

STATE SUPPORT AGREEMENT

DATED [●]

AMONGST

THE GOVERNMENT OF HARYANA

AND

**HARYANA STATE INDUSTRIAL AND INFRASTRUCTURE DEVELOPMENT CORPORATION
LIMITED**

AND

[NAME OF THE PROJECT COMPANY]

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STATE SUPPORT AGREEMENT

This **STATE SUPPORT AGREEMENT** (this "**Agreement**") is executed in ~~New Delhi~~ _____ on the ____ day of _____, 2018 ("**Execution Date**") by and between:

- (1) **The Governor of Haryana**, acting through Principal Secretary, Industries and Commerce Department (the "**Haryana Government**");
- (2) **Haryana State Industrial and Infrastructure Development Corporation Limited**, a company incorporated under the provisions of the Companies Act, 1956 and validly existing under the provisions of the Companies Act, 2013 with corporate identity number U29199HR1967SGC034545 and having its registered office at C-13 and 14, Institutional Area, Sector - 6, Panchkula, Haryana - 134109, India ("**HSIIDC**"); and
- (3) [●], a company incorporated under provisions of the Companies Act, 2013 with corporate identity number [●] and having its corporate office at [●], India ("**Project Company**"),

(each, a "**Party**" and collectively, the "**Parties**").

WHEREAS:

- A. The Haryana Government wishes to encourage private sector involvement in the development of industrial townships and has delegated responsibility for industrial and infrastructure promotion and development within the state of Haryana to the Authority;
- B. On or about the Execution Date, Haryana State Industrial and Infrastructure Development Corporation Limited entered into the Contract Agreement with the Project Company for the development of the Concession Land after completion of the competitive bidding process prescribed under the Public Private Partnership Policy of the State Government;
- C. The Haryana Government recognizes that the implementation of the Project and its continues operation and maintenance under and in accordance with the Contract Agreement is necessary and required for industrial and infrastructure promotion and development within the state of Haryana and acknowledges that to enable the implementation of the Project, it is necessary for the Haryana Government to extend Government Support to the Project Company and the Authority with respect to the implementation of the Project.
- D. In consideration of the Project Company having entered into the Contract Agreement and other Project Documents, and in order to facilitate the development and financial viability of the Project, the Haryana Government has agreed to provide Government Support and grant certain incentives, as further set forth in this Agreement.

NOW THEREFORE THE PARTIES HEREBY AGREE AND THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

Capitalized terms and definitions, unless expressed otherwise, shall have the meanings ascribed to such terms in the Contract Agreement. In addition:

"**Agreement**" shall mean this state support agreement together with the Schedule attached hereto, as amended, supplemented or modified, from time to time, in accordance with the provisions hereof;

"**Arbitration Rules**" shall have the meaning ascribed to such term in Clause 9.1 (*Dispute Resolution*).

"**Board of Arbitration**" shall have the meaning ascribed to such term in Clause 9.4 (*Dispute Resolution*);

"**Contract Agreement**" shall mean the concession development agreement executed between Haryana State Industrial and Infrastructure Development Corporation Limited and the Project Company dated [●], 2018, and as amended from time to time in accordance with the terms thereof;

"**Disputing Parties**" shall have the meaning ascribed to such term in Clause 9.1 (*Dispute Resolution*);

"**EPP 2015**" shall mean the Haryana Enterprises Promotion Policy, 2015, as amended from time to time;

"**Execution Date**" shall mean the date of execution of this Agreement, as mentioned in the preamble of this Agreement;

"**Existing Dispute**" shall have the meaning ascribed to such term in Clause 9.1(*Dispute Resolution*);

"**Government Representative**" shall have the meaning ascribed to such term in Clause 3.1 (*Government Representative*);

"**Government Support**" shall have the meaning ascribed to such term in Clause 3 (*Government Support*);

"**NH 248A Intersections**" shall have the meaning ascribed to such term in the Contract Agreement;

"**Related Dispute**" shall have the meaning ascribed to such term in Clause 9.1 (*Dispute Resolution*);

"**Service Road**" shall have the meaning ascribed to such term in the Contract Agreement; and

"**State Default**" shall have the meaning ascribed to such term in Clause 5.1 (*State Event of Default*).

1.2. Interpretation

Unless the context of this Agreement otherwise requires:

- (i) any reference to a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organization;
- (ii) any reference to a statute or statutory provision includes:
 - (a) that statute or statutory provision as modified, re-enacted or consolidated from time to time (whether before or after the Execution Date);
 - (b) any past statute or statutory provision (as modified, re-enacted or consolidated from time to time) which that statute or statutory provision has directly or indirectly replaced; and
 - (c) any subordinate legislation or regulation made from time to time under that statute or statutory provision;
- (iii) references to Indian law shall include the laws, acts, ordinances, rules, regulations, or bye laws which have the force of law in any State or Union Territory forming part of the Union of India;
- (iv) section, Clauses and Schedule headings are for ease of reference only, and shall be ignored in interpreting this Agreement;
- (v) references to "construction" include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction;
- (vi) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

- (vii) the Schedules form a part of this Agreement and shall have the same force and effect as if expressly set forth in the body of this Agreement;
- (viii) references to "Recitals," "Clauses" and "Schedules" are to the recitals, clauses and schedules to this Agreement;
- (ix) reference to books, files, records or other information or any of them means such books, files, records or other information or any of them in any form or in whatever medium held including paper, electronically stored data, magnetic media, film and microfilm;
- (x) references to a "Party" shall mean a party to this Agreement and such expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its group company(ies), successors, nominees, permitted assigns and representatives and, in case of the Haryana Government, shall include any Government Authority under its control;
- (xi) the words "include(s)," "including," and "in particular" are to be construed without limitation;
- (xii) the words "directly or indirectly" mean directly or indirectly through one or more intermediary persons or through contractual or other legal arrangements, and "direct or indirect" shall have the correlative meanings;
- (xiii) the expression "this Clause" shall, unless followed by reference to a specific provision, be deemed to refer to the whole Clause (not merely the sub-clause, paragraph or other provision) in which such expression occurs;
- (xiv) if any provision in this Clause 1 (Definitions and Interpretation) is a substantive provision conferring rights or imposing obligations on any Party, effect shall be given to it as if it were a substantive provision in the body of this Agreement;
- (xv) a reference to any agreement is a reference to that agreement and all schedules, appendices and the like incorporated therein, as the same may be amended, modified, supplemented, waived, varied, added to, substituted, replaced, renewed or extended from time to time;
- (xvi) the terms "hereof," "herein," "hereby," "hereto" and derivative or similar words, unless followed by a reference to a specific provision of the Agreement refer to this entire Agreement;
- (xvii) all provisions of this Agreement shall be interpreted and construed in accordance with their meanings, and not strictly for or against either Party, regardless of which Party may have drafted this Agreement or a specific provision;
- (xviii) references to any term in the singular number shall include references to such term in the plural number and vice versa, unless the context requires otherwise;
- (xix) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or any independent consultant shall be valid and effectual only if it is in writing under the hands of duly authorized representative of such Party or the independent consultant, as the case may be, on its behalf and not otherwise;
- (xx) the damages payable by either Party to the other Party as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty or liquidated damages; and
- (xxi) words denoting one gender shall include all genders.

2. EFFECTIVENESS

- 2.1. This Agreement shall commence and be effective upon the Execution Date and shall continue in full force and effect until the later of:

- (i) the period the Contract Agreement is in force and effect in accordance with its terms including any extensions thereof; or
- (ii) the final determination and discharge by the Haryana Government of all of its liabilities and claims hereunder against it, whichever is later.

3. GOVERNMENT SUPPORT

In consideration of the Project being in the interest of the State of Haryana and its economic growth and development and the Project Company entering into the Contract Agreement and other Project Documents for the development of the Project and the covenants and obligations set forth therein, the Haryana Government hereby agrees and undertakes to provide to the Project Company the following support (the "Government Support"):

3.1. Government Representative

- (i) On or prior to the Appointed Date, the Haryana Government will designate in writing the Haryana State Industrial and Infrastructure Development Corporation Limited Authorized Representative as its representative for the purposes of this Agreement (such representative, the "**Government Representative**") as a single point of contact for all matters requiring the assistance or support of the Haryana Government and the Government Authorities as a "*single window clearance*" mechanism. The Government Representative (acting in his capacity as both the Government Representative and the Haryana State Industrial and Infrastructure Development Corporation Limited Authorized Representative) shall be responsible for liaising with all Government Authorities to obtain all Permits and to resolve all other matters and issues in connection with or arising out of the Project, *provided that* the obligation of the Government Representative and the Haryana State Industrial and Infrastructure Development Corporation Limited Authorized Representative to obtain all Permits from Government Authorities not under the control and direction of the Haryana Government shall be limited to providing assistance and support on a best efforts basis in obtaining the relevant Permits.

3.2. Obligations of the Haryana Government

- (i) The Haryana Government shall procure the compliance by Haryana State Industrial and Infrastructure Development Corporation Limited with its obligations under the Project Documents and shall cooperate fully with Haryana State Industrial and Infrastructure Development Corporation Limited to secure the timely completion of Conditions Precedent to be satisfied by Haryana State Industrial and Infrastructure Development Corporation Limited pursuant to the Contract Agreement.
- (ii) The Haryana Government hereby agrees that:
 - (a) where Haryana State Industrial and Infrastructure Development Corporation Limited has failed to discharge its liabilities in connection with the Concession Land, the Haryana Government shall discharge all such liabilities (including for such purposes those of Haryana State Industrial and Infrastructure Development Corporation Limited) as may arise from time to time under Applicable Laws, including, without limitation, payment of compensation to the Original Land Owners;
 - (b) it shall defend any Claim relating to the acquisition by it of the Concession Land and shall take all steps to ensure that such Claim does not affect or delay the execution of the Project by the Project Company and the sale of Concession Land Plots *provided that* the provisions of Article 16 (*Force Majeure*) of the Contract Agreement shall apply in respect of any such Claims;
 - (c) it shall ensure that:
 - (A) the Project Company and its Contractors have continued and unhindered

- access to the Concession Land including through NH248A, for peaceful use of and operations in accordance with the provisions of the Contract Agreement, without any let or hindrance from the Haryana Government or any person claiming through or under it or any of Haryana Government agency;
- (B) subject to the Project Company complying with Applicable Laws, including payment of prescribed fee and charges, if any, provide to the Project Company in a timely manner, all Permits to the extent Haryana Government or any Government Authority is entitled to issue;
 - (C) all barriers to the Project Land are removed and ensure that no barriers are erected, or hindrances is created by any Government Authority in and around the Project Land that interferes in the development of the Project in any manner whatsoever;
 - (D) none of the Government Authorities interfere or interrupt in any manner whatsoever, the development of the Project or omit or commit any act having the effect of delaying or stopping any development work by the Project Company.
 - (E) Haryana State Industrial and Infrastructure Development Corporation Limited has adopted the Rehabilitation and Resettlement Policy; has implemented the Rehabilitation and Resettlement Scheme, as required in respect of the Concession Land and remains, in compliance with the terms and conditions of Rehabilitation and Resettlement Policy, including with respect to the payment of all Village Development Charges, annuities, and other amounts payable from time to time pursuant to the Rehabilitation and Resettlement Policy or the Rehabilitation and Resettlement Scheme; and
 - (F) Haryana State Industrial and Infrastructure Development Corporation Limited shall deliver to the Project Company duly certified and true copies of the certificates of entitlement that have been issued to the Original Land Owners in respect of the Land Acquisition Awards.
- (d) it shall procure:
- (A) the construction of the Service Road, as proposed, pursuant to the Contract Agreement or, at the Project Company's election, procure the necessary Permits and approvals from relevant Governmental Authorities for the construction of intersections and service roads linking the Concession Land to the NH 248A as approved by Haryana State Industrial and Infrastructure Development Corporation Limited in the Detailed Project Report (DPR) submitted by the Project Company on the green belt land owned by the National Highways Authority of India and running along the boundary of the Concession Land and the NH 248A; and
 - (B) necessary revisions or amendments of all issued Permits from time to time, to accommodate any revisions, modifications or amendments to the Layout Plan which have been approved by Haryana State Industrial and Infrastructure Development Corporation Limited in accordance with the terms of the Contract Agreement.
- (e) the Project Company has the right to develop the Concession Land and determine and distribute FAR over Concession Land Plots designated for the same land use category, subject to such Concession Land Plots being part of an integrated zoning plan and provided that the total FAR for the applicable integrated zoning plan does not exceed the maximum permissible FAR under Applicable Laws;
- (f) it has been provided with a copy of, and has read and understood the terms of the

Contract Agreement (including, the obligations of Haryana State Industrial and Infrastructure Development Corporation Limited provided therein) and has agreed to provide the Government Support in furtherance of the terms of the Contract Agreement; and

- (g) it shall provide the necessary support to enable the Project Company to obtain cross border financing and investment from foreign portfolio investors as a 'company in the infrastructure sector' under the automatic route, in compliance with Applicable Laws, including all circulars and notifications published by the Reserve Bank of India from time to time.

3.3. Incentive Grants

The Haryana Government shall procure the grant of incentives specified in **Schedule 1** (*Incentive Grants*) to the Project Company on or prior to the execution date of the Contract Agreement and shall procure that all future incentives, as may be granted from time to time in respect of projects similar to the Project shall be granted to the Project Company promptly within the prescribed statutory timeframe and in any event within 45 days of the Project Company submitting a duly completed application in respect thereof.

3.4. Exemptions from Taxes, Duties and Other Levies Granted to the Project Company

The Haryana Government shall procure all exemptions from Taxes, duties and other levies for the Project Company that would be available to Haryana State Industrial and Infrastructure Development Corporation Limited if Haryana State Industrial and Infrastructure Development Corporation Limited alone was developing the Project, including exemptions that would ordinarily be granted to Haryana State Industrial and Infrastructure Development Corporation Limited by the relevant Government Authority, and all exemptions as may be granted from time to time in respect of projects similar to the Project shall be granted to the Project Company promptly within the prescribed statutory timeframe and subject to the Project Company submitting a duly completed application in respect thereof.

3.5. Waiver of External Development Charges

The Haryana Government shall procure all exemptions and applicable waivers to be granted to Purchasers in respect of any external development charges or land enhancement charges which may be imposed on such Purchasers from time to time under Applicable Laws.

3.6. Incentives Applicable to Purchasers

The Haryana Government shall grant all the incentives granted to industries and enterprises under applicable policies and regulations (including without limitation those granted under the Enterprise Promotion Policy 2015 of the State Government) from time to time to Purchasers, subject to such Purchasers having submitted a duly completed application in the prescribed form for any such incentive grant. In the event that any further incentives become available from time to time, the Haryana Government shall procure that the Purchasers are eligible to apply for such incentives and shall grant such incentives on terms no less favourable than those applicable to other projects of similar nature within the state of Haryana.

3.7. Administrative Support

The Haryana Government agrees to liaise with the Government of India for facilitating (including, by way of issuing letters of invitation and other corresponding documents) the fast-track issuance and grant of such number of employment visas and permits as are applied for by the Project Company and its foreign engineering, procurement, construction contractors, sub-contractors, agents, advisors or consultants.

3.8. Haryana State Industrial and Infrastructure Development Corporation Limited Infrastructure

The Haryana Government shall ensure that the Haryana State Industrial and Infrastructure Development Corporation Limited Infrastructure (including, without limitation, the Utilities) is provided by Haryana State Industrial and Infrastructure Development Corporation Limited to the

Concession Land on the terms set forth in the Contract Agreement and that the development of the Project is not adversely impacted due to any default by Haryana State Industrial and Infrastructure Development Corporation Limited, the Haryana Government and/or any of the Government Authorities which would disrupt or otherwise result in any interruption to such continued supply or provision of the Utilities supplied by the Haryana State Industrial and Infrastructure Development Corporation Limited Infrastructure.

3.9. Support and Facilitation

The Haryana Government shall use best efforts to facilitate and ensure that the National Highways Authority of India constructs all service roads or intersections, or alternatively, grants and issues all Permits and other waivers as necessary for the Project Company to construct service roads or intersections to the NH 248A in accordance with the layout plan approved by Haryana State Industrial and Infrastructure Development Corporation Limited in accordance with the Contract Agreement, including the construction of such service roads or intersections on the green belt land reserved for road widening running along the boundary of the Concession Land and the NH 248A.

4. OTHER UNDERTAKING

During the term of the Concession Period, the Haryana Government unconditionally agrees and undertakes as follows:

4.1. Change in Laws

Unless an applicable exemption is granted to the Project Company in respect of the Concession Land, Haryana State Industrial and Infrastructure Development Corporation Limited and the Haryana Government shall not issue or promulgate any Applicable Laws that would dilute, frustrate, nullify or otherwise invalidate any of the Government Support specified in Clause 3 (*Government Support*), or that would constitute a Material Adverse Change in Law.

4.2. Eligibility for Incentive Grants

The Haryana Government shall procure that the Project Company shall be eligible to apply for any additional incentives, exemptions, support or other subsidies from time to time granted, issued or otherwise extended to any other developers of comparable or similar projects within the state of Haryana.

4.3. Renewal of Permits

The Haryana Government shall, on application by either Haryana State Industrial and Infrastructure Development Corporation Limited or the Project Company, procure the timely renewal by each Government Authority of all Permits issued or to be issued in respect of the Project and/or in respect of the development of any Concession Land Plot.

4.4. Haryana State Industrial and Infrastructure Development Corporation Limited

The Haryana Government shall not do any act or thing, or direct Haryana State Industrial and Infrastructure Development Corporation Limited to do any act or thing, that would result in or be likely to result in the breach or non-performance by Haryana State Industrial and Infrastructure Development Corporation Limited of any of its obligations under the Project Documents. In particular, the Haryana Government shall procure that Haryana State Industrial and Infrastructure Development Corporation Limited complies with its payment obligations under the Project Documents including, without limitation, in respect of any Judgment Amount, Indemnity Payment or Termination Payment due and payable or any other amounts advanced to Haryana State Industrial and Infrastructure Development Corporation Limited in accordance with the terms thereof. The Haryana Government shall exercise its rights of control over Haryana State Industrial and Infrastructure Development Corporation Limited to ensure that Haryana State Industrial and Infrastructure Development Corporation Limited complies with all of its obligations under the Project Documents on an ongoing basis.

4.5. Non-interference

Subject to Applicable Laws, the Haryana Government shall ensure that no Government Authority does or omits to do any act, deed or thing that interrupts, limits or hinders the implementation of the Project

or Sale of Concession Land Plots, including without limitation the designation of all or any part of the Concession Land as Ecological Area, national conservation area, or forestry land area and, any such designations shall be removed forthwith to enable the development of the Concession Land as contemplated pursuant to the Project Documents.

4.6. Variations in Layout Plan

Where a variation in the Layout Plan is approved in accordance with, and as contemplated by, Article 7.2(*Changes in Layout Plan*) of the Contract Agreement, the Haryana Government shall procure that all other Government Authorities, having jurisdiction over the Project shall also approve such variations in the Layout Plan.

5. DEFAULT

5.1. State Event of Default

Each of the following shall constitute an event of default by the Haryana Government (such event, a "State Default"):

- (i) failure by the Haryana Government to provide any of the Government Support set forth in Clause 3 (*Government Support*);
- (ii) failure by the Haryana Government to comply with its undertakings set forth in Clause 4 (*Other Undertakings*); or
- (iii) failure by Haryana State Industrial and Infrastructure Development Corporation Limited in any respect in the observance or performance of any of its material obligations contained in the Project Documents after the expiry of any applicable grace period or, in the alternative, 30 days after written notice from the Project Company has been provided to Haryana State Industrial and Infrastructure Development Corporation Limited specifying the failure in reasonable detail and demanding that such failure be remedied,

provided that no State Default shall be deemed to have occurred if it is caused in whole or in material part as a result of the occurrence of any Force Majeure Event.

5.2. Liquidated Damages

- (i) In the event of any State Default under Clause 5.1 (*State Event of Default*) or any default by Haryana State Industrial and Infrastructure Development Corporation Limited under Article 17.2 (*Termination by the Project Company*) of the Contract Agreement, the Haryana Government shall be liable as follows:
 - (a) in respect of any State Default under Clauses 5.1 (i) and 5.1(ii) (*State Event of Default*), in so far as it arises from a breach of Clauses 3.3, 3.4, 3.5 or 3.6, an amount equivalent to the incentive amount, subsidy amount or cost savings that, but for such breach, would have been enjoyed by the Project Company, and an amount equivalent to the costs or expenses incurred by the Project Company as a result of such breach. The Project Company shall submit its claims and all supporting documentation and evidence thereof to the Haryana Government and shall meet in good faith with the Government Representative (or any other representative of the Haryana Government) to mutually agree on the amounts payable in respect of any such claim. In the event that the Parties are unable to agree on the amount of such liability, either Party may submit such dispute to arbitration in accordance with Clause 9 (*Dispute Resolution*) and any arbitral award issued in respect of such assessment of damages shall be final and conclusive on the Parties; and
 - (b) in respect of any State Default pursuant to Clause 5.1 (iii) (*State Event of Default*), an amount equivalent to the Judgment Amount (as applicable) payable by Haryana State Industrial and Infrastructure Development Corporation Limited to the Project Company pursuant to Article 17.3 (*Deduction of Judgment Amounts*) of the Contract Agreement,

in each case, less any amounts paid by Haryana State Industrial and Infrastructure Development Corporation Limited in settlement thereof under the Contract Agreement.

- (ii) The payments in respect of any State Default under Clause 5.1 (*State Event of Default*) or any default by Haryana State Industrial and Infrastructure Development Corporation Limited under the Project Documents shall be payable by the Haryana Government to the Project Company, and the Haryana Government hereby agrees and covenants that it shall make such payments on its own behalf and on behalf of Haryana State Industrial and Infrastructure Development Corporation Limited pursuant to the obligations set forth in the Contract Agreement and this Agreement, *provided that*, in case of any payments made by the Haryana Government on account of any liabilities of Haryana State Industrial and Infrastructure Development Corporation Limited owed to the Project Company pursuant to the Contract Agreement, the amount of such recovery (when aggregated with all payments already made by Haryana State Industrial and Infrastructure Development Corporation Limited in respect thereof) shall not exceed the amount of the relevant payment due to the Project Company pursuant to the relevant provisions of the Project Documents. The Project Company acknowledges that disbursements of such payments by the Haryana Government shall constitute a valid discharge of the Haryana State Industrial and Infrastructure Development Corporation Limited obligations to the extent of such payments.
- (iii) The Haryana Government acknowledges and agrees that in the event of its failure to make any payments due and payable to the Project Company under this Agreement, the Project Company will be entitled to claim and receive such payments from Haryana State Industrial and Infrastructure Development Corporation Limited, on behalf of the Haryana Government, *provided that*, in the case of any payments made by Haryana State Industrial and Infrastructure Development Corporation Limited on account of any liabilities of the Haryana Government owed to the Project Company pursuant to this Agreement, the amount of such recovery (when aggregated with all such payments already made by the Haryana Government in respect thereof) shall not exceed the amount of the relevant payment due to the Project Company pursuant to relevant provisions of this Agreement. The Project Company acknowledges that the disbursements of such payments by Haryana State Industrial and Infrastructure Development Corporation Limited shall constitute a valid discharge of the obligations of the Haryana Government to the extent of such payments.

6. REPRESENTATIONS AND WARRANTIES

6.1. Each of Haryana State Industrial and Infrastructure Development Corporation Limited and the Project Company hereby represents, warrants and undertakes, as on the Execution Date, as follows:

- (i) it is a company, duly incorporated under the provisions of the Companies Act, 1956 or the Companies Act, 2013, as the case may be, and is validly existing under the provisions of the Companies Act, 2013;
- (ii) all internal consents, approvals and authorizations (including without limitation any Applicable Permits) necessary for the execution and delivery of this Agreement and to effect the transactions contemplated hereunder, have been obtained, and it has the necessary power and authority to execute and deliver this Agreement and to effect the transactions contemplated hereunder;
- (iii) its obligations under this Agreement shall be legally valid, binding and enforceable against it;
- (iv) this Agreement constitutes or will constitute, following the execution and delivery thereof, valid and legally binding obligations of such Party, enforceable against it in accordance with its respective terms;
- (v) the execution, delivery and performance of this Agreement, and the consummation of the transactions contemplated hereunder, shall not, with or without giving of notice or passage of time, or both:

- (a) violate the provisions of any Applicable Laws or any judgment, decree, order, writ, injunction or award of any quasi-judicial body or arbitrator under which it is bound;
- (b) violate the provisions of its constitutional documents or bye-laws, as the case may be;
- (c) conflict or result in a material breach or termination of any material term or provision of, or constitute a default under, or cause any acceleration under, any license, permit, concession, franchise, indenture, mortgage, lease, equipment lease, contract, permit, deed of trust or other instrument or agreement by which it is or may be bound which would have a Material Adverse Effect; or
- (d) it is not aware of any Claim, fact, circumstance, violation or default with respect to any order, writ, injunction or decree of any judicial authority which may affect its ability to perform its obligations under this Agreement.

6.2. The Haryana Government hereby represents warrants and undertakes to the Project Company and Haryana State Industrial and Infrastructure Development Corporation Limited, as of the Execution Date, as follows:

- (i) [●], Principal Secretary to Haryana Government, Haryana, Industries and Commerce Department, has full power and authority to execute and deliver this Agreement on behalf of the Haryana Government. The Haryana Government has full power and authority to perform its obligations hereunder. The execution, delivery and performance of this Agreement by the Haryana Government: (a) has been duly authorized by all requisite legal action on the part of the Haryana Government, and no other proceedings on the part of the Haryana Government or any other person are necessary for such authorization; and (b) will not violate Applicable Laws or any applicable order of any relevant authority or violate, be in conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any indenture, agreement for borrowed money, bond, note, instrument or other agreement to which the Haryana Government is a party or by which the Haryana Government or its property is bound, excluding defaults or violations that would not individually or in the aggregate, have a Material Adverse Effect on the Haryana Government's ability to perform its obligations hereunder;
- (ii) no sums in cash or kind have been paid or will be paid, by or on behalf of the Project Company, to any person by way of fees, commission or otherwise for securing the Concession Rights or entering into this Agreement or for influencing or attempting to influence any Government Authority under the control of the Haryana Government;
- (iii) this Agreement constitutes a legal, valid and binding obligation of the Haryana Government, enforceable against it in accordance with its terms, subject to general principles of equity;
- (iv) no filing or registration with, no notice to and no permit, authorization, consent or approval of any relevant authority is required for the execution, delivery or performance of this Agreement by the Haryana Government, or of its obligations hereunder, except for the authorizations and approvals that have been obtained; and
- (v) the Haryana Government has complied with all Applicable Laws without limitation to the Public Private Partnership Policy, in making the Letter Of Award.

7. SOVEREIGN IMMUNITY

7.1. Each of Haryana State Industrial and Infrastructure Development Corporation Limited and the Haryana Government hereby unconditionally and irrevocably:

- (i) agrees that the execution, delivery and performance by it of this Agreement represents private and commercial activities and does not constitute a sovereign act;

- (ii) agrees that should any proceedings be brought or any execution, attachment or any other legal process be made against it or its assets, property or revenues in any jurisdiction in relation to, or arising out of, this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings, execution, attachment or other legal process shall be claimed by it or on its behalf, or with respect to any of its assets, property or revenues;
- (iii) waives any right of immunity that it or its assets, property or revenues now has, or may in the future have, in any jurisdiction in connection with any such proceedings; and
- (iv) consents to the enforcement of any judgment or award against it in any such proceedings including to the giving of any relief or the issue of any process in any jurisdiction with respect to such proceedings including the making, enforcement or execution against it or any of its assets, property or revenues whatsoever.

7.2. Each of Haryana State Industrial and Infrastructure Development Corporation Limited and the Haryana Government hereby irrevocably and unconditionally:

- (i) consents to the jurisdiction, with respect to itself and any and all of its assets and property that it now has or may thereafter acquire, of any court of competent jurisdiction for any action filed by the Project Company to enforce any award or decision of any arbitrator who was duly appointed under this Agreement to resolve any dispute between the Parties. The Haryana Government waives any objection that it may now or hereafter have to the venue of any action or proceeding brought as consented to in this Clause 7 (*Sovereign Immunity*), and specifically waives any objection that any such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim on such basis;
- (ii) agrees that service of process in any such action or proceeding may be effected in any manner permitted by the law applicable to the aforementioned court; and
- (iii) for the avoidance of doubt, any dispute or difference between the Parties as to whether any Party has complied with its obligations under this Agreement shall be referred for determination under Clause 9 (*Dispute Resolution*).

7.3. Notwithstanding anything to the contrary contained, such waiver of right of immunity shall not apply to:

- (i) property and assets of any consular or diplomatic mission or consulate; or
- (ii) property belonging to the Defence services and such assets of the Union of India.

8. INDEMNITY

8.1. General Indemnity

Each Party ("**Indemnifying Person**") shall indemnify, defend and hold harmless the other Party, its Associates, directors, officers, representatives, employees and agents (collectively, the "**Indemnified Persons**") from and against any and all Losses, Claims, fees, interest obligations, and deficiencies suffered or incurred by the Indemnified Persons, as a result of, or arising from, or in connection with, or relating to:

- (i) breach or inaccuracy of any representation, warranty, covenant or agreement made by the Indemnifying Person, under this Agreement in any material respect;
- (ii) failure to perform (whether in whole or part) any material obligation required to be performed by the Indemnifying Person under this Agreement; or
- (iii) any Claims raised or made, or proceedings initiated by any Person (including any Government Authority) against the Indemnified Persons on account of an action of the Indemnifying Person, in relation to the subject matter of this Agreement.

8.2. Other Provisions Relating to Indemnities

The indemnification rights specified under this Clause 8 (*Indemnity*) are independent of, and in addition to, other rights and remedies available under the Applicable Laws or in equity. The representations, warranties and indemnities shall not be treated as qualified by any actual or constructive knowledge on the part of any of the Indemnified Persons or any of its agents, representatives, officers, employees or advisers.

9. DISPUTE RESOLUTION

- 9.1. The Parties have agreed to the provisions of this Clause to resolve disputes arising in connection with this Agreement (including with respect to breach, termination or invalidity thereof) through international commercial arbitration under the Rules of Arbitration of the International Chamber of Commerce, as amended from time to time ("Arbitration Rules"). In the event any such dispute arises, the relevant Parties ("Disputing Parties") shall attempt in the first instance to resolve such dispute through good faith consultations between the Disputing Parties.
- 9.2. If such dispute is not resolved through such consultations within 30 Business Days, then it shall be referred to, and finally resolved by, arbitration administered in accordance with the Arbitration Rules.
- 9.3. The seat and the venue of arbitration shall be New Delhi, India.
- 9.4. The tribunal shall consist of three arbitrators ("Board of Arbitration"), who shall be appointed in accordance with the procedure set out in the Arbitration Rules. The arbitrators nominated by the Disputing Parties may be of any nationality. However, if either of the Disputing parties nominates an arbitrator who is a national of a country other than India, then the third arbitrator, who will act as president of the arbitral tribunal, shall also be a national of, and have his or her usual place of residence in, a country other than India.
- 9.5. The language of arbitration shall be English.
- 9.6. The arbitral award made and granted by the Board of Arbitration shall be final, binding and conclusive. All costs of arbitration shall be borne by the Disputing Party against whom claims are allowed or as determined by the Board of Arbitration.
- 9.7. For the avoidance of doubt, the Parties shall be entitled to approach courts of competent jurisdiction in New Delhi, India to obtain interim remedies in accordance with the Arbitration and Conciliation Act, 1996.
- 9.8. During the arbitration proceedings, the Parties shall, except in the event of termination of this Agreement, continue to perform all their obligations under this Agreement subject to a final adjustment in accordance with such award.
- 9.9. Neither the Parties nor the members of the Board of Arbitration may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of the other Parties.
- 9.10. The courts of New Delhi, India, shall have exclusive jurisdiction for all court proceedings in connection with such arbitration proceedings, except insofar as an arbitral award may be enforced in any court of competent jurisdiction. For the avoidance of doubt, the parties shall be entitled to approach the courts of New Delhi, India, to obtain interim remedies in accordance with the Arbitration and Conciliation Act, 1996.

10. GOVERNING LAW

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

11. MISCELLANEOUS

11.1. Assignment

The Parties agree that no Party shall have the right to transfer or assign any rights and obligations under this Agreement.

11.2. Severability

If any term or provision of this Agreement is held to be illegal or unenforceable, in whole or in part, under any enactment or rule of law, such term or provision or part thereof shall, to that extent, be deemed not to form part of this Agreement, but the enforceability of the remainder of this Agreement shall not be affected. Further, the severed provision shall be replaced by such provisions as may be mutually agreed by the Parties, in compliance with the Applicable Laws, to reflect the intent and commercial understanding between the Parties.

11.3. Variation and Other Assistance

- (i) No variation including any novation, amendment, supplement, deletion or replacement of this Agreement (or of any of the documents referred to in this Agreement) shall be valid unless it is made by an instrument in writing and signed by each party thereto.
- (ii) Each Party shall without further consideration, sign, execute and deliver any document and shall perform any other act which may be necessary or desirable to give full effect to this Agreement and each of the transactions contemplated under this Agreement. Without limiting the generality of the foregoing, if the approval of any Government Authority is required for any of the arrangements under this Agreement to be effected, the Parties shall use their best efforts to obtain such approval.

11.4. Notices

- (i) All notices or communications under this Agreement shall be in writing and signed by, or on behalf of, the Party giving it and shall be effective upon delivery in accordance with Clause 11.4(ii) (*Notices*), to the applicable Party by letter or electronic mail at the address indicated below.
- (ii) Any notice, document, or communication shall be deemed to be duly given or made when delivered (in the case of personal delivery), at the time of transmission (in case of electronic mail, *provided that* in such case, a hard copy of such notice or communication is forthwith sent by prepaid post to the relevant address set forth below), or [●] after being dispatched in the post, postage prepaid, or by the most efficient form of mail available and by registered mail, if available (in the case of a letter) to the relevant Party at the address specified in this Clause 11.4(ii) (*Notices*), or at such other address as such Party may hereafter specify for such purpose to the other Parties hereto by notice in writing.
- (iii) The addresses of the Parties for the purposes of the Agreement are:

(a) **Haryana State Industrial and Infrastructure Development Corporation Limited**

Attention: [●]
Address : Haryana State Industrial and Infrastructure Development Corporation Limited, C-13 and 14, Institutional Area, Sector - 6, Panchkula, Haryana – 134109
Electronic Mail : info@hsiidc.org.in
Telephone : 0172-2590481, 0172-2590482, 0172-2590483

(b) **Haryana Government**

Attention: [●]
Address: [●]
Electronic mail: [●]
Telephone: [●]; and

(c) **Project Company**

Attention: [●]
Address: [●]
Electronic mail: [●]
Telephone: [●].

11.5. No Partnership or Agency

Nothing in this Agreement (or any of the arrangements contemplated herein) shall be deemed to constitute a partnership between the Parties or, except as may be expressly provided herein, constitute any Party as the agent of another Party for any purpose, or entitle any Party to commit or bind another Party in any manner.

11.6. Counterparts

This Agreement may be executed in three counterparts, each of which shall be deemed to be an original but all of which shall constitute the same instrument.

11.7. Waiver and Remedies

No waiver of any provision of this Agreement will be valid unless expressly made in writing and signed by the Party to be charged therewith. No failure or delay by the Parties in exercising any right or remedy provided by Applicable Laws under, or pursuant to, this Agreement shall impair such right or remedy, or operate or be construed as a waiver or variation of it, or preclude its exercise at any subsequent time and no single or partial exercise of any such right or remedy shall preclude any other or further exercise of it or the exercise of any other right or remedy. The rights and remedies of the Parties under or pursuant to this Agreement are cumulative and may be exercised as often as such Party considers appropriate and are in addition to its rights and remedies under the Applicable Laws.

11.8. Privity of Contract

Save as otherwise expressly provided in this Agreement, any Person who is not a Party to this Agreement shall not have any rights to enforce any term of this Agreement.

11.9. Entire Agreement

The Parties acknowledge that this Agreement along with the Schedule attached hereto, constitutes the complete understanding between the Parties with regard to the subject matter contained herein and shall supersede all previous communications, whether oral or written, between the Parties with respect to the subject matter hereof, and no agreement or understanding varying or extending the same shall be binding upon any Party, unless it is in writing and signed by a duly authorized officer or representative thereof.

11.10. Specific Performance

To the extent permitted under the Applicable Laws, the Parties will, in addition to exercise of any other rights available under this Agreement, be entitled to seek specific performance to enforce the obligations hereunder and it will not be open to a defaulting Party to contend that damages would be an adequate remedy in case of a breach hereof.

11.11. Survival

The provisions of Clauses 5.2 (*Liquidated Damages*), 6 (*Representations and Warranties*), 8 (*Indemnity*), 9 (*Dispute Resolution*), 10 (*Governing Law*), 11.4 (*Notices*) and 11.12 (*Costs and Expenses*) (and all other provisions of this Agreement, as are necessary to give effect to such Clauses) shall survive the termination of this Agreement.

11.12. Costs and Expenses

Each Party shall bear its respective costs and expenses in connection with the negotiation, preparation, execution and performance of this Agreement.

[Remainder of this page intentionally left blank]

[Signature page follows]

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST WRITTEN ABOVE

On behalf of the Governor of Haryana [●]
Signed and delivered by:

Place:
Dated :
Witness:

1. _____

2. _____

On behalf of HSIIDC [●]
Signed and delivered by:

Place:
Dated:

Witness:

1. _____

2. _____

On behalf of the Project Company [●]
Signed and delivered by:

Place:
Dated:

Witness:

1. _____

2. _____

SCHEDULE 1
INCENTIVE GRANTS

The Project Company shall be granted incentives pursuant to Clause 3.3 (*Incentive Grants*), including, without limitation, the following:

Incentive	Amount
	(i)
External development charges	100 per cent. exemption towards external development charges.
FAR	As applicable to Haryana State Industrial and Infrastructure Development Corporation Limited in accordance with TCP norms or any higher FAR as permitted from time to time.