviser of RLDA in relation to any matter concerning the Project;

ii. "fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;

iii. "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Bidding Process;

iv. "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by RLDA and/or the Ministry of Railways and/or any ministry or department, authority or body whether statutory or non-statutory that may be concerned or connected, in any manner whatsoever, with this Bid, with the objective of canvassing, lobbying, seeking intervention in or

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in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

v. "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

22.0 **Change in Ownership**

a. While Bidding is open to persons from any country, the following provisions shall always be applicable:

i. Where, on the date of the Bid, not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital of a Bidder or any of the Member of the consortium is held by persons resident outside India or where the Bidder or any of the Member of the Consortium is controlled by persons resident outside India; or

ii. If at any subsequent stage after the date of the Bid, there is an acquisition by persons resident outside India of not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital or control in or of the Bidder or any of the Member of the Consortium;

then, the eligibility of such Bidder or in the event described in sub-clause (ii) above, the continued eligibility of the Bidder, shall be subject to the compliance of relevant Applicable Laws. The Bidders/ Lessees shall be responsible for ensuring that they comply with all relevant Applicable Laws in this regard. In case of any subsequent evidence of non-compliance of any provision of Applicable Laws, the Bid/ LOA/ Lease Agreement, as the case may be, is liable to be rejected/ terminated and the decision of RLDA in this regard shall be final and conclusive and binding on the Bidder. RLDA, without being under any obligation to do so, reserves the right to call for any clarification.

b. The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, RLDA shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, or any substitute thereof, as in force on the date of such acquisition.

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c. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a consortium Member or a holding/subsidiary whose technical experience was taken into consideration for the purposes of technical eligibility, the Bidder shall be deemed to have knowledge of the same and shall be required to inform RLDA forthwith along with all relevant particulars about the same and in case such change in ownership results in the Bidder becoming technically ineligible RLDA shall disqualify the Bidder or withdraw the LOA as the case may be.

d. The Bidder shall promptly inform RLDA of any change in its shareholding, as above, together with excerpts of relevant Applicable Laws that permit the Bidder to do so, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

e. If , after the Lease Agreement has been executed, any change, as provided in (a) (i) and (ii) above is proposed by the Lessee, then, the Lessee shall promptly inform RLDA of any change in its shareholding, as above, together with excerpts of relevant Applicable Laws that permit the Bidder to do so, and in case of failure to do so RLDA shall have the right to terminate the Lease Agreement, forfeit all amounts already paid, encash the Bank Guarantees and take such other steps as may be available to RLDA, without in any manner being liable to the Lessee.

23.0 Right of RLDA to deal with Bidders

a) Notwithstanding anything contained in Bid Documents, RLDA reserves the right to accept or reject any Bid and to annul the bidding process and reject all Bids, at any time during the Bidding Process, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for RLDA's action. In the event RLDA rejects or annuls all the Bids, it may at its discretion invite fresh Bids.

b) RLDA reserves the right to reject any Bid and appropriate the Bid Security if:

i. at any time, a material misrepresentation is made or uncovered, or

ii. the Bidder does not provide, within the time specified by RLDA, the supplemental information sought by RLDA for evaluation of the Bid.

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c) If the Bidder is a Consortium, then the entire Consortium shall be disqualified / rejected. If such disqualification / rejection occurs after the Financial Proposals have been opened and the highest Bidder gets disqualified / rejected, then RLDA reserves the right to:

i. invite the remaining Bidders to submit Bids in accordance with Clause 20 (b) or

ii. take any such measure as may be deemed fit at its sole discretion of RLDA, including annulment of the Bidding Process.

d) In case, it is found during the evaluation or at any time before signing of the Lease Agreement or after its execution and during the period of subsistence thereof, including the Lease rights thereby granted by RLDA, that

i. one or more of the eligibility conditions have not been met by the Bidder, or

ii. the Bidder has made material misrepresentation, or

iii. has given any materially incorrect or false information,

the Bidder shall be disqualified forthwith if not yet appointed as the Lessee and in case, if the LOA has already been issued to the Bidder or the Lease Agreement has been entered into with the Lessee, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this Bid Documents, be liable to be terminated, by a communication in writing by RLDA to the Bidder or Lessee, as the case may be, without RLDA being liable in any manner whatsoever to the Bidder or Lessee, as the case may be. In such an event, RLDA shall forfeit and appropriate the Bid Security or Performance Guarantee, all payments received as consideration and all other bank guarantees submitted, as the case may be, without prejudice to any other right or remedy that may be available to RLDA.

e) RLDA reserves the right to verify all statements, information and documents submitted by the Bidder in response to the Bid Documents. Failure of RLDA to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any right of RLDA hereunder.

24.0 **Communication of Acceptance**

After the selection, a Letter of Acceptance (the "LOA") shall be issued, in duplicate, by RLDA to the Selected Bidder. Within 7 (seven) days of the receipt of the LOA, the Selected Bidder shall sign and return the duplicate copy of the LOA in acknowledgement thereof to RLDA.

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In the event, the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, RLDA may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by RLDA on account of failure of the Selected Bidder to acknowledge the LOA. The Letter of Acceptance (LOA) will constitute the contract between the Selected Bidder and RLDA for fulfilling the requirements specified in the LOA by the Selected Bidder prior to execution of the Lease Agreement. Notwithstanding anything contained in the LOA and the Bid Documents the rights of the Lessee specified in Lease Agreement shall not become effective until the Lease Agreement has been executed by the Lessee and RLDA and conditions precedent, if any, has been fulfilled by the Lessee.

25.0 Performance Guarantee

Selected Bidder shall deposit the Performance Guarantee as specified in the GCLA for an amount equal to 5% (five percent) of the Lease Premium quoted by the Selected Bidder.

26.0 Execution of Lease Agreement

The Bidder whose bid is accepted shall be required to appear in person at the office of the General Manager/Project, Joint General Manager/Project, Deputy General Manager/Project, or concerned Nodal Officer, as the case may be, or if the Bidder is a firm or consortium, a duly authorized representative shall so appear and execute the Lease Agreement within 120 days of issue of the LOA by RLDA after fulfilling following conditions within 105 days:

a) Acknowledgement of the Letter of Acceptance issued by RLDA within 7 (seven) days of its receipt by signing and returning its duplicate copy to RLDA.

b) Payment of the full amount of Lease Premium or the First Installment of the Lease Premium and Bank Guarantees for the remaining Installments, if required, by the Selected Bidder, as specified in the Payment Schedule.

c) Submission of Performance Guarantee.

d) Incorporation of a Special Purpose Company (SPC) under The Companies Act 1956 with a minimum paid up capital as specified in the ITB within 90 (ninety) days from the date of issue of the LOA by RLDA.

e) Payment of the full amount of Success Fee by the Selected Bidder, if payable, to RLDA's consultant for the Project/Site.

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26.2 In case of delay in signing the Lease agreement either on account of delay in fulfilling the above conditions including incorporation of SPC within the specified time limit or otherwise, RLDA may extend the period of 120 days specified above. In case of any extension on account of RLDA, the Term of lease shall be counted from the Effective date. However, if the extension is granted on account of the Selected Bidder, the Term of lease will get reduced to the extent of such period of extension.

26.3 Failure to fulfill any of the conditions specified hereinabove shall constitute a breach of the Bid submitted by the Bidder in which case the full value of only the Bid Security shall stand forfeited without prejudice to any other rights or remedies.

26.4 In the event the Selected Bidder refuses to execute the Lease Agreement as hereinabove provided, the RLDA may at its sole discretion, conclude that such bidder has abandoned the contract and thereupon his bid and acceptance thereof shall be treated as cancelled and the RLDA shall be entitled to forfeit the full amount of the Bid security/Performance Guarantee as damages for such default.

27.0 **Form of Lease Agreement**

Each Lease Agreement shall be complete in respect of the document it shall so constitute. Not less than 3 (three) copies of the Lease Agreement shall be signed by RLDA and the Lessee and one copy given to the Lessee. The Lease Agreement required to be executed by the Bidder whose Bid is accepted shall be as per specimen form specified in the Bid Form. The stamp duty and registration fees for registering the Lease Agreement, if required under Applicable Laws shall be borne and paid by the Selected Bidder/Lessee.

28.0 **Confidentiality**

Information relating to the examination, clarification, evaluation and recommendation for the Bidders shall not be disclosed to any person, who is not officially concerned with the process or is not a retained professional advisor advising RLDA in relation to, or matters arising out of, or concerning the Bidding Process. RLDA will treat all information submitted as part of the Bid, in confidence and will require all those who have access to such material to treat the same in confidence. RLDA may not divulge any such information unless it is directed to do so by a Court of Law and/or any statutory entity that has the power under law to require its disclosure.

29.0 **Employment/Partnership, etc., of Retired Railway and RLDA Employees**

(a) should a Bidder be a retired engineer of the Gazetted rank or any other

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Gazetted officer working before his retirement, whether in the executive or administrative capacity, or whether holding a pensionable post or not, in any of the Railways owned and administered by the President of India for the time being, or should a Bidder being consortium of Bidders have as one of its Members a retired engineer or retired Gazetted Officer as aforesaid, or should a Bidder/Member being an incorporated company have any such retired engineer or retired officer as one of its Directors, or should a Bidder have in his employment any retired Engineer or retired Gazetted Officer as aforesaid, the full information as to the date of retirement of such Engineer or Gazetted Officer from the said service and in case where such Engineer or Officer had not retired from Government service at least 2 years prior to the date of submission of the bid as to whether permission for taking such contract, or if the Bidder being a consortium of Bidders or an incorporated company, to become a partner or Director as the case may be, or to take the employment under the Bidder, has been obtained by the Bidder or the Engineer or Officer, as the case may be from the President of India or any officer, duly authorized by him in this behalf, shall be clearly stated in writing at the time of submitting the Bid. Bids without the information above referred to or a statement to the effect that no such retired Engineer or retired Gazetted Officer is so associated with the Bidder, as the case may be' shall be, rejected.

(b) Should a Bidder have a Relative(s) or in the case of a LLP or a company one or more of its partner(s) or shareholder(s) or a Relative(s) of the partner(s) or shareholder(s) employed in gazetted capacity in RLDA, RLDA shall be informed of the fact at the time of submission of bid, failing which the bid may be disqualified/ rejected or if such fact subsequently comes to light, the contract may be terminated in accordance with the provision of the Lease Agreement.

30.0 **Miscellaneous**

30.1 The Bidding Process shall be governed by and construed in accordance with, the laws of India and the Courts at Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Bidding Process.

30.2 RLDA, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

i. Suspend and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

ii. Consult with any Bidder in order to receive clarification or further information;

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iii. Retain any information and/or evidence submitted to RLDA by, on behalf of, and/or in relation to any Bidder; and/or

iv. Independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.

30.3 No Bidder should Bid for the Project for speculative purposes. Once the Bid is submitted, no change shall be permitted in the equity participation in the Project of the Bidder or Member of the consortium except as expressly otherwise provided in the Bid Documents. Any breach of this condition shall lead to rejection of the Bid and/or termination of the Lease Agreement.

30.4 No assignment, sale, transfer, conveyance of the Project shall be permitted except as otherwise expressly provided in the Bid Documents. Any breach of this condition shall lead to rejection of the Bid and/or termination of the Lease Agreement.

30.5. For the sake of clarity, the Bidder(s) may note that in case there are any obligation(s) or condition (s) imposed on them under a particular clause of any part of the Bid Documents document, which includes the Forms, and on a similar issue some additional conditions are mentioned under another clause of any other part of the Bid Documents document, which includes the Forms, then, all the conditions and/or obligations should be read in conjunction with each other and all of them have to be fulfilled.

30.6 It shall be deemed that by submitting the Bid, the Bidder agrees and releases RLDA, its employees, agents, consultants and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in their respect, whether actual or contingent, whether present or future. No claim of any nature and to any extent whatsoever shall be made by any Bidder against RLDA, its employees, agents, consultants and advisers.

30.7 All Bank Guarantees, except for the Bid Security should be sent in original directly to RLDA under registered post (A.D.) by the respective bank only.

30.8 The Bidding documents including this Bid Documents and all attached documents are and shall remain the property of RLDA and are transmitted to the Bidder solely for the purpose of preparation and the submission of the Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for the preparation and submission of their Bids. RLDA will not return any Bid or any information provided to it by the Bidders.

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LUCKNOW BUILDWELL PRIVATE LIMITED

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PART II

GENERAL CONDITIONS OF LEASE AGREEMENT (GCLA)

March 26, 2014

DGM (P-I) JGM (F) JGM (LAW)

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RAIL LAND DEVELOPMENT AUTHORITY NEW DELHI

PART II

GENERAL CONDITIONS OF LEASE AGREEMENT (GCLA)

Article 1 Definitions and Interpretation

1.1 Definitions

In these General Conditions of Lease Agreement, the following terms shall have the meanings assigned to them hereunder except where the context otherwise requires:

1.1.1 "**Agreement**" shall mean jointly the Lease Agreement (Recital), the General Conditions of Lease Agreement (GCLA), the Special Conditions of Lease Agreement (SCLA) and the Schedules and Appendices thereto.

1.1.2 "**Annual Guaranteed Amount**" shall mean the minimum annual guaranteed amount in case of Percentage Revenue Share which is specified in the Schedule of Payment.

1.1.3 "**Annual Lease Rent**" shall mean the annual payment required to be made by the Lessee to RLDA in yearly instalments, in advance at the beginning of each period, as specified in the Schedule of Payment in consideration to the grant of lease rights on the Site.

1.1.4 "**Applicable Laws**" shall mean all laws, bye-laws, statutes, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directives of any Government Authority or person acting under any Government Authority and / or of any statutory authority in the Republic of India, whether in effect on the Effective Date of the Agreement or thereafter including the rules and regulations notified or to be notified under The Railways Act, 1989 and the Rail Land Development Authority (Constitution) Rules, 2007 .

1.1.5 "**Applicable Permits**" shall mean without any limitation, all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals, exemptions, sanctions, rulings, renewals and no objections required to be obtained from any Government Authority or any other authority, including but not limited to the Airports Authority of India, Archaeological Survey of India, etc., and/or maintained under the Applicable Laws in connection with or related to the performance of the Agreement.

1.1.6 "**Appointed Date**" shall mean the date so specified in the SCLA or an earlier or later date that RLDA and the Lessee may by mutual consent determine, prior to which all the Conditions Precedent specified in the GCLA and SCLA for the full effectiveness of the provisions of the GCLA and SCLA shall have to be met by RLDA and the Lessee.

1.1.7 "**Assets**" shall mean all fixed assets, other than Redevelopment Assets, constructed by the Lessee but not the Site itself.

1.1.8 "**Assets and Project Utility Register**" shall mean the register to be maintained by the Lessee for the Assets and Project Utilities constructed by the Lessee.

1.1.9 "**Authorised Representative**" shall mean an employee or agent of the Lessee so nominated by the Lessee for the purposes of the Agreement.

1.1.10 "**Bidder**" shall bear the meaning as ascribed to it under the Part-I of the Land Development Hand Book (the "**LDHB**"), the Regulations for Bids and Lease Agreement and Part-III of LDHB, the Instructions to Bidders and Bid Forms.

1.1.11 "**Bid Documents**" shall bear the meaning as ascribed to it under the Part-I of LDHB, the Regulations for Bids and Lease Agreement and Part-III of LDHB, the Instructions to Bidder and Bid Forms.

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1.1.12 "**Built Up Area**" shall mean the total constructed area on the Site on all floors including underground floors which shall include carpet area, thickness of walls, balconies, corridors and passages but shall exclude:-

(a) areas used for parking in basement, stilts and celler;
(b)areas for provision of electrical and mechanical building services such as generator, air -conditioning plant, transformer room and power sub-station;
(c) areas for lifts and staircases;
(d) areas under porch and chhajjas;
(e) ramps leading to any area used for parking; and
(f) water tanks, septic tanks, soakpits, fountains, garbage storages, security posts and swimming pool not covered by permanent roof.

1.1.13 "**Circle Rate**" as applicable for the Site shall refer to mean the unit rate of land approved / designated for residential/commercial use (as is applicable for the Project/Site) as fixed by the Revenue and Stamps Department of the respective State in which the Site is located for the purposes of payment of stamp duty on instruments with respect to land comprised in the Site.

1.1.14 "**Commercial Operation**" shall mean the readiness of the Assets for being used for business operations upon the issue of Project Completion Certificate or the Provisional Project Completion Certificate, as the case may be, enabling the occupation of the Assets by the Lessee or the Sub-Lessees/sub-licensees or other third parties to whom the Lessee has marketed the Project.

1.1.15 "**Completion Certificate**" shall mean the completion certificate to be issued by the Nodal Officer upon completion of the Project.

1.1.16 "**Completion Date**" shall mean the date on which the Completion Certificate is issued by the Nodal Officer including but not limited to fire safety certificates, etc. so issued by municipal / appropriate authorities.

1.1.17 "**Conciliation Committee**" shall mean the conciliation committee of RLDA comprising of three (3) members as nominated by the Vice-Chairman of RLDA.

1.1.18 "**Conditions Precedent**" shall mean the conditions provided in this GCLA which are required to be satisfied by the Lessee before RLDA hands over possession of the Site to the Lessee and the Lessee can claim the Lease Rights and other rights accruing under the Agreement.

1.1.19 "**Consideration**" shall mean the payments to be made by the Lessee to RLDA by way of Lease Premium, Annual Lease Rent and percentage share from Project Revenues etc or as may be specified in the schedule of payment.

1.1.20 "**Constituent**" shall mean an entity which directly or indirectly either owns, is owned by, or is under common ownership with, the Bidder / member of Bidder, holding more than 50% (fifty percent) of its paid up and subscribed shares. In case of indirect shareholding, the ownership would get pro rata reduced as per the percentage shareholding in each stage.

1.1.21 "**Construction Period**" shall mean the period commencing on the Appointed Date and ending on the Completion Date.

1.1.22 "**Cure Period**" shall mean a period of 60 (sixty) days or such greater period as may be specified in the Notice of Intention to Terminate.

1.1.23 "**Debt Due**" shall mean the aggregate of the following sums expressed in Indian Rupees outstanding on the date of Termination Notice:

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(i) the principal amount of the debt provided by the Lenders under the Financing Agreements for financing the Project (the **"Principal"**) but excluding any part of the Principal that had fallen due for repayment two years prior to the date of Termination Notice;

(ii) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect to the debt until the date of Termination Notice but excluding (i) any interest, fees or charges that had fallen due one year prior to the date of Termination Notice (ii) any charges payable under the Financing Agreements to any Lender (iii) any pre- payment charges in relation to accelerated repayment of debt except where such charges have arisen due to RLDA's Event of Default.

1.1.24 "**Debt Service**" shall mean the sum of all payments on account of principal, interest, financing fees and charges due and payable in a Financial Year/Accounting Year to the Lenders and as provided in the Financing Agreements.

1.1.25 "**Design Life**" shall mean the minimum design life of 70 years.

1.1.26 "**Dispute**" shall mean all disputes and differences of any kind whatsoever between the Parties arising out of or in connection with the Agreement.

1.1.27 "**Distribution(s)**" shall mean all benefits received by the shareholders or the affiliates or the constituents of the Lessee from the Project or payments made by the Lessee whether in cash through Escrow Account or otherwise, or in kind, and includes any:

(i) dividend or other distribution in respect of share capital;

(ii) reduction of capital, redemption or purchase of shares or any other reorganisation or variation leading to reduction to share capital;

(iii) payments of breakage costs or otherwise under the Financing Agreements other than Debt Servicing of Principal and interest;

(iv) any payment, loan, contractual arrangement or vesting of the Assets or rights to the extent (in each case) it was put in place after Financial Close and was neither in the ordinary course of business nor on reasonable commercial terms; or

(v) the receipt of any other benefit, which is not received in the ordinary course of business and on reasonable commercial terms.

1.1.28 "**Drawings**" shall mean the maps, drawings, plans and tracings or prints thereof annexed to the Bid Forms or approved subsequently by the Nodal Officer for construction at the Site.

1.1.29 "**Development**" or "**Development Project**" shall mean and refers to the development and construction of Assets and Project Utilities by the Lessee on the Site in accordance with the provisions of the bye-laws of the local land authority and other Applicable Laws.

1.1.30 "**Development Plan**" shall mean the plan to be prepared and submitted by the Lessee to the Nodal Officer giving a stage wise description of the construction, development, operation, maintenance, marketing and sub leasing of Assets and Project Utilities of the Development Project.

1.1.31 "**Effective Date**" shall mean the date on which the Agreement is executed between the Parties.

1.1.32 "**Encumbrances**" shall mean any mortgage, right of way, pledge, equitable interest, prior assignment, conditional sales contract, hypothecation, right of others, claim, security interest, title retention agreement, voting trust agreement, interest, option, lien,

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charge, easement, encroachment or other condition, commitment, restriction or limitation of any nature whatsoever, including any restriction on use, voting, transfer, receipt of income or exercise of any other attribute of ownership. The word "encumber" shall be construed accordingly. This excludes any specific agreement or contract surviving the Term, at the express discretion of RLDA.

1.1.33 "**Equity**" shall mean the sum expressed in Indian Rupees representing the paid up equity share capital of the Lessee for meeting the equity component of the total Project Cost, and for the purposes of the Agreement, shall exclude convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Lessee.

1.1.34 "**Equity Internal Rate of Return**" or "**Equity IRR**" shall mean the projected annually compounded rate of return to the shareholders of the Lessee on the Equity invested in the Project over the full or part of the Term beginning from the Effective Date till any date of consideration before the expiry of the Term. For the purposes of computing Equity IRR all payments toward Equity shall be considered as cash inflows and all Distributions shall be considered as cash outflows (in case of Distribution in kind, the same shall be converted into cash) in the Financial Year in which such cash flows take place .

1.1.35 "**Escrow Agreement**" shall mean the agreement between the Lessee, the Escrow Bank, the Lenders' Representative and RLDA for opening and operating the Escrow Account.

1.1.36 "**Escrow Account**" shall mean the account to be opened by the Lessee with an Escrow Bank in accordance with the provisions of the Escrow Agreement.

1.1.37 "**Escrow Bank**" shall mean a scheduled bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934 with which the Escrow Account is required to be opened and operated.

1.1.38 "**Excepted Matters**" shall mean the matters, as specifically specified in this GCLA, that are not arbitrable and which shall stand specifically excluded from the purview of the arbitration.

1.1.39 "**Expiry Date**" shall mean the date provided in the SCLA or the Lease Agreement till which date the Agreement shall remain effective, unless terminated earlier in accordance with the provisions herein.

1.1.40 "**Financial Close**" shall mean a legally binding commitment of equity holders and debt financiers to provide or mobilise funding for the Project. Such funding must account for a significant part of the total Project Cost which should not be less than 90 per cent of the Project Cost securing the construction thereof.

1.1.41 "**Financial Default**" shall mean occurrence of a breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Lessee for a period of 3 (three) months.

1.1.42 "**Financial Model**" shall mean the financial model, prepared by the Lessee and approved/adopted by the Lenders for entering into the Financing Agreement with the Lessee, setting forth the capital and operating costs of the Project including replacement costs, the mode of financing of such costs, revenues from the Project and the Equity IRR over the full Term of the Lease Agreement on the basis of which financial viability of the Project has been determined by the Lenders and includes a description of the assumptions and parameters used for making calculations and projections therein.

1.1.43 "**Financial Year**" or "**Accounting Year**" shall, for all purposes, mean the period commencing from April 1st of each year and ending on March 31st of the following year.

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1.1.44 "**Financing Agreements**" shall mean the agreements executed by the Lessee in respect of financial assistance to be provided by Lenders by way of loans, guarantees, subscription to non convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to financing of the Project.

1.1.44A "**Floor Area Ratio (FAR)**" or "**Floor Space Index (FSI)**" shall have meaning as defined in the Applicable Laws.

1.1.45 "**Force Majeure Event**" shall mean an event relating to force majeure and satisfying the criteria as specified in Article 24 of this GCLA.

1.1.46 "**General Conditions of Lease Agreement**" or "**GCLA**" shall mean the General Conditions of Lease Agreement hereof.

1.1.47 "**Good Industry Practice**" shall mean the practices, methods, techniques, designs, applicable codes and standards, skills, diligence, efficiency, reliability and prudence, which are generally and reasonably expected from a reasonably skilled, prudent and experienced person engaged in the same type of undertaking as envisaged under the Agreement and which would be expected to result in the performance of its obligations by the Lessee or RLDA, as the case may be, in accordance with the Agreement, Applicable Laws and Applicable Permits in a reliable, safe, economical and efficient manner.

1.1.48 "**Government Authority**" shall mean the Government of India, the respective State Governments and any other Government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India, having jurisdiction over the Site.

1.1.49 "**Guaranteed Date**" shall mean the date/s provided by the Lessee in the Development Plan for completion of the Project or any phase thereof.

1.1.50 "**Instructions to Bidders**" shall mean the Instructions to Bidders (ITB) issued by RLDA for the Project.

1.1.51 "**Land Development Hand Book**" or "**LDHB**" shall mean the Land Development Hand Book, Part-II of which is this GCLA.

1.1.52 "**Lease Premium**" shall mean the lump-sum payment required to be made by the Lessee to RLDA in one or more instalments in terms of the Schedule of Payment in consideration of the rights and interest granted by RLDA to the Lessee in relation to the Site(s).

1.1.53 "**Lease Rights**" shall mean the rights granted by RLDA to the Lessee over the Site and other rights granted under the provisions of the Agreement.

1.1.54 "**Lenders**" shall mean financial institutions, banks, multilateral funding agencies and similar bodies undertaking lending business or their trustees/agents including their successors and assignees, who have agreed to guarantee or provide finance to the Lessee under any Financing Agreements for meeting the costs of the Project.

1.1.55 "**Lender's Representative**" shall mean the Lender duly authorized by all the Lenders to act for and on behalf of the consortium of Lenders with regards to matter arising out of and in relation to the Financing Agreements and includes its successors, assigns and substitutes.

1.1.56 "**Lessee**" shall mean the Company defined as such in the Recitals of the Agreement.

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1.1.57 **"Lessee's Event of Default"** shall mean the default of obligations of the Lessee which shall provide RLDA the right to terminate the Lease Agreement unless such default is remedied by the Lessee within the Cure Period.

1.1.58 **"Maintenance and Replacement Plan"** shall mean the plan to be prepared by the Lessee for maintenance and replacement of Assets and Project Utilities.

1.1.59 **"Material Adverse Effect"** shall mean circumstances which may or do (i) render any right vested in a Party by the terms of the Agreement ineffective, or (ii) adversely affects or restricts or frustrates the ability of any Party to observe and perform in a timely manner its obligations under this Agreement or the legality, validity, binding nature or enforceability of the same.

1.1.60 **"Nodal Officer"** shall mean the officer (s) of the appropriate rank, nominated by RLDA as executive in-charge of the Project, from time to time and includes other senior officers of the Project Wing of RLDA.

1.1.61 **"Nominated Company"** shall mean the entity that is selected either by the Lenders' Representative or by RLDA for substituting the Lessee in terms of the provisions of the Agreement.

1.1.62 **"Notice of Intention to Terminate"** shall mean the notice issued by a Party to the other Party expressing its intention to terminate the Agreement.

1.1.63 **"Novation"** shall mean the process or the act of replacing the Lessee in any agreement including sub-lease in respect of the Project by another party such that the agreement transferred by the Novation process transfers all rights, duties and obligations from the Lessee/original obligor to the transferee/ new obligor.

1.1.64 **"O & M Expenses"** shall mean expenses incurred by or on behalf of the Lessee for all operation and maintenance expenses including (a) cost of salaries or other compensation to employees (b) cost of material supply or utilities and other services (c) premia for insurance (d) all taxes, duties, cess and fees due and payable in respect of operation and maintenance (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs of the Assets and Project Utilities (f) all other expenditure required to be made under Applicable Laws, Applicable Permits or the Agreement.

1.1.65 **"Party"** shall mean RLDA or Lessee, as the case may be, RLDA and Lessee, shall together be referred to as Parties.

1.1.66 **"Payment Default"** shall mean the failure on part of the Lessee to make payment of the full amount of any instalment of the Lease Premium and/or the Annual Lease Rent and/or Revenue Share along with the applicable interest thereof or failure to make any payment due to be paid by the Lessee to RLDA, by the respective due date.

1.1.67 **"Performance Guarantee"** shall mean the bank guarantee required to be submitted by the Lessee in accordance with the Bid Documents as security /guarantee against any default in timely payment of consideration, other dues to RLDA and fulfillment of other obligations as per the Agreement including timely completion of the Project.

1.1.68 **"Project"** shall mean all works related to or incidental to the Site in accordance with the provisions of the Agreement, as permitted in the Bid Documents and are to be carried out as per the Applicable Laws and shall include Development / Redevelopment Project, if any and all incidental and related works thereto.

1.1.69 **"Project Cost"** shall mean the cost to be incurred by the Lessee on the Project during the Construction Period including payment of consideration to RLDA.

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1.1.70 **"Project Manager"** shall mean an experienced and competent engineer nominated by the Lessee as the Project Manager for supervision of the Project.

1.1.71 **"Project Revenue"** shall refer to and mean all the monies (Gross) received by the Lessee, excluding service tax and sales tax, pursuant or incidental to – (i) the Sub-Lease of proposed space in Assets and Project Utilities and (ii) exploitation in any permitted manner of the Site, Assets and Project Utilities by any person, whether at the instance of the Lessee or the Sub-Lessee, including but not limited to capital receipts, upfront Sub-Lease payments, deposits, advances, registration payments, instalments received from Sub-Lessees, Sub-Lease charges, and shall also include the revenue earned pursuant to the services provided or to be provided by the Lessee to the Sub-Lessees or any person exploiting in any manner whatsoever the Assets and Project Utilities such as parking of vehicles, display, signage, play area, events, road shows, promotional activity, hoardings, kiosks, advertisements and counters.

1.1.72 **"Project Utilities"** shall mean the services and utilities such as water supply, sewerage, storm water drainage, generator electricity supply, lighting, air conditioning, landscaping, fountains, open parking, exhibition ground etc. which the Lessee constructs, operates and maintains for the users of the Assets on the Site.

1.1.73 **"Provisional Completion Certificate"** shall mean the certificate issued by the Nodal Officer in accordance with the provisions of the Agreement.

1.1.74 **"Railway"** shall mean the 'Railway' as defined in the Railways Act, 1989 and shall also include Railway Administration, as defined therein, where the context so demands.

1.1.75 **"Redevelopment" or "Redevelopment Project"** shall mean and refers to redevelopment of existing Railway colony, railway quarters, service buildings and other amenities over the Redevelopment Land as specified in the Schedules as per laid down specifications under the Agreement including development of Redevelopment Assets and Redevelopment Project Utilities in accordance with the terms of the Agreement.

1.1.76 **"Redevelopment Assets"** shall mean the fixed assets enumerated under the Schedules to the Agreement to be developed on the Redevelopment Land.

1.1.77 **"Redevelopment Land"** shall mean the land on which the Redevelopment Work is to be carried out and Redevelopment Assets and Redevelopment Project Utilities are to be constructed and such other land or places as may be specified in the Agreement as forming part of the Redevelopment Land.

1.1.78 **"Redevelopment Project Utilities"** shall mean the utilities and amenities enumerated in the Schedules and Specifications to be developed as part of the Redevelopment Project.

1.1.79 **"Redevelopment Work"** shall mean construction work in relation to Redevelopment Project.

1.1.80 **"Revenue Share"** shall mean percentage of the Project Revenue which the Lessee is required to pay to RLDA in accordance with the Schedule of Payment as consideration to the Development and Lease Rights on the Site.

1.1.81 **"RLDA's Event of Default"** shall mean the default of obligations of RLDA which shall provide the Lessee the right to terminate the Agreement unless such default is remedied by RLDA within the Cure Period.

1.1.82 **"Schedule of Payment"** shall mean the payment schedule as provided in the Agreement.

1.1.83 **"Security Deposit"** shall mean the deposit required to be submitted by the Lessee with RLDA as security against any default in timely payment of Annual Lease Rent or the Percentage Revenue Share or breach of any other obligation during the Term.

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1.1.84 "**Selected Bidder**" shall mean the Bidder selected by RLDA for the Project after conclusion of the bidding process and to whom RLDA has issued the Letter of Acceptance.

1.1.85 "**Site**" shall mean the Railway land or the air space above existing Railway building/station /track which has been lease out to the Lessee for the Project, as specified in the Schedules.

1.1.86 "**Special Conditions of Lease Agreement**" or "**SCLA**" shall mean the Special Conditions of the Lease Agreement forming part of the Agreement.

1.1.87 "**Specifications**" shall mean the specifications for materials and works inclusive of Redevelopment Works (as specified in the Schedules).

1.1.88 "**Sub Contractors**" shall mean the person or persons, as the case may be, with whom the Lessee has entered into any contract or agreement including but not limited to any designing, engineering, procurement, construction, operation, maintenance and/or management of the Project, Assets and Project Utilities or matters incidental thereto, but does not include a person who has entered into an agreement for providing financial assistance.

1.1.89 "**Sub-Lease Deed**" shall mean the agreement executed by the Lessee with any third party for sub-leasing/ sub-licensing any space in the Assets and Project Utilities for earning Project Revenues and such third party shall be called Sub-Lessee. The terms Sub-Lease and Sub Lessee shall be construed accordingly.

1.1.90 "**Subordinated Debt**" shall refer to mean the funds advanced by any of the shareholders of the Lessee for meeting the Project Cost. Provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the shareholders of the Lessee, it shall for the purposes of the Agreement be deemed to be Subordinated Debt (and not Equity) even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken.

1.1.91 "**Substitution Premium**" shall mean the lump sum amount, to be paid upfront to RLDA, offered as financial bid by the party selected as the Nominated Company through a competitive bidding process, conducted as part of the Substitution, for Substituting the Lessee and as per the Agreement.

1.1.92 "**Taxes**" shall mean all applicable taxes, duties, levies, fees, cess etc. but does not include income tax payable by the Party concerned.

1.1.93 "**Term**" shall mean the duration beginning from the Effective Date up to the date of expiry of the Lease.

1.1.94 "**Termination Notice**" shall mean the notice issued by either Party to the other Party in accordance with the provisions of the Agreement terminating the Agreement.

1.1.95 "**Termination Payment**" shall mean the amount that may be payable under and in accordance with the Agreement by RLDA to the Lessee on account of termination prior to the expiry of the Agreement.

1.1.96 "**Transfer Date**" shall mean the date on which the Lessee transfers possession of the Assets and Project Utilities to RLDA or its nominee in terms of vesting provisions mentioned in this GCLA and which shall be the date of termination as per the relevant Termination Notice issued by RLDA or the Lessee, as the case may be or the date of expiry of the Agreement.

1.1.97 "**Year**" shall mean one year of the Gregorian calendar.

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1.2 Interpretation

In this GCLA, unless the context otherwise requires,

1.2.1 references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;

1.2.2 the table of contents, headings or sub- headings are for convenience of reference only and shall not be used in, and shall not affect, the interpretation or construction of this GCLA;

1.2.3 the words "**include**" and "**including**" are to be construed without limitation and shall be deemed to be followed by "**without limitation**" or "**but not limited to**" whether or not they are followed by such phrases;

1.2.4 references to "**development**" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, upgradation and other activities incidental thereto, and "**develop**" shall be construed accordingly;

1.2.5 any reference to any period of time shall mean a reference to that according to Indian Standard Time;

1.2.6 a reference to any statutory body or authority includes a reference to any successor as to such of its functions as are relevant in the context in which the statutory body or authority was referred to.

1.2.7 a reference to any document, agreement, deed or other instrument (including, without limitation, references to this GCLA), means a reference to such document, agreement, deed or other instrument and to all annexures and parts attached or relatable thereto, all of which shall form an integral part of such document, agreement, deed or other instrument, as the case may be.

1.2.8 any reference to day shall mean a reference to a calendar day;

1.2.9 references to a "**business day**" shall be construed as references to a day (other than a Sunday) on which banks in Delhi are generally open for business.

1.2.10 any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

1.2.11 references to any date, period or project milestone shall mean and include such date, period or project milestone as may be extended pursuant to this Agreement;

1.2.12 the Agreement shall be signed in triplicate by RLDA and the Lessee. These three copies shall be treated as complementary and what is called for by anyone shall be as binding as if called for by all.

1.2.13 materials or works described in words which so applied have a well known technical or trade meaning shall be held to refer to such recognised standards.

1.2.14 words importing the singular number shall also include the plural and vice versa where the context requires.

1.2.15 **priority of agreements, clauses and schedules**:

The Agreements and all other Bid Documents forming part of or referred to in the Agreement are to be taken as mutually explanatory and unless otherwise expressly provided elsewhere in the Agreement, the priority of the Agreement and other Bid Documents forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:-

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(a) Recital of the Lease Agreement;

(b) Correspondence between the Parties after issuance of LOA, attached to the Agreement;

(c) Letter of Acceptance(LOA) issued by RLDA to the Selected Bidder;

(d) RLDA Land Development Hand Book Part-IV, Special Conditions of Lease Agreement;

(e) RLDA Land Development Hand Book Part-II, General Conditions of Lease Agreement and Annexures thereof (including correction slips issued up to date);

(f) Schedules forming part of the Agreement;

(g) RLDA Land Development Hand Book Part-III, Instructions to Bidders and Bid Form-1 to 16 ;

(h) RLDA Land Development Hand Book Part-V, Schedules and Specifications, if any ;

(i) RLDA Land Development Hand Book Part-I, Regulations for Bids and Lease Agreements, (including correction slips issued up to date);

Article 2- Scope of Project and Intent of the Agreement

2.1 **General:** Subject to and in accordance with the provisions of the Agreement, RLDA grants to the Lessee the rights and authority on the Site during the Term to undertake and implement the Project that shall oblige or entitle (as the case may be) the Lessee to the following:-

2.1.1 Right of way and/ or access (as the case may be) to the Site for the purposes of and to the extent conferred by the provisions of the Agreement, to enjoy the leasehold rights in the Site for the purpose of undertaking the Project during the Term;

2.1.2 Enter into sub-contracts for the purposes of the Project;

2.1.3 Apply for and obtain all Applicable Permits required for the Project, including plans for construction of building/s and other structure/s thereon for such uses and purposes as described herein;

2.1.4 Enjoy all the rights, privileges and benefits in accordance with the provisions of the Agreement and Applicable Laws and Applicable Permits and subject to receipt of approval and authorization in accordance with the terms hereof, to design, engineer, finance, procure, construct, erect, operate and maintain the Assets and Project Utilities, and for that purpose to remove, renovate, use or demolish any structures with prior approval of RLDA that may be existing on the Site as on the date of handing over of the Site to the Lessee;

2.1.5 Proceed with the development of the Project. The Lessee shall develop the Project on its own account and at its own risk, costs and expenses and shall be solely responsible and liable to all the Government Authorities/Sub-Lessees/Sub-Contractors;

2.1.6 To facilitate the development of the Project, obtain in its own name loans or raise funds from any Lender (subject to the provisions hereof and prior approval of RLDA), and as security for the same to create Encumbrances on the Assets provided the Site is not encumbered in any manner whatsoever;

2.1.7 Subject to the provisions of the Agreement, sub-lease the Assets or commercial spaces within the Assets, to third parties, for a duration not exceeding the period of Term hereof;

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2.1.8 Demand, collect and appropriate charges from all persons, who have been granted rights or facilities, including sub-lease facility, right of use, right of access or similar rights and facilities, in accordance with the terms and conditions hereof;

2.1.9 Bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Lessee under the Agreement;

2.1.10 Not to assign, transfer or sublet or create any lien or Encumbrance on the Agreement, or the lease rights hereby granted or on the whole or any part of the Site nor transfer, lease, or part possession thereof, save and except as expressly permitted by the Agreement or the Substitution Agreement; and,

2.1.11 Perform and fulfill all of the Lessee's obligations under and in accordance with the Agreement.

2.2 **Development Rights Prior to Getting rights of Way to the Site**

Immediately after execution of the Lease Agreement and even prior to getting the right of way to the Site, the Lessee will get following development rights on the Site:

(a) planning and designing the Project;

(b) raising finances through equity and debt and creating Encumbrance on its development rights for arranging debt; and

(c) appointing sub-contractors for carrying out design and construction of the Project.

2.3 **Grant of Lease Rights:**- The Lessee shall be entitled to the leasehold rights on the Site only on fulfilment by it of all the Conditions Precedent in terms of Article 4.4. In addition to the development rights provided under Article 2.2, the Lease Rights shall entitle the following amongst other rights:-

2.3.1 Construct, operate and maintain the Project; and to appoint the Sub-Contractors for construction, operation, maintenance, and/or management of the Project; Notwithstanding any such sub contract, the Lessee shall retain the overall responsibility, obligation and liability in relation to the Project. It is clarified that the Lessee shall remain liable and responsible for any acts, omissions or defaults of any sub contractor for construction or any of the Sub-lessees for use of spaces inside Assets and shall indemnify RLDA in respect thereof.

2.3.2 marketing rights over the Built Up Area provided the plans for the development are duly approved as specified in the Agreement;

2.3.3 right to allow commercial use of the Built Up Area and the Site provided the Completion Certificate or Provisional Completion Certificate, as the case may be, has been issued by the Nodal Officer;

2.3.4 to grant user rights, sub-lease and license rights to any third party over the Built Up Area by execution of Sub-Lease Deeds and license agreement respectively, provided the Completion Certificate or Provisional Completion Certificate, as the case may be, has been issued by the Nodal Officer and Lease Premium has been paid in proportion to the cumulative Built Up area being Sub-Leased;

2.3.5 to demand, collect and appropriate charges as Project Revenues from all persons in consideration of promise of grant of sub-lease/sub-license/usage right to access to the Site.

2.4 **Right of Way to the Site:**- After fulfilment by the Lessee of all the Conditions Precedent, RLDA shall provide to the Lessee right of way, to the Site free from all Encumbrances. In case the Project involves redevelopment of railway structures existing on the Site or otherwise, the right of way may be provided in a phased manner as specified in the SC[illegible]

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and/or the Schedules. The area of the Site shown in Instructions to Bidders is approximate. The Site shall be jointly surveyed by RLDA and the Lessee for arriving at its actual area prior to signing of Lease Agreement. RLDA shall provide the right of way to the Site to the Lessee on "as is where is basis" and the Parties shall execute a handing over note in this regard setting out, in detail, the Site Inventory as on the date of such handing over of the right of way. The Right of Way to the Site to the Lessee shall be provided on or before the Appointed Date subject to the Lessee fulfilling the Conditions Precedent or as specified in the SCLA and/or the Schedules. RLDA shall provide to the Lessee right of way to the Redevelopment Land as specified in the Schedules.

2.5 **Procurement of Approvals**

2.5.1 The Lessee shall be responsible to procure appropriate approvals from Government Authority, for proper execution of the Project.

2.5.2 RLDA may agree without any liability thereof to assist the Lessee in obtaining the required approval/permits. In the event of delay or failure in obtaining the required approval/permits, the Lessee shall not be deemed absolved of its own responsibility and RLDA shall not in any way be liable for the approval/permits or for non receipt thereof for any reason whatsoever nor for any loss or damage arising in consequence of such delay or non receipt.

2.6 **Transfer of Jurisdiction**

2.6.1 If a Project is transferred from the jurisdiction of RLDA to a Railway (hereinafter referred to as "**Successor Railway**") or to another authority or vice versa while Agreement is in subsistence, the Agreement shall be binding on the Lessee and the Successor Railway/authorities in the same manner and take effect in all respects as if the Lessee and the Successor Railway/authorities were parties thereto from inception and the corresponding officer or the Competent Authority in the Successor Railway/authorities will exercise the same powers and enjoy the same authority as conferred to RLDA under the original Agreement entered into.

2.6.2 If for administrative or other reasons the Agreement is transferred to the Successor Railway the Agreement shall, notwithstanding anything contained herein contrary there to, be binding on the Lessee and the Successor Railway in the same manner and take effect in all respects as if the Lessee and the Successor Railway had been parties thereto from the date of the Agreement.

Article 3 - Limitation on Grant of Lease Rights on the Site

3.1 The Parties expressly agree that subject to the provisions of the Agreement, the right of way and the Lease Rights is being granted to the Lessee exclusively for the purposes of implementation of the Project.

3.2 Without prejudice to the aforesaid, the Parties expressly agree that ownership of Assets and Project Utilities created from time to time on the Site and the Site itself, shall always vest with RLDA and the Lessee shall only have the necessary rights for creation of lien and/or Encumbrance on the Assets in favour of its bankers and insurers.

3.3 The Parties recognize and agree that nothing contained in the Agreement shall be constructed to constitute a transfer of the title to the Site or the Assets developed thereupon in favour of the Lessee. The Lessee shall not, at any time during the Term, assert any ownership rights over the Site or the Assets developed thereupon and/ or interests to the land, built-up structures and all other assets erected on the Site and that the Lease Rights shall be incapable of conversion into freehold rights.

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3.4 Without prejudice to the foregoing, the Lessee agrees, confirms and undertakes that it shall not sell, license, sub-license, lease, sub-lease, assign, underlet or sub-let or part with the possession of the Site or any part thereof or any interest therein without the previous written consent of RLDA, except to the extent specifically permitted under the Agreement.

3.5 No land belonging to or in the possession of the Railway shall be occupied by the Lessee without the permission of the Railway or RLDA. The Lessee shall not use, or allow to be used, the Site for any purpose other than that of executing the Project.

3.6 It is expressly agreed understood and recorded between the Parties that:

3.6.1 mining rights cannot, and do not, form part of the rights granted hereunder and the Lessee hereby acknowledges that it does not, and shall not, have any mining rights in the Site under the Agreement or any interest in the underlying mineral, if any.

3.6.2 any archaeological discoveries shall belong to and vest in the Government and the Lessee shall promptly report the discovery thereof to RLDA and the appropriate Government authority and follow such authority's instruction for safe removal thereof.

3.6.3 the Lessee shall not sell or otherwise dispose off or remove except for the purpose of the Agreement, the sand, stone, clay, ballast, earth, rock or other substances or materials which may be obtained from any excavation made for the purpose of the Project or any building or produced upon the Site.

3.7 It is expressly agreed between the Parties that RLDA reserves for itself, provided that the same is not inconsistent with the Development in accordance with the Agreement, the right to grant any easements over or rights of access or rights of way on, over, under, through or across the Site for: the purpose of supply of electricity, gas, telecommunication cables, water, sewerage, drainage or any other services and utilities; or, the purpose of transport or other services to the public.

3.8 The Lessee shall be deemed to have inspected the Site and be aware of the existing land ownership documents, survey nos, land use and FAR/FSI permissions, existing boundary wall(s), buildings, constructions, immovable assets, structures, installations, trees, shrubs, electric poles, etc., if any, on the Site, which is being offered on an "as is where is basis". The Lessee shall be fully responsible for arranging any further Applicable Permits related to the Site and the Project including any sub-division of land from the surrounding railway land if so required and RLDA shall not be responsible for any failure or delay in obtaining such Applicable Permits. The Lessee shall not claim for any change on the Site after the Effective Date. The Lessee hereby admits, agrees and acknowledges that RLDA has not made any representation to the Lessee or given any warranty of any nature whatsoever to the Lessee in respect of the Site including in respect of its topography, soil/soil strata, usefulness, utility etc. or the fulfilment of criteria or conditions for obtaining Applicable Permits by the Lessee for implementing the Project on the Site.

3.9 **Deemed Knowledge and Disclaimer:**- The Lessee shall be fully and exclusively responsible for, and shall bear the financial, technical, commercial, legal and other risks in relation to the development of the Assets regardless of whatever risks, contingencies, circumstances and/or hazards may be encountered (foreseen or not foreseen) including underground utilities and notwithstanding any change(s) in any of such risks, contingencies, circumstances and/or hazards on exceptional grounds or otherwise and whether foreseen or not foreseen and the Lessee shall not have any right whether express or implied to bring any claim against, or to recover any compensation or other amount from RLDA in respect of the Project other than for those matters in respect of which express provision is made in the Agreement.

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Article 4 - Conditions Precedent

4.1 Save and except as expressly provided in Article 2.2, Article 4, Article 6, Article 8, Article 10.1, Article 10.2, Article 10.3, Article 23, Article 24 and Article 25 the respective rights and obligations of the Parties under the Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Article 4.

4.2 Conditions Precedent required to be satisfied by RLDA prior to the Appointed Date shall be deemed to have been fulfilled when RLDA shall have granted to the Lessee the right of way to the Site as per provisions of the Agreement. RLDA shall handover, to the Lessee, the right of way to the Site as per provisions of the Agreement only when the Conditions Precedent required to be satisfied by the Lessee have been duly fulfilled.

4.3 Save and except as expressly provided under the Agreement, the rights of the Lessee including the Lease Rights to the Site shall be subject to the full satisfaction of the Conditions Precedent specified herein, by the Lessee.

4.4 The Conditions Precedent required to be satisfied by the Lessee prior to the Appointed Date shall be deemed to have been fulfilled when the Lessee shall have:

(a) executed and procured execution of the Substitution Agreement, if required;

(b) achieved the Financial Close and submitted, if required, 2 (two) true copies each of the Financing Agreement and the Financial Model, duly attested by a Director of the Lessee, along with 2 (two) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Lenders;

(c) executed and procured execution of the Escrow Agreement, if required under the SCLA;

(d) executed and procured execution of the Shareholder's Agreement amongst the shareholders of the Lessee;

(e) delivered to RLDA a legal opinion from the legal counsel of the Lessee with respect to the legal capacity of the Lessee to enter into the Agreement and the enforceability of the provisions thereof.

Provided that upon request in writing by the Lessee, RLDA may in its discretion, waive or extend the date of compliance of any of the Conditions Precedent set forth above.

4.5 Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated herein and provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible. The Lessee shall notify RLDA in writing at least once a month on the progress made in satisfying the Conditions Precedent. The Lessee shall promptly inform RLDA when any Conditions Precedent for which it is responsible has been satisfied.

4.6 **Termination due to non fulfilment of Conditions Precedent by the Lessee**:-In the event the Conditions Precedent as specified hereinabove are not fulfilled by the Lessee for any reason whatsoever on or prior to the Appointed Date and RLDA in its discretion has not agreed its extension, all rights, privileges, claims of the Lessee in terms of the Agreement, shall be deemed to have been waived by and to have been ceased with the concurrence of the Lessee and the Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided that upon termination of the Agreement, RLDA shall be entitled to encash/ invoke/ forfeit the Performance Bank Guarantee deposited by the Lessee with RLDA and RLDA shall also forfeit the payment made by the Lessee towards first instalment of Lease Premium.

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Article 5- Consideration

5.1 In consideration of the grant of the lease rights, the Lessee shall make payments to RLDA as specified in the Schedule of Payment and/or develop/redevelop fixed assets for RLDA, if so required and provide other services free of cost as specified in the Agreement. The payments to be made by the Lessee to RLDA shall consist of one or more of the Lease Premium, Annual Lease Rent, Percentage Share from Project Revenues as described herein and subject to the provisions of the SCLA and the Agreement. All payments to be made by the Lessee shall be exclusive of taxes (i.e. taxes additional). The amounts of Lease Premium and Annual Lease Rent specified in the Schedule of Payments are subject to the scope of development at the Site being limited to the Built Up Area (in Sq.m.) or the FAR/FSI (in number) as specified therein. Further, in case the maximum scope of development is specified in terms of FAR/FSI, the extent of built up area/ floor area that can be developed at the Site by the Lessee shall be as per the Applicable Laws. However, for the purposes of the Agreement, the permitted Built Up Area at the Site shall be as measured from and recorded on the Drawings so prepared by the Lessee and approved by the Nodal Officer. Further, without prejudice to any other right or remedy available to either RLDA or the Lessee, payment of Lease Premium and Annual Lease rent by the Lessee to RLDA as specified in the Schedule of Payment on the respective due dates together with the due interests, if applicable, thereon shall be the essence of the Agreement and the Lessee shall continue to make such payments to RLDA pending any dispute in respect of the Agreement. Due to any reason but prior to providing the right of way to the Redevelopment Land, RLDA may decide not to get the Redevelopment Works executed by the Lessee and in such case the Lessee shall pay to RLDA an amount equal to the estimated cost of the Redevelopment Works as specified in the Agreement in equal annual installments to be determined by RLDA together with their payment due dates, provided that the last of the installments shall be paid not later than the completion date for the Redevelopment Works as specified in the Agreement. If the Lessee fails to make payments of such installments within the respective due dates so determined by RLDA it shall be construed as a Payment Default on behalf of the Lessee and shall be treated accordingly under the Agreement.

5.2 Lease Premium

5.2.1 Amount of the Lease Premium shall be as specified in the Schedule of Payment. The entire amount of the Lease Premium shall be paid to RLDA by the Lessee in one or more instalments in accordance with the Schedule of Payment. The due date for payment of each installment shall be as specified in the Schedule of Payment.

5.2.2 Interest shall be payable on the total outstanding amount of the Lease Premium at the rate of interest specified in the Schedule of Payment.

5.2.3 The Lessee can pay an installment of the Lease Premium even before the due date as specified in the Schedule of Payment in which case the Lessee has to pay interest only upto the actual date of payment.

5.2.4 The amount of Lease Premium specified in the Schedule of Payment is for the area of Site specified therein. If after the joint measurement of the area of the Site, the area of the Site made available to the Lessee is found to be at variance from that stated in the Instructions to Bidders, the Lease Premium shall increase or decrease in proportion to the actual area of the Site. In case of increase in area, the additional Lease Premium over the accepted Lease Premium shall be paid by the Lessee to RLDA by dividing it in such number of instalments as are equal to the total number of the remaining instalments of the Lease Premium. The said amount shall be paid along-with such remaining instalments of original Lease Premium. In case the actual area of the site is less than the area stipulated in the Instructions to Bidder, the extra payment made if any till then, shall

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be adjusted against the future Lease Premium due to RLDA. However, if the Lessee pays the entire Lease Premium upfront the proportionate increase or decrease in Lease Premium depending upon increase or decrease in area of the Site (against the area stipulated in the Instructions to Bidder) would be payable/ receivable by the Lessee to/ from RLDA as the case may be.

5.3 **Annual Lease Rent**

5.3.1 Annual Lease Rent required to be paid to RLDA by the Lessee shall be as specified in the Schedule of Payment. The amount of Annual Lease Rent shall be paid from the date specified in the Schedule of Payment. However, in case the Bid variable was the Annual Lease Rent at the bid stage, the amount of Annual Lease Rent shall be as offered by the Selected Bidder.

5.3.2 The amount of Annual Lease Rent stated above shall automatically be revised upwards by 15% every three years (to be compounded). The Annual Lease Rent for a Financial Year shall be payable in advance on or before the 10th April of each Financial Year. However, the Annual Lease Rent of the first Financial Year shall be paid on the date from which the Annual Lease Rent becomes payable. Where payment is due in the middle of a Financial Year, the required amount of Annual Lease Rent for the first and last Financial Year will be calculated on proportionate basis on the number of days remaining in the respective Financial Year.

5.3.3 If after the joint measurement of the area of the Site, the area of the Site made available to the Lessee is found to be at variance from that stated in the Instructions to Bidder, the Annual Lease Rent shall increase or decrease in proportion to the actual area of the Site.

5.4 **Additional Lease Premium and Annual Lease Rent**

5.4.1 In case the Lessee proposes to build additional Built Up Area in terms of any revision of Floor Area Ratio/Floor Space Index(FAR/FSI) by the concerned Government Authority, the Lessee shall have to pay additional Lease Premium and Increased Annual Lease Rent for the remaining period of the Term to RLDA. The Additional Lease Premium and the Increased Annual Lease Rent shall be computed as under:

$$\text{Additional Lease Premium} = \frac{\text{Additional Built Up Area}}{\text{Reference Built Up Area}} \times \frac{\text{New Circle Rate}}{\text{Reference Circle Rate}} \times \frac{\text{Remaining Term}}{\text{Term}} \times \text{Lease Premium}$$

$$\text{Revised Annual Lease Rent} = \frac{\text{Revised Built Up Area}}{\text{Reference Built Up Area}} \times \frac{\text{New Circle Rate}}{\text{Reference Circle Rate}} \times \text{Prevailing Annual Lease Rent}$$

where,

Reference Built Up Area	=	The Built Up Area as permitted at the Site on the date of submission of the Bid or as specified in the Payment Schedule
Reference Circle Rate	=	as specified in the SCLA.

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New Circle Rate = The prevailing circle rate on the date of approval by the authority competent to approve the plans.

Revised Built Up Area = Sum of Reference Built Up Area and Additional Built Up Area

Note: In case the maximum scope of development on the Site is specified in terms of FAR/FSI the words 'Built Up Area' shall get replaced by 'FAR/FSI' in the formula specified above

If the New Circle Rate is lower than the Reference Circle Rate, the Reference Circle Rate shall be considered in place of new Circle Rate for the purposes of above calculation. Further, if additional Built Up Area proposed has resulted from an additional FSI/FAR procured by the Lessee on payment of full cost for the same to a Government Authority or a private party having such rights, not forming part of a general notification by a Government Authority for the area, no additional Lease Premium shall be payable by the Lessee to RLDA. However, additional Annual Lease Rent shall be payable by the Lessee to RLDA.

5.4.2 The amount of additional Lease Premium plus taxes, if any, can be paid either upfront in full or in instalments as approved by the Nodal Officer. Rate of interest applicable on the outstanding Lease Premium shall be applicable for the additional Lease Premium also.

5.4.3 Before beginning of construction of the additional Built Up Area, the Lessee shall obtain approval of the Nodal Officer for the Drawings and shall pay the first instalment of the additional Lease Premium in case the same has been approved for payment in instalments or pay the upfront or full lease premium as the case may be.

5.4.4 If during the Construction Period, the Built Up Area gets reduced to less than the Reference Built Up Area due to any order, notification, instruction, road widening, acquisition for public purpose etc. of concerned Government Authority and the benefit of compensatory FAR due to such loss of land is not passed on to the Lessee, then, the Lessee shall be entitled for pro-rata reduction in the Lease Premium and the Annual Lease Rent. However, in case additional FAR or transfer development right (the "TDR") is offered by the concerned Government Authority as compensation toward the loss of land, the Lessee shall not be entitled for any reduction in the Lease Premium/ Annual Lease Rent and the ownership of such FAR or TDR shall vest with RLDA and the Lessee shall not have any right of usage except development at the Site.

5.4.5 Built up area constructed at the cost of additional FAR/TDR shall vest with the RLDA at the end of the term without any cost payable by RLDA.

5.5 Percentage Share from Project Revenues

5.5.1 The Lessee shall pay to RLDA every year an amount equivalent to the percentage of the Project Revenues earned in that year in accordance with the SCLA. The payment shall be made in quarterly instalments latest by the 10th day of the month following the quarter for which payment is due. The successive instalments should be adjusted for any shortfall/excess from the previous quarter based on the unaudited quarterly financial statements. For any Financial Year, the total payment made by the Lessee to RLDA should be compared with the RLDA's share due from the total Project Revenues stated in the audited annual financial statement and the adjustment for any shortfall/excess should be carried forward to the next quarterly instalment.

5.5.2 In case the percentage share of Project Revenues was the Bid variable at the Bid Stage and the percentage specified in the Schedule of Payment is the quoted percentage by the Selected Bidder, the amount of payment under Article 5.5.1 shall not be less than the minimum guaranteed amount specified in the Schedule of Payment.

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Article 6- Security Deposit & Performance Guarantee

6.1 Security Deposit

6.1.1 The Lessee agrees and undertakes to provide Security Deposit of an amount equal to three times the amount of Annual Lease Rent or the Annual Guaranteed Amount (in case of Percentage Revenue Share) as security against any default in timely payment of Annual Lease Rent or the Percentage Revenue Share or for breach of any other obligation during the Term. The Lessee shall have to submit the Security Deposit three months prior to the expiry of the Performance Guarantee in any of the forms specified for Bid Security.

6.1.2 The amount of Security Deposit shall get revised upwardly every three years corresponding to the increase in Annual Lease Rent or the minimum annual guaranteed amount. In the event RLDA draws on the Security Deposit, in part or full, to recover the outstanding Annual Lease Rent and liquidated damages/losses, payable or recoverable in accordance with the Agreement, the Lessee shall forthwith restore the value of the Security Deposit to such value which existed prior to drawal by RLDA.

6.1.3 Security Deposit shall be returned to the Lessee after the Site along with all Assets and Project Utilities is handed over to RLDA or the Railway Administration, as the case may be. The Lessee shall issue an unconditional and unequivocal no claim certificate in favour of RLDA or the Railway Administration, as the case may be, prior to return of the Security Deposit by RLDA.

6.1.4 No interest shall be payable by RLDA on the Security Deposit. However if any interest accrues on the instrument payable by the issuing authority, the same shall be passed on to the Lessee.

6.1.5 In case the Lessee defaults in timely payment of Annual Lease Rent or due to any other Lessee's Event of Default RLDA shall have the right to forfeit the Security Deposit.

6.2 Performance Guarantee

6.2.1 The Lessee confirms having furnished a Performance Guarantee before signing of this Agreement of an amount specified in the Recital against any default in payment of Consideration or for breach of any other obligation and that the same shall be kept valid and effective in full force until up to six months beyond the date on which the last of the following obligations are completed:

(a) the Lessee has paid to RLDA all the instalments of the Lease Premium as per the Schedule of Payment; or

(b) the Lessee has completed the Development of the Project in terms of the Bid Documents; or

(c) the Completion Certificate has been issued by the Nodal Officer of RLDA.

6.2.2 The Lessee confirms having furnished a Performance Guarantee for the amount mentioned in the Recital of the Agreement.

6.2.3 In the event RLDA draws on the Performance Guarantee, in part or in full, to recover the outstanding amount of Consideration, liquidated damages/ Losses, payable/recoverable in accordance with the Agreement the Lessee shall forthwith restore the value of the Performance Guarantee to such value which existed prior to drawal by RLDA.In the event the Lessee fails to restore the Performance Guarantee, RLDA shall be entitled to encash the same and the Lessee shall, within the time so granted at the sole discretion of RLDA, will submit a fresh Performance Guarantee.

6.2.4 In the event RLDA approves extension of the time for completion of the Project or

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payment of Lease Premium, the Lessee shall arrange for an extension of the Performance Guarantee so as to comply with the requirements of this clause at all times. In the event the Lessee fails to extend the Performance Guarantee, RLDA shall be entitled to encash the same and the Lessee shall, within the time so granted at the sole discretion of RLDA, will submit a fresh Performance Guarantee.

6.2.5 In case the Agreement is terminated due to Lessee's Event of Default, RLDA shall have the right to invoke the Performance Guarantee.

Article 7 Representations and Warranties

7.1 The Lessee hereby represents and warrants to RLDA that as on the Effective Date:-

7.1.1 It is duly organized and validly existing under the laws of India and that it has been in continuous existence since incorporation;

7.1.2 It has full power and authority to execute, deliver and perform its obligations under the Agreement and to carry out the Project;

7.1.3 It has taken all necessary corporate and other actions under Applicable Laws and its Memorandum and Articles of Association to authorize the execution, delivery and performance of its obligations under the Agreement;

7.1.4 It has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities, or any order, writ, injunction or decree of any court or any legally binding order of any governmental authority, which in the aggregate have or may have Material Adverse Effect on its ability to perform its obligations and duties under the Agreement and undertake the Project in terms of the Agreement;

7.1.5 It has the technical and financial standing and capacity to undertake and complete the Project;

7.1.6 No representation or warranty by the Lessee contained herein or in any other document furnished by it to RLDA, or to any Governmental Authority in relation to Applicable Permits contains or will contain any untrue, inaccurate or incorrect statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

7.1.7 The obligations of the Lessee shall be legally valid, binding and enforceable against the Lessee in accordance with the terms of the Agreement;

7.1.8 The information furnished in the Bid by the Selected Bidder is true and accurate in all respects;

7.1.9 The execution, delivery and performance of the Agreement will not conflict with, result in the breach of, constitute a default under, or affect performance required by any of the provisions of its Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

7.1.10 There are no actions, suits, proceedings or investigations pending, or to the best of the Lessee's knowledge, threatened against it before any court or before any judicial, quasi-judicial or other authority, the outcome of which may result in the breach of or constitute a default of the Lessee under the Agreement or which individually or in the aggregate may result in any Material Adverse Effect on its business, properties, assets or its condition, financial or otherwise, or in any impairment of its ability to perform its obligations under the Agreement;

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7.1.11 The Lessee hereby expressly covenants and agrees that, throughout the Term, it shall only use the Site strictly in accordance with the terms and conditions of the Agreement.

7.1.12 It shall use the Site only for the objectives and purposes identified and agreed to by the Parties, in terms of the Agreement.

7.1.13 It shall not do or permit to be done on the Site or the structures thereon, any activities, which may be contrary to any Applicable Laws and Applicable Permits and; it shall in enjoyment of its rights and fulfilment of its obligations under the Agreement, always comply with the Applicable Laws and Applicable Permits.

7.1.14 In the event at any time after the date hereof, any event or circumstance comes to the attention of the Lessee that renders any of its abovementioned representations or warranties untrue, inaccurate or incorrect, then the Lessee shall immediately notify RLDA of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue, inaccurate or incorrect; or adversely affect or releases any obligation of the Lessee under the Agreement.

7.1.15 The Lessee shall not provide for or amend its Memorandum of Association and Articles of Association in such a way that it conflicts with the terms and conditions of the Agreement, during the currency of the Agreement.

7.1.16 The Lessee shall not provide for or amend its Articles of Association in such a way that it allows issuance of shares having differential voting rights or dilution of equity/control in any other manner whatsoever, in contravention of provisions of Article 18.

7.1.17 It is understood and agreed that the Lessee has, by careful examination, satisfied itself as to the nature and location of the Project, the conformation of the ground, the character, quality and quantity of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the progress of the Project, the general and local conditions, the labour conditions prevailing therein and all other matters which can in any way affect the Project under the Agreement.

7.1.18 The Lessee shall at no time undertake or permit any change in Ownership except in accordance with the provisions of Article 18.

7.2 RLDA hereby represents and warrants to the Lessee that as on the Effective Date:-

7.2.1 It is duly organized and validly existing under the laws of India and has been in continuous existence since its constitution;

7.2.2 It has full power and authority to execute, deliver and perform its obligations under the Agreement;

7.2.3 The Railway Administration has valid title to the Site and RLDA has power and authority to grant the lease;

7.2.4 It has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of the Agreement;

7.2.5 The obligations of RLDA under the Agreement will be legally valid, binding and enforceable against RLDA in accordance with the terms of the Agreement;

7.2.6 It has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Authority which may result in any Material Adverse Effect or impairment of RLDA's ability to perform its obligations and duties under the Agreement.

7.2.7 To the best of RLDA's knowledge and belief, the Site is free from all Encumbrances and is available for Development, in accordance with the terms of the Agreement.

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7.2.8 To the best of RLDA's knowledge and belief, there are no actions, suits, proceedings or investigations pending against it, before any court or Government Authority in relation to the Site, the outcome of which may result in the breach of or constitute a default of RLDA under the Agreement, or result in impairment of RLDA's ability to perform its obligations and duties under the Agreement.

7.3 **Disclosure**

In the event at any time after the date hereof, any event or circumstance comes to the attention of either Party that renders any of its abovementioned representations or warranties untrue, inaccurate or incorrect, then such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of (i) remedying any breach of the representation or warranty that has been found to be untrue, inaccurate or incorrect; or (ii) adversely affecting or release any obligation of either Party under this Agreement.

Article 8 General obligations of the Lessee relating to the Project

8.1 The Lessee shall, within 30 (thirty) days of the Effective Date, nominate its Authorised Representative and shall authorise him for all correspondence, communication, signing of documents, participation in meetings etc. with RLDA in respect of the Project and issues relating to or arising out of the Agreement.

8.2 The Lessee shall be solely responsible for seeking connections and ensuring the supply of all essential utilities including but not limited to electricity, water, fuel, consumables and any other services necessary or incidental to the implementation of the Project and that all such facilities shall be at the cost and expense of the Lessee. In particular, the Lessee shall be solely responsible to procure, at its own cost and expense, all water, electricity and all other utilities required for the construction of the Assets at the Site and RLDA shall be entitled, but shall not be obliged to provide any infrastructural facilities or services in relation to any such utilities . The Lessee may also dismantle / dispose the existing assets and utilities on the Site, with prior written approval of RLDA and appropriate the proceeds thereof in accordance with such written approval..

8.3 It is agreed that the Lessee shall, with effect from the Effective Date, pay all outgoings, cess, taxes (including municipal taxes), levies, import duties, fees (including any license fees) rates and other user charges (including those applicable for existing utility connections and any other dues, assessments or outgoings payable in respect of implementation of the Project, (including new utility connections obtained by it, if any) or in respect of the materials stored therein which may be levied by any Government Authority. The Lessee shall, with effect from the Effective Date, also pay all outgoings, cess, taxes (including municipal taxes), rates and other user charges whatsoever and all increases thereto, in respect of the Site and Assets. RLDA shall not be liable to pay the same. If the Lessee fails to pay any of the above charges, RLDA shall be entitled, but not be obliged to pay the same and will be entitled to receive such amounts paid by RLDA from the Lessee along with interest at a rate of 15% (fifteen percent) per annum.

8.4 The Lessee will undertake the Project during the Term with due regard to safety precautions, fire protection, security, transportation, delivery of goods, materials, control of pollution, maintenance of competent personnel and labour and industrial relations.

8.5 The Lessee shall observe and conform to all Applicable Laws relating to the Project, the Site or the Redevelopment Land in any way and in particular but not limited to all public and labour related issues including health and sanitation in force for the time being. The

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Lessee shall ensure and shall remain responsible that its Sub-Contractors and Sub-Lessee shall also adhere with Applicable Laws as required in the Agreement.

8.6 The Lessee shall provide sufficient sanitary arrangements for the labour, workmen and other staff employed for the Project in order to keep the Site, the Redevelopment Land and the surroundings clean and in good condition to the satisfaction of the RLDA and shall not, without the previous consent in writing of the RLDA, permit any labour or workmen to reside upon the Site or the Redevelopment Land and in the event of such consent being given, shall comply strictly with the terms thereof.

8.7 The Lessee shall develop the Project in accordance with the pollution control criteria set forth in the Applicable Laws and in accordance with terms and conditions contained in various Applicable Permits. The Lessee shall take all precautions to avoid pollution or contamination of the air, land or water arising out of the implementation of the Project (whether at the Site or elsewhere).

8.8 The Lessee shall obtain and maintain in force, on and from the Effective Date and during the Term thereof, all insurance in accordance with the provisions of the Agreement and Good Industry Practice.

8.9 The Lessee shall procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used or incorporated into the Project and Assets located upon the Site.

8.10 After receiving the Lease Rights, to the Site, the Lessee shall ensure that such land remains free from all encroachments during the Term.

8.11 The Lessee shall, from time to time, pay all the charges/bills for the usage of infrastructure facilities provided to them by the relevant Government Authority.

8.12 The Lessee shall not permit anything to be done on the Site which may be unlawful, a nuisance, annoyance or disturbance to the owners, occupiers or residents of other premises in the vicinity.

8.13 The Lessee shall take all measures, including applying for any and all connections from suitable Government Authorities to provide all the Project Utilities at the Site and shall undertake all measures required to be undertaken for separate metering of all Project Utilities utilized by the users of the Site or Assets thereon.

8.14 The Lessee shall ensure and procure that each agreement or contract it enters into with any third party in relation to the Project, contains provisions that entitle the Nominated Company to step into such agreement, in its discretion, in the event of such Nominated Company's assumption of the liabilities and obligations of the Lessee under the Agreement.

8.15 Lessee undertakes that all gold, silver, oil and other minerals of any description and all precious stones, coins, treasures, relics, antiquities and other similar things including any buried railway utility/material, which shall be found in or upon the site shall be duly preserved and handed over to the satisfaction of RLDA and concerned Government Authority.

8.16 The Lessee shall be responsible for all risk to the work and for trespass and shall make good at his own expense all loss or damage whether to the works themselves or to any other property of the Railway or the lives, persons or property of others from whatsoever cause in connection with the Project despite all reasonable and proper precautions that may have been taken by the Lessee and in case the Railway/RLDA is called upon to make good any costs, loss or damages, or to pay any compensation, including that payable under the provisions of the Workmen's' Compensation Act or any statutory amendments thereof to any person or persons sustaining damages as aforesaid by

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reason of any act, or any negligence or omissions on the part of the Lessee the amount of any costs or charges including costs and charges in connection with legal proceedings, which the Railway/RLDA may incur in reference thereto, shall be charged to the Lessee. The Railway/RLDA shall have the power and right to pay or to defend or compromise any claim of threatened legal proceedings or in anticipation of legal proceedings being instituted consequent on the action or default of the Lessee, to take such steps as may be considered necessary or desirable to ward off or mitigate the effect of such proceedings, charging to Lessee, as aforesaid, any sum or sums of money which may be paid and any expenses whether for reinstatement or otherwise which may be incurred and the propriety of any such payment, defence or compromise and the incurring of any such expenses shall not be called in question by the Lessee.

8.17 The Lessee undertakes that it shall comply with all Applicable laws including the following labour laws. The Lessee shall also ensure that its Sub Contractors' also comply with all the applicable labour laws in connection with persons employed for this Project including following:

(a) The Lessee and its Sub-Contractors shall be responsible to ensure compliance with the provision of the Minimum Wages Act, 1948 and the Rules made thereunder.

(b) The Lessee and its Sub–Contractors shall be responsible to ensure compliance with the provisions of the Apprentice Act, 1961 and the Rules and orders issued there under from time to time in respect of apprentices.

(c) The Lessee and its Sub-Contractors shall comply with the provisions of the Payment of Wages Act, 1936 and the Workmen Compensation Act, 1923 and the rules thereunder.

(d) The Lessee shall comply with the provision of the Contract Labour (Regulation and Abolition) Act, 1970 and the Contract Labour (Regulation and Abolition) Central Rules 1971 as modified from time to time, where ever applicable.

(e) The Lessee shall be responsible for the safety of all employees directly or through Sub-Contracts employed by it on the Project and shall report serious accidents to any of them however and where ever occurring on the Project to the Nodal Officer or the Nodal Officer's Representative and shall make every arrangement to render all possible assistance.

(f) The Lessee shall observe and make its Sub-Contractors observe and perform all the provisions of the Mines Act, 1952 or any statutory modifications or re-enactments thereof for the time being in force and any rule and regulations made thereunder.

(g) For the purposes of all Applicable Laws, the Lessee shall be deemed to be the principal employer of all workers working at the Project. The Lessee indemnifies RLDA and the Railway from and against any claim under any of the Acts or Rules there under mentioned in this clause or any other Applicable Laws and in case through order of any Government Authority RLDA or the Railway has to pay any compensation in respect of the Project, RLDA shall recover such amount of compensation so paid from the Security Deposit or the Escrow Account or otherwise from the Lessee under these conditions.

Article 9 Development Project

9.1 The Lessee shall, prior to the Appointed Date, nominate a Project Manager, who shall supervise and be overall in-charge of all construction activities being undertaken by the Lessee at the Site during the Construction Period. The Project Manager shall be the site representative of the Lessee for interaction with the authorised representatives of RLDA visiting the Site during the Construction Period. In case the Project Manager is not available at the Site, he shall ensure that its authorised agent is available for the Project,

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who shall, present himself to the Nodal officer or Nodal officer's representative and orders given by the Nodal officer or the Nodal officer's representative to the authorised agent shall be deemed to have the same force as if they had been given to the Project Manager.

9.2 The Lessee shall not commence any work upon the Site, except securing the Site through fencing/boundary wall until approval of requisite plans from the Nodal Officer and the Government Authorities. Within 15 (fifteen days) of receipt of right of access of the Site, the Lessee shall secure the Site with steel hoarding of height not less than 1.8 meter on all sides with access controlled gate in a manner approved by the Nodal Officer. The steel hoarding should have smooth painted surface with a pre approved design bearing names and logo of Project, RLDA, and the Lessee. No construction debris, equipments, material should be kept outside the enclosed Site without specific permission of the Railway Administration. Any activity related to construction shall not block the adjacent roads in the circulating area at any time and shall not hinder passenger or vehicle movement or cause congestion.

9.3 The Lessee shall design and construct all permanent civil structure(s) for a minimum design life of 70 years (the "Design Life").

9.4 The Lessee shall undertake the Project using due care and diligence in a professional manner, using sound engineering, design and project management principles and supervisory procedures in accordance with Good Industry Practice and for that it shall retain, engage and consult, qualified and experienced professionals and consultants with good credentials and experience in relation to a project similar to the Project, which is the subject matter of the Agreement.

9.5 The Lessee shall at all times, obtain and maintain all Applicable Permits, which are required by Applicable Law, to undertake the Project.

9.6 The Lessee shall be obliged to complete the Project latest by the Guaranteed Date of Project completion and shall obtain Project Completion Certificate.

9.7 The Lessee shall not make any excavation upon any part of the Site nor remove any stone, sand, gravel, clay or earth therefrom except for the purpose of forming foundations of buildings or for the purpose of executing any work pursuant to the terms hereof .

9.8 The Lessee will ensure that all materials, equipment, machinery etc. installed and/or used at the Site will be of sound and merchantable quality, that all workmanship shall be in accordance with Good Industry Practices applicable at the time of installation, construction or repair and that each part of the construction will be fit for the purpose for which it is required.

9.9 Upon completion of the activity of construction of the Project, the Lessee shall remove promptly from the Site, all surplus construction machinery and materials, waste materials (including, without limitation, hazardous materials and waste water), rubbish and other debris (including without limitation accident debris) and shall keep the land in a neat and clean condition and in conformity with the Applicable Laws and Applicable Permits.

9.10 In the event that there are any existing utilities/structures laid upon or under the Site, then the Lessee shall be required to relocate all such utilities/structures at its own risk and cost, with the prior written approval of RLDA and applicable Government Authority as per following procedure:-

(a) Before starting the construction work at the site, Project Manager of the Lessee and a authorised representative of RLDA will jointly list out the existing underground utilities (whether live or dead). During construction, if any dead utility is encountered the same

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will be removed by the Lessee. However, if any live utility is encountered, the diversion plan for the same will have to be agreed by the RLDA before dismantling.

(b) All minor utilities, excluding live Signal & Telecom(S&T) and power cable, will be diverted by the Lessee as per agreed plan with the RLDA. For S&T and power cable, if RLDA agrees for diversion by the Lessee, only then the diversion work will be taken up. If the RLDA so desires, S&T and power cable may be diverted by them within the agreed time frame so that construction of project does not suffer on account of delay in the diversion. In case of utilities by non-railway service providers like BSNL, water supply boards, municipalities etc. where the project agency is required to deposit money to the utility owning agency for any diversion, the Lessee will coordinate with the respective utility owning agency in finalizing the cost estimate of the diversion and make the required payments.

(c) Any major utility diversion should be avoided either by altering the plan or by changing the site (reduction in area or lateral shifting of land boundaries, as may be agreed by RLDA).

(d) Cost of any utility diversion, necessarily required for construction of Assets at the Site, within 3% of the estimated cost of construction of the Project shall be borne by the Lessee. However, if the cost is more than 3% of the estimated cost of construction of the Project, the cost in excess of 3% (subject to a maximum amount of 10% of Lease Premium) shall be borne by RLDA by corresponding reduction in the Lease Premium provided the estimate of the cost for utility diversion is jointly agreed to between RLDA, Railway Administration and the Lessee. Notwithstanding anything mentioned above, in case the Lessee is not ready to bear the cost of diversion beyond 10% of the Lease Premium, the Lessee shall have the discretion to terminate the Agreement and claim the full refund of the Lease Premium already paid by the Lessee to RLDA without interest after deduction of any outstanding dues towards Annual Lease Rent and any claim for lossess/damages suffered by RLDA/Railway Administration.

9.11 During the execution of Project, unless otherwise specified, the Lessee shall at his own cost provide the materials for and execute all shoring, timbering and strutting works as is necessary for the stability and safety of all structures, excavations and works and shall ensure that no damage, injury or loss is caused or likely to be caused to any person or property.

9.12 Existing roads or water courses shall not be blocked, cut through, altered, diverted or obstructed in any way by the Lessee, except with the permission of the Nodal Officer. All compensations claimed for any unauthorized closure, cutting through, alteration, diversion or obstruction to such roads or water courses by the Lessee or his agent or his staff shall be recoverable from the Lessee.

9.13 During progress of Development work in any street or thoroughfare, the Lessee shall make adequate provision for the passage of traffic, for securing safe access to all premises approached from such street or thoroughfare and for any drainage, water supply or means of lighting which may be interrupted by reasons of the execution of the works and shall erect and maintain lights and other safeguards as prescribed by the Nodal Officer or the Applicable Permits, for the regulation of the traffic and provide watchmen necessary to prevent accidents.

9.14 The Lessee shall be responsible to take all precautions to ensure the safety of the public whether on public or Railway property and shall post such look out men as may be required to comply with regulations appertaining to the Applicable Laws and any instructions of the Nodal Officer.

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9.15 RLDA shall be entitled to, but not obliged to do so, without being required to give prior written notice to the Lessee, inspect the Site through its duly authorized representative. Provided however, the duly authorized representatives of RLDA shall not interfere with or prevent the Lessee's officials from discharging their functions. The Lessee shall provide all necessary assistance including accompanying the RLDA's representative during such inspections, providing information, plans and other details of the Project as asked for by the RLDA's representative. Based on such inspections, RLDA may, without being obliged to do so, issue, if found necessary, instructions to the Lessee for addressing the deficiencies noted at the site in terms of the Agreement. The Lessee shall comply with such instructions within 30 (thirty) days of receipt of such instruction.

9.16 The Lessee shall ensure that the Site shall remain free from all encroachments during the Term.

9.17 The Lessee shall keep one copy of Drawings and Specifications and such other documents as may be required by RLDA at the site, in good order for Nodal Officer or the Nodal Officer's Representative

Article 10 Approval of Drawings, Development Plan and Completion

10.1 The Lessee shall prepare Drawings for the proposed developments at the Site complying with the requirements of the Agreement, Applicable Laws and Applicable Permits and prior to submitting the same to the concerned Government Authority for obtaining Applicable Permits, the Lessee shall submit the Drawings of the Development Project to the Nodal Officer for his approval. The Nodal Officer shall either approve the Drawings or ask for more details within 30 (thirty) days of submission of the Drawings. If the Nodal Officer fails to reply to the Lessee within this period, the Drawings shall be deemed to have been approved by the Nodal Officer. If the Nodal Officer asks for more details, the Lessee shall furnish these details and within 15 days of furnishing such details, the Nodal Officer will approve the Drawings. However, Nodal Officer may give conditional approval subject to fulfilment of certain conditions by the Lessee. Once approved by the Nodal Officer, the Lessee cannot make any alterations or additions to the approved Drawings without prior approval in writing of the Nodal Officer by following the above procedure.

10.2 The approval by the Nodal Officer in terms of Article 10.1 above shall in no event amount to certifying the conformity of Drawings with Applicable Law or discharge the Lessee from its responsibility of complying with the requirements of the Agreement, Applicable Laws and Applicable Permits. After obtaining the Applicable Permits the Lessee, shall submit a certified copy of such Applicable Permit to the Nodal Officer within 7 days.

10.3 Before start of construction of the Development Project, the Lessee shall prepare a Development Plan specifying different phases in which the Lessee proposes to construct the Development Project (excluding the Redevelopment Project) subject to the total Development period not exceeding 10 (ten) years from the Effective Date. The phasing shall only be permitted with regard to separate buildings and not different floors or levels of the same building. The Nodal Officer may consider such phased development Drawings, provided the number of phases is not more than three. The Development Plan shall be in accordance with Applicable Laws. The Development Plan should be submitted to Nodal Officer for approval. Once submitted to the Nodal Officer, the respective dates for each phase of construction shall become the Guaranteed Date of completion of the Development Project for that phase. The completion period of the Redevelopment works shall be as specified by RLDA in the Schedule.

10.4 The Lessee shall complete the construction of the Development Project within the Guaranteed Date of completion. Upon completion of construction of the Development

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Project and receipt of Applicable Permits for commercial operation/usage, the Lessee shall apply for a Completion Certificate by submitting the certified copies of all such Applicable Permits together with completion Drawings of Assets to the Nodal Officer. The Nodal Officer shall, within 30 (thirty) days of such request either issue the Completion Certificate or convey the shortcomings to the Lessee, which the Lessee shall rectify and send fresh request to the Nodal Officer. If the Nodal Officer fails to respond to the Lessee's request within 30 (thirty) days, the Project completion certificate shall be deemed to have been issued by the Nodal Officer. However, such completion certificate issued by the Nodal Officer shall in no event amount to certifying the conformity with the approved drawings, Applicable Law or discharge the Lessee from its responsibility of complying with the requirements of the Agreement, Applicable Laws and Applicable Permits.

10.5 The Lessee shall not start commercial operation of the Project or permit usage of the Asset until the Lessee has received the Completion Certificate. In exceptional cases when the Lessee is not able to obtain all Applicable Permits from concerned Government Authority in time while the Project is ready for Commercial Operation, the Lessee may request the Nodal Officer for issue of a Provisional Project Completion Certificate based on available Applicable Permits obtained by the Lessee together with completion Drawings. The Nodal Officer may consider the request and issue a Provisional Completion Certificate at the Lessee's risks and costs for violation of any requirements of Applicable Permits and Applicable Laws.

10.6 In case of phased development, the Lessee shall obtain Completion Certificate from the Nodal Officer for each phase of the Development Project before starting the Commercial Operation of each phase.

Article 11 Redevelopment Project

11.1 If required under the Schedule, the Lessee shall design, prepare Drawings and construct the Redevelopment Project, as described in the Schedule of Redevelopment Works, at the Lessee's own cost for handing over such completed Works free of cost to RLDA or the Railway, as the case may be. While designing, preparing Drawings, constructing and maintaining such Works, the Lessee shall be required to follow requirements as provided in hereunder in addition to other conditions of this Agreement.

11.2 The Redevelopment Land shall be given on license by RLDA to the Lessee on an 'as-is where is' basis, from such date as may be specified under the SCLA, solely for the purpose of undertaking the Redevelopment Project. In accordance with the phasing plan specified in the Schedule, the Lessee shall be allowed to access and enter upon the Redevelopment Land to implement the Redevelopment Project, together with the full right of access and passage thereto. The provisions of Article 3 shall apply mutatis mutandis to the Redevelopment Land and any disclaimers made therein with respect to the Site shall also apply to the Redevelopment Land. Further, it is clarified that the Lessee shall not have any lease rights on the Redevelopment Land or the Redevelopment Assets

11.3 The Lessee shall provide, furnish and perform, on a turnkey basis all necessary design, Drawings, engineering, procurement, supplies, installation, erection, construction, testing, commissioning activities on the Redevelopment Project (including all rectification and remedial services, activities and work relating to defects and deficiencies) during maintenance period specified in SCLA.

11.4 **Design**:- Based on the Drawings provided in Schedule and Additional drawings attached with the Lease Agreement outlining the concept plan and scope of such works, the Lessee shall prepare the detailed designs and drawings through a competent and reputed

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Architect and Structural engineer. Name of such Architect and Structural engineer are required to be approved by the Nodal Officer prior to the Lessee assigning them the design works. All Drawings prepared for such Redevelopment Work shall be required to be approved by the Nodal Officer prior to their use at the Redevelopment Land for construction.

11.5 The Lessee shall submit a programme for Redevelopment Works in the form of Bar Chart/PERT/CPM indicating the time schedule of various items of works for completing the entire Redevelopment Works. The programme shall be in conformity of the phasing specified in the SCLA for the Redevelopment works. The programme of work amended as necessary by discussion with Nodal Officer, shall be treated as the agreed programme of the work and the Lessee shall endeavour to fulfill this programme of work.

11.6 **Setting out of Works**:- The Lessee shall be responsible for the correct setting out of all works on the ground and Drawings. The Lessee shall provide all facilities like labour and instruments and shall co-operate with the Nodal Officer or its representative to check the setting. If instructed by the Nodal officer or its representative, the Lessee shall rectify such errors.

11.7 **Compliance to Nodal Officers Instruction**:- The Nodal Officer shall have the right to instruct the Lessee or its Sub-Contractor for rectifying defects in materials, equipments workmanship, housekeeping, quality or the temporary or permanent works at any time while inspecting the Redevelopment Works. The Lessee shall comply with such instructions. No alteration in or additions to or omissions or abandonment of any part of the Redevelopment Works shall be deemed authorized, except under instruction from the Nodal Officer.

11.8 **Instruction of Nodal Officer's Representative**:- Any instruction or approval given by the Nodal Officer's representative to the Lessee in connection with Redevelopment Work shall bind the Lessee as though it had been given by the Nodal Officer provided always as follows:-

(a) Failure of the Nodal Officer's representative to disapprove any work or materials shall not prejudice the power of the Nodal Officer thereafter to disapprove such Redevelopment Works or any part thereof or material and to order the removal or breaking up thereof.

(b) If the Lessee/its Sub-Contractor shall be dissatisfied by reasons of any decision of the Nodal Officer's representative, it shall be entitled to refer the matter to the Nodal officer who shall there upon confirm or vary such decision.

11.9 **Adherence to Specifications and Drawings**:- The whole of the works shall be executed in perfect conformity with the Specifications and approved Drawings. If Lessee performs any works in a manner contrary to the Specifications and approved Drawings or any of them and without such reference to the Nodal Officer it shall bear all the costs arising or ensuing there from and shall be responsible for all loss to RLDA or the Railway.

11.10 **Drawings and Specifications of the Works**:- The Lessee shall keep one copy of Drawings and Specifications at the site, in good order and such documents shall at all times be available to the Nodal Officer or the Nodal Officer's Representative.

11.11 **Ownership of drawings and specifications**:- All Drawings and Specifications and copies thereof approved by RLDA are deemed to be the property of RLDA. They shall not be used on other works and with the exception of the signed Agreement set, shall be returned by the Lessee to RLDA on completion of the work and issuance of the completion certificate in respect of Redevelopment Works.

11.12 **Workmanship and Testing of Works**:- The whole of the Redevelopment Works and/or

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supply of materials specified and provided in the Agreement or that may be necessary to be done in order to form and complete any part thereof shall be executed in the best and most substantial workman like manner with materials of the best and most approved quality of their respective kinds, agreeable to the particulars contained in or implied by the specifications and as referred to in and represented by the drawings or in such other additional particulars, instructions and drawings may be found requisite to be given during the carrying on of the works and to the entire satisfaction of the Nodal Officer according to the instructions and directions which the Lessee may from time to time receive from the Nodal Officer. The materials may be subjected to tests by means of such machines, instruments and appliances as the Nodal officer may direct and wholly at the expense of the Lessee.

11.13 **Removal of improper work and materials:-**The Nodal Officer or the Nodal Officer's Representative shall be entitled to order from time to time:-

(a) the removal from the Redevelopment Land within the time specified in the order of any materials which in his opinion are not in accordance with the Specifications or Drawings.

(b) the substitution of proper and suitable materials, and

(c) the removal and proper re-execution, notwithstanding any previous tests thereof of any work which in respect of materials or workmanship is, in his opinion, not in accordance with the Specifications and in case of default on the part of the Lessee in carrying out such order RLDA shall be entitled to Terminate the Contract.

11.14 **Facilities for Inspection:-**The Lessee shall afford the Nodal Officer and the Nodal Officer's representative every facility for entering in and upon every portion of the work at all hours for the purpose of inspection or otherwise and shall provide all labour, materials, planks, ladders, pumps, appliances and things of every kind required for the purpose and the Nodal Officer and the Nodal Officer's representative shall at all times have free access to every part of the works and to all places at which materials for the works are stored or being prepared.

11.15 **Examination of work before covering up:-** The Lessee shall give 7 days notice to the Nodal Officer or the Nodal Officer's Representative whenever any works or materials are intended to be covered up in the earth, in bodies or walls or otherwise to be placed beyond the reach for inspection in order that the work may be inspected before being so covered, placed beyond the reach of inspection in default whereof, the same shall at the option of the Nodal Officer or the Nodal Officer's Representative be uncovered at the Lessee's expense.

11.16 **Temporary Works:-** All temporary works necessary for the proper execution of the Redevelopment Project shall be provided and maintained by the Lessee and subject to the consent of the Nodal Officer shall be removed by it when they are no longer required and in such manner as the Nodal Officer shall direct. If temporary huts are provided by the Lessee on the Railway land for labour engaged by him for the execution of Redevelopment Works and after obtaining the written consent of the owner of such land, the Lessee shall arrange for handing over vacant possession of the said land after the Work is completed.

11.17 **Maintenance of works:-** The Lessee shall at all times during the progress and continuance of the Redevelopment Works and also for the period of maintenance, if any specified in the Schedule after the date of the certificate of completion in respect of the Redevelopment Works or any other earlier date subsequent to the completion of such Redevelopment Works that may be fixed by the Nodal Officer, be responsible for and effectively maintain and uphold in good substantial, sound and perfect condition all and

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every part of the Redevelopment Works and shall make good from time to time and at all times as often as the Nodal Officer shall require, any damage or defect that may during the above period arise in or be discovered or be in any way connected with the works and the Lessee shall be liable for and shall pay and make good to RLDA or other persons legally entitled thereto whenever required by the Nodal Officer so to do, all losses, damages, costs and expenses they or any of them may incur or be put or be liable to by reasons or in consequence of the operations of the Lessee or of his failure in any respect.

11.18 **Certificate of completion of Redevelopment works**:- As soon as in the opinion of the Nodal Officer the Redevelopment Works shall have been substantially completed and shall have satisfactorily passed any final test or tests that may be prescribed, the Nodal Officer shall issue a Certificate of Completion in respect of the Redevelopment Works and the period of maintenance of such works shall commence from the date of such certificate provided that the Nodal Officer may issue such a certificate with respect to any part of the works before the completion of the whole of the works or with respect to any substantial part of the Redevelopment Works which has been both completed to the satisfaction of the Nodal Officer and occupied or used by Railway and when any such certificate is given in respect of part of the works such part shall be considered as completed and the period of maintenance of such part shall commence from the date of such certificate.

11.19 **Lessee not absolved by completion certificate:**-The Certificate of completion in respect of Redevelopment Works shall not absolve the Lessee from his liability to make good any defects, imperfections, shrinkages or faults which may appear during the period of maintenance specified in the Bid Documents arising in the opinion of the Nodal Officer from materials or workmanship not in accordance with the Drawings or Specifications or instructions of the Nodal Officer, which defects, imperfections, shrinkages or faults shall upon the direction in writing of the Nodal Officer be amended and made good by the Lessee at his own cost; and in case of default on the part of Lessee the Nodal Officer may employ labour and materials or appoint its own contractor to amend and make good such defects, imperfections, shrinkages and faults and all expenses consequent thereon and incidental thereto shall be borne by the Lessee and shall be recoverable from the Lessee.

11.20 **Approval only by Maintenance Certificate:**-No certificate other than Maintenance Certificate referred to in the Article 11.21 shall be deemed to constitute approval of Redevelopment Works or other matter in respect of which it is issued or shall be taken as an admission of the due performance of the Agreement or any part thereof nor shall any other certificate conclude or prejudice any of the powers of the Nodal Officer.

11.21 **Maintenance Certificate:**-The Redevelopment Works shall not be considered as completed until a maintenance certificate (the **"Maintenance Certificate"**) shall have been signed by the Nodal Officer stating that such works have been completed and maintained to his satisfaction. The Maintenance Certificate shall be given by the Nodal Officer upon the expiration of the period of maintenance specified in SCLA or to the satisfaction of the Nodal Officer and full effect shall be given to this sub-clause notwithstanding taking possession of or using the works or any part thereof by the Railway.

11.22 **Unfulfilled Obligations:**-Notwithstanding the issue of the maintenance certificate the Lessee shall remain liable for the fulfillment of any obligation prior to the issue of the maintenance certificate which remains unperformed at the time such certificate is issued and for the purposes of determining the nature and extent of any such obligations the relevant provision herein shall be deemed to remain in force.

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Article 12 Maintenance of the Development Project

12.1 The Lessee shall be responsible for safety, soundness and durability of the Assets constructed upon the Site and shall ensure that the Assets comply with the specifications and standards as per Good Industry Practice (for the Design Life and for further complying the requirements as set out herein). The Lessee shall operate and maintain the Assets and Project Utilities at all times during the Term as per the Good Industry Practices so that they perform satisfactorily at all times and meet all the serviceability requirements during the Design Life.

12.2 The Lessee shall be liable for any latent or visible defect and deficiency in Assets (defect due to Drawings, design or construction, workmanship or any other reason) which could not be ordinarily detected. The Lessee shall carry out necessary corrective and preventive measures so that the defects and deficiencies are rectified and Assets are restored to a sound condition.

12.3 The Lessee shall prepare and maintain an Asset and Project Utility register of all the Assets and Project Utilities constructed by it. The Asset and Project Utility Register shall be prepared as soon as each of the Assets and Project Utilities provided for in the Development Plan are completed. The Lessee shall update the Asset and Project Utility Register as and when any additional Asset or Project Utility is added at the Site or any one of them is replaced by the Lessee as part of the Maintenance and Replacement Plan. The Lessee shall provide two copies of the Asset and Project Utility Register to RLDA within 30 days of preparing or updating the same.

Article 13 Marketing and Sub-Leasing

13.1 After certification of the plans from the Nodal Officer and approval of the plans from the concerned Government Authority under Applicable Laws, the Lessee shall be entitled to market any space in the Assets/Project Utilities through provisional letter of allotment subject to Article 13.1.1 to 13.1.17. The Lessee shall market the Built Up Area under-construction only under provisional letter of allotment instrument till the time a formal Sub-Lease Deed is executed between the Lessee and Sub Lessee as specified in Article 13.2 below. Marketing may also be done directly through execution of Sub-Lease Deed as provided in Article 13.2 below and shall be subject to the following :

13.1.1 All amounts due and payable by third parties pursuant to marketing by the Lessee should be paid through account payee cheque and be deposited in either the Escrow Account (if applicable) or a designated bank account of the Lessee. The Lessee shall furnish the details of the designated bank account to RLDA prior to undertaking any marketing in respect of the Project. Further the Lessee shall not utilize the receipts from the marketing/Sub-leasing except towards meeting with the expenses in executing the Project and making payments of Consideration to RLDA until the entire Project is completed and Completion Certificate is issued by the Nodal Officer. The consideration for the sub-lease shall be structured by the Lessee complying following conditions:

(a) There shall be a provision of interest free and refundable security deposit to be paid by the Sub-Lessee prior to execution of the Sub-lease Deed. This security deposit shall be returned to the Sub-Lessee on expiry of the sub-lease period or on termination of the sub-lease prior to the expiry after delivery of vacant physical possession by the Sub-lessee and after making adjustments of all outstanding payments.

(b) The sub-lease rent shall be structured to have a monthly/quarterly/annually rent to be paid by the Sub-lessee in advance in the first week of every period. The rent shall

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increase by a minimum of 15% every three years. The rent must have two components- the first towards payment of Annual Lease Rent by the Lessee to RLDA and the second towards payment by the Sub-Lessees to the Lessee. The first component shall be of such amount that the total annual rent to be collected from all Sub-lessees for the entire Project should be at least 25% higher than the total Annual Lease Rent required to be paid by the Lessee to RLDA for the entire Project at any point of time during the Term to ensure that there is no default in Payment of Annual Lease Rent to RLDA. The Lessee may, however, collect the second component of the rental which is being retained by him as one-time payment by discounting the specified monthly rental by 12% at his discretion after allowing for the above.

(c) There shall be provision for separate monthly O&M charges to be paid in advance in the first week of the month towards Operation & Maintenance of Assets and Project Utilities. O&M charges for each sub-leased space shall be fixed in advance by the Lessee based on the assessment of O&M expenses.

13.1.2 Any provisional letter of allotment from the Lessee shall not bestow any right on the third party for usage of space in the Project till such time as the Sub-Lease Deed has been executed. Each provisional letter of allotment shall include the status of payments made to RLDA and shall be accompanied by a draft of the Sub-Lease Deed, which shall include terms and conditions, restrictions and limitations contained in this Agreement and shall mention that lease rights would flow to the third party only on payment of full lease premium and other dues to RLDA by the Lessee.

13.1.3 In case of termination of the Agreement or substitution of the Lessee during the Construction Period, all the provisional letters of allotments issued by the Lessee shall be liable to be terminated in case either the Nominated Company or RLDA as the case may be so desires. In such an event, the third party shall be entitled for refund of the amount (without any interest) already paid to the Lessee as mentioned under Para 13.1.1 above from the Nominated Company or RLDA, as the case may be. In the event, the refund is to be done by RLDA, the total amount of such refunds for all the provisional allottees shall not exceed the maximum amount of Termination Payment permissible under the Agreement to the Lessee.

13.1.4 Any booking done or provisional letter of allotment issued not complying with the requirements specified in the Agreement shall not be a valid booking and the Lessee shall keep and hold RLDA indemnified in case of any default in complying with the conditions herein. Further, any violation of these conditions will constitute a Lessee Event of Default and may lead to Termination.

13.1.5 Upon receipt of Notice of Financial Default or Notice of Intention to Terminate, the Lessee shall immediately stop any further marketing.

13.1.6 Marketing of any open area/space on the Site can be done for only short duration (less than a year) through sub-licensing for temporary usage without construction of any permanent structure.

13.1.7 Until the Lessee has obtained the Completion Certificate from the Nodal Officer the Lessee cannot enter into a Sub-Lease Deed with any third party.

13.2 Upon issuance of the Completion Certificate by the Nodal Officer, the Lessee shall have the right to grant Sub-Lease of spaces within the Assets and Project spaces on the Site to third parties to the extent that the percentage of the cumulative Built up Area of all the Sub-Lease Deeds to the total permissible Built up Area does not exceed the percentage amount of Lease Premium already paid by the Lessee to RLDA and subject to the following conditions:

(a) The Lessee shall not sub-lease the Site;

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(b) The draft of the Sub-Lease Deed shall be prepared by the Lessee complying with the requirements under the Agreement as per typical draft specified at Annexure to the GCLA and shall have to be pre-approved by the Nodal Officer;

(c) Each time the Lessee enters into a Sub-Lease Deed with a Sub-Lessee, the Lessee shall collect a one-time payment of ₹100 (Rupees one hundred) per Sq.M. of the Sub-Leased area from third parties through A/c Payee Cheque to RLDA and deposit the same with RLDA along with a copy of such Sub-Lease Deed within 30 (thirty) days of entering into such Sub-Lease ;

(d) The term of Sub-Lease Deed shall not exceed beyond the Term of the Agreement;

(e) The right of Sub-Leasing of the Assets shall be solely vested in the Lessee and shall not be transferable in any form except to its successors and permitted assigns;

(f) A Sub-Lessee shall not have any right to further sub-lease either partly or fully to any other party. However, on written request of a Sub-Lessee and subject to a one-time payment of ₹100/- (Rupees one hundred) per Sq.M. of the area from such new party through an account payee cheque to RLDA as transfer charge as in Article 13.2.3 above, the Lease can transfer the Sub Lease to another party.

(g) The Lessee shall maintain a Sub-Lease register, in such format as may be acceptable to RLDA. Details of all the Sub-Lease Deeds shall be entered into the Sub-Lease register within 30 (thirty) days of entering into the Sub-Lease Deed and a copy of such a Sub-Lease Deed shall be supplied to RLDA. The Lessee shall maintain the log of the cumulative Built Up Area (including percentage of the total permissible Built up Area) Sub-Leased and the cumulative percentage of payment made to RLDA towards Lease Premium in the Sub-Lease register. The Lessee shall provide a copy of the Sub-Lease Register to RLDA every year before the 15th of April. Further, upon the receipt of a written request from RLDA, the Lessee shall allow the representatives of RLDA to conduct a due diligence of all the Sub-Lease Deeds entered into by the Lessee with respect to the Project and shall, upon demand, supply the relevant extracts of the register mentioned herein to the representatives of RLDA.

13.3 The Lessee shall maintain a management information system for all bookings done, payments received, future cash flows from such bookings etc. A copy of such report shall be submitted by the Lessee to RLDA every three months during Construction Period and thereafter every six months.

Article 14- Extension of Time

14.1 **Force Majeure Event**: If at any time, during the Term, the performance in whole or in part by either Party of any obligation under the Agreement shall be prevented or delayed by reason of any Force Majeure Event and notice of the happening of any such event is given by either Party to the other within 15 days from the date of occurrence thereof, neither Party shall by reason of such event, be entitled to terminate the Agreement nor shall either Party have any claim for damages against the other in respect of such non-performance or delay in performance and the Project under the Agreement shall be resumed as soon as practicable after such event has come to an end or ceased to exist and the decision of the Nodal Officer as to whether the Project has been so resumed or not shall be final and conclusive.

14.2 **Extension of time for Construction without damages:** -Subject to any requirement in the Agreement for completion of construction of any portion or portions of the Project before completion of the whole Project, the Lessee shall fully and finally complete the

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construction of the whole Project by the Guaranteed Date or extended date in terms of the following Sub-Clauses:-

14.2.1 If any modification has been ordered by any Government Authority while granting Applicable Permits or subsequent to grant of Applicable Permits a modification has been ordered which in the opinion of the Nodal officer has materially changed the scope of the Project requiring extension of the period of completion, such extension of the Guaranteed Date of Completion may be granted as shall appear to the Nodal officer to be reasonable in the circumstances, provided however, the Lessee shall be responsible for requesting such extension of the date as may be considered necessary as soon as the cause thereof shall arise and in any case not less than one month before the expiry of the date fixed for completion of the Project.

14.2.2 If, the progress of work has at any time been delayed by any act or neglect of RLDA or by other contractor employed by the Railway/RLDA or non-fulfillment of obligations by RLDA on which Lessee's performance necessarily depends or by reason of proceedings taken or threatened by or dispute with adjoining or neighbouring owners or public authority arising otherwise through the Lessee's own default etc. or by the delay authorized by the Nodal officer, then upon occurrence of any such event causing delay, the Lessee shall immediately give notice for extension in writing to the Nodal Officer within 15 days of such occurrence but shall nevertheless make constantly his best endeavours to reduce or make good the delay and shall do all that may be reasonably required of him to the satisfaction of the Nodal Officer to proceed with the Project. The Lessee may also indicate the period for which the Project is likely to be delayed and shall ask for necessary extension of time. The Nodal Officer on receipt of such request from the Lessee shall consider the same and if in the opinion of the Nodal Officer the reason for the delay is genuine, he shall grant such extension of time as in his opinion is reasonable having regard to the nature and period of delay and the type and quantum of work affected thereby. No other compensation to the Lessee or damages to RLDA shall be payable for Project so carried forward to the extended period of time and the terms and conditions of Agreement would continue to be applicable as if such extended period of time was originally provided in the Agreement.

14.2.3 In the event of any failure or delay by RLDA to hand over the right of way to the Site or the Redevelopment Land to the Lessee, such failure or delay shall in no way affect or vitiate the Agreement or alter the character thereof or entitle the Lessee to damages or compensation thereof except as provided hereof, but in any such case, RLDA may grant such extension or extensions of the Completion Date, as may be considered reasonable. In case of delay in providing right of way to the Site as per Article 2.4, RLDA shall be liable to pay to the Lessee liquidated damages equivalent to 0.1% (zero point one percent) of the amount of Lease Premium already paid by the Lessee to RLDA till the occurrence of delay for each week or part thereof based on the proportionate area affected by such delay in the handing over of the right of way to the Site subject to a maximum limit of 5% of the amount of Lease Premium already paid by the Lessee to RLDA till the occurrence of delay. The liquidated damages for each phase shall be calculated as per the following formula:

$$\text{Liquidated damages} = 0.001 \times \frac{\text{Amount of Lease Premium paid by the Lessee}}{\text{Total Area of the Site}} \times \text{Area of Site not handed over to the Lessee by RLDA}$$

In case of delay in providing right of way to the Redevelopment Land no liquidated damages will be payable to the Lessee. However, if RLDA fails to provide the right of way to the Redevelopment Land throughout the time provided in the Agreement for completing the Redevelopment Works, the Lessee may decide and convey to RLDA not to undertake the Redevelopment Works provided the Lessee pays to RLDA an amount equal to the

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estimated cost of Redevelopment Works specified in the Agreement not later than one month from the date such decision is conveyed to RLDA.

14.3 **Extension of time for Construction on account of delay by the Lessee:-**

14.3.1 Development Project and Redevelopment Project must be completed not later than the Guaranteed Date specified by the Lessee and the completion period specified in the SCLA respectively. If the Lessee fails to complete the Development Project or the Redevelopment Project within the time as specified in the Agreement for reasons other than the reasons specified under Article 14.1 and Article 14.2, RLDA may, if satisfied that the Project can be completed by the Lessee within a reasonably short time thereafter, allow the Lessee extension of time for completion of Project as the Nodal Officer may decide. On such extension RLDA will be entitled without prejudice to any other right and remedy available in this regard, to recover from the Lessee damages as agreed and not by way of penalty, a sum equivalent to 0.1% (zero point one percent) of the amount of Lease Premium for each week or part of the week of extension granted.

14.3.2 For the purpose of this clause, the amount of the Lease Premium shall be taken as per Agreement including any additional Lease Premium. Provided also, that the total amount of liquidated damages under this condition shall not exceed the under noted percentage value or of the part amount of Lease Premium corresponding to the percentage part of Project for which a separate distinct completion period is specified in the Agreement:

(a)	For Lease Premium up to ₹5 crore	-	10% of the total amount of Lease Premium
(b)	For Lease Premium above ₹5 crore	-	10% of the first ₹5 crore and the 5% of the balance

Provided further, that if the RLDA is not satisfied that the Project can be completed by the Lessee and in the event of failure on the part of the Lessee to complete the Project within extension of time allowed as aforesaid, RLDA shall be entitled without prejudice to any other right or remedy available in that behalf, to appropriate the Performance Guarantee and terminate the Agreement in accordance with Article 21, whether or not actual damage is caused by such default.

14.4. **Extension of time of payment for delay on account of the Lessee:-** The time fixed for making various payments to RLDA by the Lessee specified in the Agreement documents shall be deemed to be the essence of the Agreement and the Lessee must make these payments not later than the dates as specified in the Agreement. If the Lessee fails to make these payments within the time as specified in the Agreement for reasons other than the reason specified in Article 14.1 it shall be construed as a Payment Default on behalf of the Lessee and RLDA may, if satisfied that the overdue payment can be made by the Lessee within reasonably short time thereafter allow the Lessee extension of date (s) of such payment (s) as the Nodal Officer may decide. On such extension, RLDA will be entitled without prejudice to any other right and remedy available on that behalf to recover from the Lessee damages as agreed and not by way of penalty a sum computed at an annual rate of interest of 3% higher than the rate of interest specified in Schedule of Payment for the actual delay (in number of days) in making the payment.

For the purpose of this sub-clause the maximum extension that can be granted **shall not exceed one year.**

14.5. **Extension of time of Payment without damages:-** The Lessee shall fully pay to RLDA all payments specified in the Agreement by the due date specified in the Agreement or extended date in terms of the following Sub-Clauses:-

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14.5.1 If the construction of the Project gets delayed due to any of the reasons specified in Article 14.2.1, Article 14.2.2 and Article 14.2.3 and provided it causes delay in marketing of the Project and thereby shortfall in realization of Project Revenues in a Financial Year, then such extension of the contracted due date of Payment(s) may be granted as shall appear to the Nodal Officer to be reasonable in the circumstances, provided that the Lessee shall be responsible for requesting such extension of the due date as may be considered necessary as soon as the cause thereof shall arise and in any case not later than one month before the expiry of the due date of the payment, and provided further that the interest at the rate applicable on the outstanding Lease Premium specified in the Schedule of Payment shall be payable by the Lessee on the over due amount (including any interest thereof) for the extended period.

14.5.2 Deleted.

Article 15- Financing

15.1 The Lessee expressly agrees and undertakes that the Lessee shall himself be responsible to arrange for financing and/or meeting all financing requirements for the Project at its own risk and costs and shall enter into Financing Agreements with the Lenders for the same. As and when such Financing Agreements are approved by the Lenders, with or without modifications, a copy of the same shall be furnished by the Lessee to RLDA.

15.2 The Agreement shall not be assigned by the Lessee. Provided however, subject to the provisions of the Agreement, Lenders may be given a right of substitution by execution of the Substitution Agreement the draft of which shall be prepared complying with the requirements under the Agreement as per the draft annexed hereto and marked as Annexure B to the GCLA without any material change to the provisions thereto and shall have to be pre-approved by the Nodal Officer.

15.3 Provided further that at any given time, RLDA shall enter into only 1 (one) Substitution Agreement with 1 (one) Lenders' Representative (as defined in the Substitution Agreement); such Lenders' Representative being an agent for one consortium of Lenders.

15.4 The Lenders may exercise the rights of step in or substitution as provided in the Substitution Agreement provided that the Nominated Company substituting the Lessee shall enjoy all rights and be responsible for performing/ fulfilling all obligations of the Lessee under the Agreement.

15.5 Provided that in the event the Lenders are unable to substitute the Lessee by a Nominated Company as per provisions of the Substitution Agreement, RLDA shall have the right to substitute the Lessee by such a Nominated Company as may be selected through a process of competitive bidding.

15.6 The Nominated Company substituting the Lessee shall enjoy all rights and be responsible for all obligations of the Lessee under the Agreement, however in this event the Lenders will be required to restructure the debt obligations in accordance with the provisions of the Financing Agreements and the Nominated Company shall not be liable for an amount exceeding 85% (eighty five percent) of the Debt Due.

15.7 **Creation of Encumbrance till Entire Amount of Lease Premium is paid to RLDA:-** The Lessee on signing the Agreement may create an Encumbrance over its Lease Rights on the Site and over any of the receivables due to it from the Project Revenues (after making allowance towards all future payments by the Lessee to RLDA) in favour of the Lenders for the purposes of financing the Project with prior written approval of RLDA.

15.8 **Creation of Encumbrance after Entire Amount of Lease Premium is paid to RLDA:-** The Lessee, after payment of all the payments regarding Lease Premium due and

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payable to RLDA shall have the right to create Encumbrance over its Lease Rights on the Site and over any of the receivables due to it from the Project Revenues (after making allowance towards all future payments to RLDA) in favour of the Lenders for the purposes of financing the Project with prior written permission of the Nodal Officer, which shall not be unreasonably withheld.

15.9 **Financial Model for the Project:-**

15.9.1 The financing arrangements shall be based on the Financial Model for the Project prepared by the Lessee and approved by the Lenders prior to entering into the Financing Agreements. The Financial Model shall set forth all capital costs, sources of financing such capital costs, O&M Expenses, Project Revenues, replacement costs, reserves for emergencies, servicing of various debts, Distributions to the shareholders of the Lessee and the projected Equity IRR. The Financial Model shall be the basis on which the Lessee shall prepare the details of amounts to be withdrawn from the Escrow Account if applicable. The Lessee shall update the Financial Model after the issue of the Project Completion Certificate so as to reflect the actual Project Cost incurred on the Project. Thereafter the Financial Model shall be updated by the Lessee every five years till expiry of the Term to reflect the actual O&M expenses, replacement costs, major repairs, realization from Project Revenues.

15.9.2 The Lessee shall provide to RLDA, a copy of the initial Financial Model and each time the same is revised/amended and duly approved by the Lenders and in case there is no Lender at any point of time, the same should be duly certified by the Statutory Auditor of the Lessee. In the event of failure of the Lessee to revise/amend the Financing Model and supply a copy to RLDA. RLDA may suspend certain withdrawals from the Escrow Account, if existing, till the Lessee remedies such failure.

15.10 **Escrow Account:**

15.10.1 Establishment of an Escrow Account may be specifically required under the SCLA. If so required, the Lessee shall prior to the Appointed Date, open and establish an Escrow Account as be provided under the SCLA or the Agreement.

15.10.2 The Escrow Account shall be closed with the mutual consent of the Parties after the entire outstanding amount against the installments of Lease Premium plus interest has either been paid by the Lessee to RLDA or has been recovered by RLDA from the Escrow Account in terms of the Escrow Agreement, whichever is earlier. The Escrow Agreement shall be executed with its draft having been prepared complying with the requirements under the Agreement as per the draft annexed to the GCLA without any material change to the provisions thereto and shall have to be pre-approved by the Nodal Officer.

Article 16 - Insurance

16.1 The Lessee shall effect and maintain, at its own cost, either directly or through its principal Sub-contractor, during the Construction Period and the Term, Contractor All Risk (CAR) Insurance and other insurances for such maximum sums as may be required under the Financing Agreements and the Applicable Laws and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Lessee shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on RLDA as a consequence of any act or omission of the Lessee, its Sub-Contractors, Sub-Lessees, agents etc.

16.2 The Lessee shall ensure that in each insurance policy, RLDA shall be a co-insured and that the insurer shall pay the proceeds of insurance to the Lessee, who, in turn shall compensate RLDA for such losses as shall be assessed by RLDA. For the avoidance of doubt, the level of insurance to be maintained by the Lessee after repayment of the

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Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Lenders' dues.

16.3 **Notice to RLDA**:- Not later than 45 (forty five) days from the Effective Date, the Lessee shall by notice furnish to RLDA, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article 16. Within 30 (thirty) days of receipt of such notice, RLDA may require the Lessee to effect and maintain such other insurances as may be necessary pursuant hereto and the Lessee shall forthwith obtain such insurances.

16.4 **Evidence of Insurance Cover**:- All insurance obtained by the Lessee in accordance with this clause shall be maintained with insurer or reinsurers, and on terms consistent with Good Industry Practice. Within 45 (forty five) days of obtaining any insurance cover, the Lessee shall furnish to RLDA, copies of certificates of insurance, copies of the insurance policies signed by an authorised representative of the insurer and copies of all premium payment receipts in respect of such insurance received from each insurance carrier and such insurance will not be cancelled, changed or not renewed until the expiration of at least 45 (forty five) days after written notice of such cancellation, change of non-renewal has been received by RLDA.

16.5 **Remedy on Failure to Insure**:- If the Lessee shall fail to effect and keep in force the insurance for which it is responsible pursuant hereto, RLDA shall have the option to keep in force any such insurance, and pay such premium and recover the costs thereof from the Lessee, or for the purposes of computation of payments to the Lessee, treat the insurance cover i.e. the maximum sums, which such insurance was providing for had it been in force and effect as being deemed to have been received by the Lessee.

16.6 **Waiver of Subrogation**:- All insurance policies supplied by the Lessee shall include a waiver of any right of subrogation of the insurers thereunder against, inter alia, RLDA, and its assigns, affiliates, employees, insurers and underwriters and of any right of the insurers of any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy.

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

16.8 **Application of Insurance proceeds**:-The proceeds from all insurance claims, except life and injury, shall be paid to the Lessee by a/c payee cheque drawn in its favour and the Lessee shall use such amount for any necessary repair, reconstruction, reinstatement, replacement, improvement or delivery of the Assets and Project Utilities and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

Article 17 - ACCOUNTS AND AUDIT

17.1 The Lessee agrees and undertakes that during the subsistence of the Agreement, it shall maintain books of accounts recording all receipts including those on account of Project Revenue, income receipt, payments, assets and liabilities in accordance with Good Industry Practice and Applicable Laws. The said account shall, inter-alia, clearly reflect:

(a) Sub-Lessee wise account of receipts and receivables;

(b) Account of all other receipts and receivables;

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(c) Obligations towards contractors, Sub-Contractors, suppliers and all payments made;

(d) Application of debt fund; and

(e) Application of equity fund.

17.2 RLDA shall have the right to inspect the records of the Lessee during office hours and require copies of relevant extracts of books of account, duly certified by Auditors of the Lessee, which the Lessee shall be bound to provide to RLDA.

17.3 The Lessee also agrees and undertakes that it shall within 30 (thirty) days of the close of each quarter of a Financial Year/Accounting Year, furnish to RLDA its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by companies listed on a stock exchange.

17.4 It is expressly agreed between the Parties hereto that for the purposes of this Article 17, RLDA may appoint an independent auditor, the cost whereof during the Construction Period shall be borne by the Lessee and thereafter, the same shall be borne by RLDA.

Article 18 -Change of ownership and equity lock-in

18.1 The Lessee shall not be permitted to undertake or permit any change in ownership except as provided hereunder in this Article 18.

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

(a) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of not less than 15% (fifteen per cent) of the total Equity of the Lessee, or

(b) acquisition of any control directly or indirectly of the Board of Directors of the Lessee by any person either by himself or together with any person or persons acting in concert with him,

shall each be subject to prior approval of RLDA on the Lessee giving prior information to RLDA of any such proposed change in its shareholding together with excerpts of relevant Applicable Laws that permit the Lessee to do so and in case of failure to do so, RLDA shall have the right to terminate the Agreement, forfeit the lease premium amount already paid, encash the bank guarantee for the remaining installments, if any, encash the performance guarantee and take such other steps as may be available to RLDA without in any manner being liable to the Lessee. Further, in the event of a change in control of a holding/subsidiary whose technical experience was taken into consideration for the purposes of technical eligibility at the time of submission of the Bid and in case such change in ownership results in the originally Selected Bidder becoming technically ineligible, RLDA shall terminate the Lease Agreement and forfeit the amounts as specified above.

For the purposes of this Sub-Clause:

(i) the expression "acquirer", "control" and "person acting in concert" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Lessee;

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(ii) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Lessee; and

(iii) power to appoint, whether by Agreement or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situated in India or abroad) the Equity of the Lessee, not less than half of the directors on the Board of Directors of the Lessee or of any company, directly or indirectly whether situated in India or abroad, having ultimate control of not less than 15% (fifteen per cent) of the Equity of the Lessee shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Lessee.

18.3 Selected Bidder shall hold more than 50% (fifty percent) in the paid-up and subscribed equity share capital of the Lessee upto a minimum period of one year after the Completion Date or till the payment of full amount of Lease Premium including interests thereof and any other overdue payment till that date, by the Lessee to RLDA, whichever is later. In the event the Selected Bidder is a Consortium, each Member of the Consortium whose Gross Revenues has been considered to fulfill the Financial Eligibility Criteria shall individually hold a minimum of 26% (twenty six percent) equity/ownership and each Member of the Consortium whose Technical Experience has been considered to fulfill the Technical Eligibility Criteria shall hold a minimum of 10% (ten percent) of the equity/ownership in the Lessee. The Lead Member shall individually hold at least 26% (twenty six percent) of the Equity and Members of the Consortium shall collectively hold more than 50% (fifty percent) of the Equity of the Lessee up to a minimum period of one year after the Completion Date or until the payment of full amount of Lease Premium payable to RLDA including interest and any other overdue payment till that date, whichever is later, in accordance with the provisions of the Agreement.

18.4 It is clarified that in case the Selected Bidder is a Consortium, then the Members (other than the Lead Member & any Member who has contributed towards Financial and Technical Eligibility) of such a Consortium shall be allowed to divest their shareholding in the Equity of the Lessee as long as the other remaining Members hold the minimum Equity specified above.

18.5 In exceptional circumstances, when a Member (other than the Lead Member) who has contributed towards Financial or Technical Eligibility is required to divest its equity/ownership in the Lessee, prior to the Equity lock-in period specified above, RLDA may consider granting permission for the same on the specific request of the Lessee and reasons given thereof provided, however, that remaining Consortium Members continue to hold more than 50% of the Equity in the SPC and that the new Member must have had the Financial or Technical Eligibility, as the case may be, equal to or better than that of the Member being replaced as on Bid submission date and also on the date of replacement duly fulfilling the original eligibility criteria specified for the selection of the Lessee in the Bid Documents/Information to Bidders. Further, part divestment of equity of a Member in such a case shall not be permitted. It is clarified that the change in Technical or Financial Member, shall be considered as divestment of equity and if such change leads to divestment of equity more than the lime specified above, the change shall not be permitted.

Article 19 - Liability and Indemnification

19.1 **Liability in respect of the Project:**-The Lessee shall be solely responsible for the construction, operation and management of the Project and shall have the overall

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responsibility and liability with respect to the Project and all Assets and Project Utilities located upon the Site. In no event shall RLDA have any liability or be subject to any claim for any damages arising out of the design, Drawings, development, financing, construction, operation, maintenance or management of the Project and the Assets and Project Utilities located upon the Site.

19.2 **Deemed Knowledge and Disclaimer:-** The Lessee shall be fully and exclusively responsible for, and shall bear the financial, technical, commercial, legal and other risks in relation to the Project regardless of whatever risks, contingencies, circumstances and/or hazards may be encountered (foreseen or not foreseen) including underground utilities and notwithstanding any change(s) in any of such risks, contingencies, circumstances and/or hazards on exceptional grounds or otherwise and whether foreseen or not foreseen and the Lessee shall not have any right whether express or implied to bring any claim against, or to recover any compensation or other amount from RLDA in respect of the Project other than for those matters in respect of which express provision is made herein.

19.3 **General Indemnity:-**The Lessee hereby indemnifies and agrees and undertakes that from the Effective Date and thereafter during the Term and even after expiry of the Term or upon the earlier termination of the Agreement, it shall keep indemnified and otherwise saved and harmless RLDA, its agents and employees, its consultants from and against any and all claims, demands made against and/or loss caused and/or the damages suffered and/or cost, charges/expenses incurred or put to and/or penalty levied and/or any claim due to injury or death of any person and/or loss or damage caused or suffered to any property owned or belonging to RLDA, its agents and employees or third party as a result of any acts, deeds or thing done or omitted to be done by Lessee or as a result of failure on the part of Lessee to perform any of its obligations or on the Lessee committing breach of any of the terms and conditions or on the failure of the Lessee to perform any of its statutory duty and/or obligations or failure or negligence on the part of Lessee to comply with any Applicable Laws or Applicable Permits or as a consequence of any notice, show cause notice, action, suit or proceedings, given, initiated, filed or commenced by any third party including Sub-Lessees or Government Authority or as a result of any failure or negligence or default of the Lessee or the Sub-Contractors and/or invitees as the case may be, in connection with or arising out of the Agreement or arising out of or in connection with Lessee's use and occupation of the Site and Assets located thereon or due to the non performance by the Lessee of any of its obligations under the Sub-Lease Deed with Sub-Lessees.

19.4 **Indemnity during Marketing:-** The Lessee and not RLDA shall be solely responsible for the timely implementation of the Project. In the event of any breach by the Lessee of its obligations towards the allottees/sub-lessees/any other third party, even if such breach has been caused by any non-performance by RLDA of its obligations as contained in the Agreement, the Developer shall on its own indemnify such parties for all losses and damages incurred by such parties on account of such breach and RLDA shall not be responsible for any such losses.

19.5 Notwithstanding anything to the contrary contained herein, in no event shall RLDA, its officers, employees or agents be liable to indemnify the Lessee for any matter arising out of or in connection with the Agreement in respect of any indirect or consequential loss, including loss of profit, suffered by the Lessee.

19.6 It is expressly understood by the Parties that this Article 19 shall survive the termination or expiry hereof.

19.7 **RLDA's Limitation of Liability:-** Notwithstanding anything contained in the Agreement during the entire Term, the maximum liability of RLDA towards the Lessee in respect of

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the Project resulting out of any default of RLDA or any dispute and subsequent claim by the Lessee in terms of the Agreement shall not exceed the Termination Payment payable to the Lessee in terms of Agreement or aggregate amount already paid by the Lessee to RLDA towards the Consideration whichever is higher.

Article 20 Expiry and Vesting Provisions

20.1 Unless terminated earlier in accordance with Article 21 or by mutual agreement between the Parties in writing, the Agreement shall expire at the end of the Term. Upon such termination or expiry, as the case may be, the Site together with all Assets, Project Utilities and work-in-progress existing on the Site shall automatically vest in RLDA and the Agreement shall stand terminated.

20.2 **Right of First Refusal in Fresh Bidding**:- Subject to the Applicable Laws, in the event the Railway Administration/RLDA, as the case may be, decides to grant rights for operation & maintenance of the Assets and Project Utilities upon the Site to private Lessees/entities for a period beyond the date of expiry of the Term through a competitive bidding process, the Lessee shall have the option to compete and match the bid of the highest bidder, so obtained though the competitive Bidding process, towards undertaking the said operation and maintenance on such terms and conditions, as may be stipulated in the bid documents issued at that time. However, such option may be available to the Lessee only if he is eligible as per the requirements and criteria mentioned in the aforesaid bidding document, participates in the aforesaid Bid process and his bid is within a certain margin (to be decided by the Railway Administration/RLDA at the time of bidding) of the bid of the highest bidder. For the avoidance of doubt it is hereby clarified that the flexibility hereinabove, granted to the Lessee shall be subject to the Lessee being in absolute compliance to the terms, conditions and its obligations under the Agreement and the prescribed criteria under the bid documents issued at that time, to the satisfaction of Railway Administration/RLDA, and shall not be, in any manner whatsoever, claimed by the Lessee as a enforceable right against the Railway Administration/RLDA. RLDA may start the bidding process two years prior to the expiry of the Term and so as to conclude the bidding process and award the rights of operation and maintenance to the selected bidder in terms of this Article 20 one year prior to the expiry of the Term. In such a case the vesting of the Assets and Project Utilities by the Lessee in terms of this Article 20.3 shall be in favour of such selected bidder. If the Lessee itself gets selected as the successful bidder, the vesting of the Assets and Project Utilities shall be in favour of itself under the new lease agreement.

20.3 **Vesting Provisions**:-In case of expiry of the Term, the process of transfer and vesting shall start at least 2 (two) years prior to expiry of the Term with a joint survey by RLDA and the Lessee of all the Assets and Project Utilities, Sub Lessees occupying the Site/Assets including their Sub-Lease with the Lessee. In case RLDA decides against offering the Assets and Project Utilities on lease for a further term on mutually agreed terms and conditions, the Lessee shall ensure that all the Sub-Lessees vacate the Site at least a fortnight prior to the expiry of the Term so that the Site and Assets and Project Utilities are transferred to RLDA free from Encumbrances. In case a new party is selected by RLDA for another term, such party, at its own discretion, may decide to re-negotiate with any or all Sub-Lessees for continuation of Sub-Lessees beyond the Term. In such a case the new selected party shall inform the Lessee at least six months prior to the expiry of the Term about the continuation of such Sub-Lessees who shall continue to occupy the Assets. The Lessee shall allow such Sub-Lessees to remain in occupation of the Assets while vacating the others before transferring the Site, Assets and Project Utilities to the new selected party on the date of expiry of the Term.

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20.4 **Termination prior to expiry of Term:-** In case of termination prior to the expiry of the Term:

20.4.1 all the Assets and Project Utilities including works-in-progress, as existing on the Site together with the Site shall be vested in RLDA or its nominee;

20.4.2 possessions of the Redevelopment Assets and Redevelopment Utilities including all Redevelopment Work in progress upon the Redevelopment Land, if any shall vest with RLDA and the Lessee shall have no right to access or right of way on the Redevelopment Land without the prior consent of RLDA;

20.4.3 all rights and obligations of the Lessee in all Sub-Contracts in respect of the Project shall, unless otherwise determined by RLDA, stand attorned in favour of RLDA which shall act in place of the Lessee;

20.4.4 all rights and obligations of the Lessee in all agreements with third parties in respect of Sub-Lease of Assets shall, unless otherwise determined by RLDA or the Nominated Company stand attorned in favour of RLDA which shall act as the Lessee;

20.5 **Liabilities to be borne by RLDA as a result of termination prior to expiry of Term:-** No liability (accrued or contingent) of the Lessee in relation to any Sub-Contract for the Project on account of actions or inactions prior to the date of transfer of rights and obligations in terms of Article 20.4 above shall be assumed or transferred to RLDA or its nominee pursuant to vesting of the Site, Assets and Project Utilities with RLDA. RLDA at its own discretion may continue with these Sub-Contracts or discharge them without any financial liability on RLDA. Further, RLDA at its sole discretion may continue with the Sub-Lease deeds. If RLDA decides to discharge these agreements and make the Assets, Project Utilities and the Site completely Encumbrance free it shall refund the amount of Sub-Lease fees paid for the un-availed period of Sub-Lease to the individual Sub-Lessees after carrying out an independent audit of such liabilities through a professional chartered accountant/ auditor as under:

(a) In the event of termination of Agreement before the completion of the Project, RLDA may cancel the letter of allotments issued to third parties by the Lessee. Such parties shall be entitled to refund of all sums paid by them to the Lessee specified in clause 13.1.1 as instalments (excluding any registration charges) after deduction of 10% (ten percent) from such sums towards processing fee.

(b) In the event of termination of Agreement after the completion of the Project, RLDA may terminate any or all Sub-Lease Deeds, letter of allotments and any such marketing agreements in respect of the Project executed by the Lessee with any third party while such parties shall be entitled to refund of all monthly Sub-Lease rentals paid in advance for the un-availed period of the Sub-Lease.

20.6 **Transfer and Indemnity:-** On Termination or Expiry, whichever is earlier, the Lessee Agrees to transfer the physical possession of the Site, Redevelopment Land (if any), Assets and Project Utilities along with the original documents of all approvals, permits, NOCs, TDRs and other such rights in the Assets and Project Utilities on or before the Transfer Date. In case of Termination Notice issued by RLDA the Lessee agrees to transfer the physical possession along with the original documents as above on such date as may be specified by RLDA in the Termination Notice but in no case later than 10 (ten) days from the date of issue of the Termination Notice. If the Lessee fails to do so, RLDA shall have the right to take over the physical possession ex-parte anytime thereafter. The Lessee agrees to indemnify and keep indemnified, RLDA, its nominee or the Nominated Company from and against all action proceedings, losses, damages, liabilities claims, costs and expenses which may be sustained or suffered by RLDA as a result of any actions or omissions of the Lessee prior to the Transfer Date.

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