

Public-Private Partnership in

Hybrid Annuity Project

CONCESSION AGREEMENT

for

Development and Maintenance of (i). Beawar Masuda Goyala Section of SH 26A (Length 66.77 km); (ii). Arain Sarwar Section of SH-7E (Length 44.260 km) & (iii). NH-12 Laxmipura Dora Dabi Ranaji Ka Gudha Section of SH-115 (Length 49.60 km); (Total length: 160.630 km) through Public Private Partnership (the "PPP") under Design, Build, Operate/Maintain & Transfer (the "DBOT Hybrid Annuity") Basis.

Package No. RSHIP/ADB/ T-2/ HAM/ 01

VOLUME-I

Public Works Department Government of Rajasthan

August- 2022.



** Highway Project



Contents

Part I Preliminary	
Preliminary CONCESSION AGREEMENT ^{\$}	1
ARTICLE 1	2
DEFINITIONS AND INTERPRETATION	ļ
1.1. Definitions	ļ
1.2. Interpretation	
1.3. Measurements and arithmetic conventions	
7 - 3 - 5 - 6 - 6 - 6 - 6 - 6 - 6 - 6 - 6 - 6	
Part II	
2. SCOPE OF THE PROJECT	

3. GRANT OF CONCESSION 9 3.1. The Concession 9	

4. CONDITIONS PRECEDENT	
4.1. Conditions Precedent	
4.2. Damages for delay by the Authority	
a single of delay by the Concessionaire	
- Similar of Concession Period	
The second of the second secon	

- or The ConcessionAIRE	
and the Concessionaire	
Shared tolding to Project Agreements	
Swall folding to Change in Ownership	
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desired to dailing to employment of trained personnel	
and elderly persons	
o rotating to information	
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Unique Doc. Reference SUBIN-RJRJSHCIL0128590196929490U Purchased by BALAJI D AJMER HIGHWAYS PVT LTD

Article 58 Works Contract (ii) more than Fifty Lakhs Description of Document

DEV MAIN OF BEAWAR MASUDA GOYALA ARAIN SARWAR LAXMIPURA **Property Description**

DORA ROAD (PACKAGE NO RSHIP/ADB/T-2/HAM/01)

Consideration Price (Rs.)

(Four Hundred Thirty Three Crore Thirty Three Lakh Two Hundred And

Twenty only)

First Party ADD CHIEF ENGINEER PPP PWD RAJ JAIPUR

Second Party BALAJI D AJMER HIGHWAYS PVT LTD Stamp Duty Paid By BALAJI D AJMER HIGHWAYS PVT LTD

Stamp Duty Payable (Rs.) 25.00.000

(Twenty Five Lakh only)

Surcharge for Infrastructure

Development (Rs.)

Surcharge for Propagation and

Conservation of Cow (Rs.)

Surcharge for Relief from Natural and

Man-made Calamities (Rs.)

(Two Lakh Fifty Thousand only)

2.50,000

(Two Lakh Fifty Thousand only)

(Two Lakh Fifty Thousand only)

Stamp Duty Amount(Rs.)

(Thirty Two Lakh Fifty Thousand only)



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CONCESSION AGREEMENT

THIS AGREEMENT is entered into on this the 31st day of August, 2022 at Jaipur.

BETWEEN

THE GOVERNOR OF RAJASTHAN represented by Secretary, Public Works Department, Government of Rajasthan and having its principal offices at Jacob Road, Civil Lines, Jaipur-302006 (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors, and assigns) of the One Part:

AND

BALAJI D. AJMER HIGHWAYS PRIVATE LIMITED, a company incorporated under the provisions of the Companies Act. 2013 and having its registered office at A-03, Chandravardai Nagar, Ajmer-305001 (hereinafter referred to as the "Concessionaire" which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns and substitutes) of the Other Part.

WHEREAS:

- (A) The Authority wishes to Development and Maintenance of Beawar-Masuda-Goyala Section of SH-26A (Length 66.770 km), Arai-Sarwar Section of SH-7E (Length 42.260 km), NH-12 Laxmipura-Dora-Dabi-Ranaji Ka Guda Section of SH-115 (Length 49.600 km) (Mining) (Total length: 160.630 Km) through Public Private Partnership (PPP under Design, Build, Operate/Maintain and Transfer (the "DBOT Hybrid Annuity") basis which shall be partly financed by the Concessionaire who shall recover its investment and costs through Annuity Payments and O&M Payments to be made by the Authority, in accordance with the terms and conditions to be set forth in this Concession Agreement to be entered into.
- (B) The Authority had accordingly invited proposals by its Request for Qualification dated 04/02/2022 (the "Request for Qualification" or "RFQ") for shortlisting of qualified applicants for construction, operation and maintenance of the Project on DBOT basis and had pre-qualified certain applicants including inter alia. the {selected qualified applicant / Joint Venture comprising M/s. Balaji Dayalpura Infra Private Limited and M/s. Varaha Infra Limited (collectively the "Joint Venture") with M/s. Balaji Dayalpura Infra Private Limited as its lead member (the "Lead Member")}.

RHSIP/ADB/T-2/HAMA/01/

Prior

Page 2 of 105

- (C) The Authority had prescribed the technical and commercial terms and conditions, and invited bids (the "Request for Proposals" or "RFP") from the applicants prequalified pursuant to the RFQ for undertaking the project.
- (D) After evaluation of the bids received, the Authority had accepted the bid of the M/s. Balaji Dayalpura Infra Private Limited in JV with Varaha Infra Ltd. {selected bidder/ Joint Venture} and issued its Letter of Award No. F.7 (672) SHA/PPP/2021-22/D-686 dated 19/07/2022 (hereinafter called the "LOA") to the {selected qualified applicant/ Joint Venture} requiring, inter alia, the execution of this Concession Agreement within 45 (forty five) days of the date of issue thereof.
- (E) {The selected qualified applicant / Joint Venture has since promoted and incorporated the Concessionaire as a limited liability company under the Companies Act 2013, and} has requested the Authority to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the {selected qualified applicant / Joint Venture under the LOA,} including the obligation to enter into this Concession Agreement pursuant to the LOA for undertaking the Project.
- (F) By its letter dated 31/08/2022, the Concessionaire has also joined in the said request of the selected qualified applicant / Joint Venture to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected qualified applicant / Joint Venture including the obligation to enter into this Concession Agreement pursuant to the LOA. The Concessionaire has further represented to the effect that it has been promoted by the selected qualified applicant / Joint Venture for the purposes hereof.
- (G) The Authority has {agreed to the said request of the selected qualified applicant / Joint Venture and the Concessionaire, and has} accordingly agreed to enter into this Concession Agreement with the Concessionaire for implementation of the Project on DBOT basis, subject to and on the terms and conditions set forth hereinafter.

NOW, THEREFORE. in consideration of the foregoing and the respective covenants and agreements set forth in this Concession Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

RHSIP/ADB/T-2/HAM/01

Page 3 of 105

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 42) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2. Interpretation

- 1.2.1 In this Agreement, unless the context otherwise requires,
 - (a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
 - (b) references to laws of the State, laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye-laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
 - (c) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
 - (d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;
 - (e) 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,
 - references to "construction" or "building"include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "construct" or "build" shall be construed accordingly;
 - (g) 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;
 - (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
 - (i) any reference today shall mean a reference to a calendar day;
 - (j) reference to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in the State are generally open for business;
 - (k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
 - (I) 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;
 - (m) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;





- (n) the words importing singular shall include plural and vice versa;
- references to any gender shall include the other and the neutral gender;
- (p) "lakh" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);
- (q) "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;
- references to the "winding-up", "dissolution", "insolvency", or "reorganisation" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, arrangement, protection or relief of debtors;
- (s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, deed, instrument, licence or document of any description shall be construed as reference to that agreement, deed, instrument, licence or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this Sub-clause (s) shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;
- any agreement, consent approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Independent Engineer shall be valid and effective only if it is in writing under the hand of a duly authorised representative of such Party or the Independent Engineer, as the case may be, in this behalf and not otherwise;
- (u) the Schedules and Recitals to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- references to Recitals, Articles, Clauses, Sub-clauses, Annexure, provisions or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses, Annexure, provisions and Schedules of or to this Agreement; reference to an Annex shall, subject to anything to the contrary specified therein, be construed as a reference to an Annex to the Schedule in which such reference occurs; and reference to a Paragraph shall, subject to anything to the contrary specified therein, be construed as a reference to a Paragraph of the Schedule or Annex, as the case may be, in which such reference appears;
- (w) the damages payable by either Party to the other of them, 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 (the "Damages"); and
- (x) time shall be of the essence in the performance of the Parties" respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.
- 1.2.2 Unless expressly provided otherwise in this Agreement, any Documentation required to be provided or furnished by the Concessionaire to the Authority and/ or the Independent Engineer shall be provided free of cost and in three copies, and if the Authority and/ or the Independent Engineer is required to return any such Documentation with their comments and /or approval, they shall be entitled to retain two copies thereof.
- 1.2.3 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.
- 1.2.4 Any word or expression used in this Agreement shall unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act 1897 shall not apply.

1.3. Measurements and arithmetic conventions

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All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.



1.4. Priority of agreements, clauses and schedules

- 1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:
 - (a) this Agreement; and
 - (b) all other agreements and documents forming part hereof or referred to herein,
 - i.e., the Agreement at (a) above shall prevail over the agreements and documents at (b) above.
- 1.4.2 Subject to provisions of Clause 1.4.1 in case of ambiguities or discrepancies within this Agreement, the following shall apply;
 - (a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;
 - (b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;
 - (c) between any two Schedules, the Schedule relevant to the issue shall prevail;
 - (d) between the written description on the Drawings and the Specifications and Standards, the latter shall prevail;
 - (e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and
 - (f) between any value written in numerals and that in words, the latter shall prevail.





Part II

The Concession





2. SCOPE OF THE PROJECT

2.1. Scope of the Project

The scope of the Project (the "Scope of the Project") shall mean and include, during the Concession Period:

- (a) construction of the Project on the Site set forth in Schedule-A and as specified in Schedule-B together with provision of Project Facilities as specified in Schedule-C, and inconformity with the Specifications and Standards set forth in Schedule-D;
- (b) fulfill the requirements of Schedule-S and Schedule-T;
- (c) operation and maintenance of the Project in accordance with the provisions of this Agreement; and
- (d) performance and fulfillment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement.







3. GRANT OF CONCESSION

3.1. The Concession

- 3.1.1 Subject to and in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits, the Authority hereby grants to the Concessionaire the concession set forth herein including the exclusive right, licence, and authority to construct, operate and maintain the Project (the "Concession") during the Construction Period and for a period of 10 (ten) years commencing from COD, and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein.
- 3.1.2 Subject to and in accordance with the provisions of this Agreement, the Concession hereby granted shall oblige or entitle (as the case may be) the Concessionaire to;
 - (a) Right of Way, access and licence to the Site for the purpose of and to the extent conferred by the provisions
 of this Agreement;
 - (b) finance and construct the Project;
 - (c) manage, operate and maintain the Project;
 - (d) perform and fulfill all the Concessionaire's obligations under and in accordance with this Agreement;
 - (e) save as otherwise expressly provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement; and
 - (f) neither assign, transfer or sublet or create any lien or encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of Project nor transfer, lease or part possession thereof, save and except as expressly permitted by this Agreement or the Substitution Agreement;





4. CONDITIONS PRECEDENT

4.1. Conditions Precedent

4.1.1 Except Articles 4, 5, 6, 7, 8, 9, 10, 22, 28, 38, and 41 which shall come into force and effect on the date of this Agreement, all other Articles of this Agreement shall come into force and effect on the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "Conditions Precedent") Provided, however, that a Party may grant a waiver from the satisfaction of any Condition Precedent by the other Party in accordance with the provisions of Clauses 4.1.2 or 4.1.3, as the case may be and to the extent of such waiver, that Condition Precedent shall be deemed to be fulfilled for the purposes of this Clause 4.1.1.

4.1.2

Since the design will be done by the Concessionaire, permits and forest clearance permits should be at his risk and obtained by him. Only land should remain as Authority risk. Authority taking back clearance and permits risk dilutes the incentive on the Concessionaire part. The Article 4.1.2 is reproduced beow.

"The Concessionaire may, upon providing the Performance Security to the Authority in accordance with Article 9, at any time after 30 (thirty) days from the date of this Agreement or on an earlier day acceptable to the Authority, by notice require the Authority to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 60 (sixty) days of the notice, or such longer period not exceeding 90(ninety) days as may be specified therein, and the Conditions Precedent required to be satisfied by the Authority shall be deemed to have been fulfilled when the Authority shall have:

- (a) procured for the Concessionaire the Right of Way to the Site in accordance with the provisions of Clauses 10.3.1 and 10.3.2;
- (b) procured all Applicable Permits relating to environmental protection, and conservation in respect of at least 80% (eighty percent) of the land required for the Project and forming part of the Site;

© procured forest clearance for and in respect of at least 80% (eighty percent) of the land required for the Project and forming a part of the Site, save and except permission for cutting trees, and provided that upon request in writing by the Authority, the Concessionaire may, in its discretion, grant extension of time, not exceeding 120 (one hundred and twenty) days, for fulfilment of the Conditions Precedent set forth in this Clause 4.1.2.

- 4.1.3 The Conditions Precedent required to be satisfied by the Concessionaire within a period of 180(one hundred and eighty) days from the date of this Agreement shall be deemed to have been fulfilled when the Concessionaire shall have:
 - (a) provided Performance Security to the Authority;
 - (b) executed and procured execution of the Escrow Agreement;
 - (c) executed and procured execution of the Substitution Agreement:
 - (d) procured all the Applicable Permits specified in Part-I of Schedule-E unconditionally or if subject to conditions, then all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect;
 - (e) executed the Financing Agreements and delivered to the Authority 3 (three) true copies thereof, duly attested by a Director of the Concessionaire;
 - (f) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders:
 - (g) delivered to the Authority (from the Joint Venture Members, their respective) confirmation of the correctness of the representations and warranties set forth in Sub-clauses (k), (l) and (m) of Clause 7.1 of this Agreement; and
 - (h) delivered to the state of the concessionaire with respect to the authority of the concessionaire to enter into this streethest and the enforceability of the provisions thereof:

RSHIP Tranche-2 Package (22) NOB/ RSHIP II //mnuity / 01

Provided that upon request in writing by the Concessionaire, the Authority may, in its discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3 For the avoidance of doubt, the Authority may, in its sole discretion, grant any waiver hereunder with such conditions as it may deem fit.

- 4.1.4 Each Party shall make all reasonable endeavours to satisfy the Conditions Precedent within the time stipulated and shall 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.
- 4.1.5 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2. Damages for delay by the Authority

In the event that (i) the Authority does not procure fulfillment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of the breach of this Agreement by the Concessionaire or due to Force Majeure, the Authority shall pay to the Concessionaire Damages in an amount calculated at the rate of 0.2% (zero point two percent) of the Performance Security for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum amount equal to the Bid Security.

4.3. Damages for delay by the Concessionaire

In the event that (i) the Concessionaire does not procure fulfilment or waiver of any or all of the Conditions Precedent set forth in Clause 4.1.3 within the period specified in that Clause, and (ii) the delay has not occurred as a result of failure to fulfil the obligations under Clause 4.1.2 or other breach of this Agreement by the Authority, or due to Force Majeure, the Concessionaire shall pay to the Authority Damages in an amount calculated at the rate of 0.3% (zero point three percent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent Provided, however, that the Damages payable hereunder shall be subject to a maximum amount equal to the Bid Security and upon reaching such maximum, the Authority may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement Provided further that in the event of delay by the Authority in procuring fulfilment of the Conditions Precedent specified in Clause 4.1.2 no Damages shall be due or payable by the Concessionaire under this Clause 4.3 until the date on which the Authority shall have procured fulfilment of the Conditions Precedent specified in Clause 4.1.2

4.4. Commencement of Concession Period

The date on which Financial Close is achieved and all the Conditions Precedent specified in Clause 4.1 are satisfied or waived, as the case may be, shall be the Appointed Date which shall be the date of commencement of the Concession Period. For the avoidance of doubt, the Parties agree that the Concessionaire may, upon the occurrence of the Appointed Date hereunder, by notice convey the particulars thereof to the Authority and shall thereupon be entitled to commence construction on the Project.

4.5. Deemed Termination upon delay

Without prejudice to the provisions of Clauses 4.2 and 4.3, and subject to the provisions of Clause 9.2, the Parties expressly agree that in the event the Appointed Date does not occur, for any reason whatsoever, before the 1st (first) anniversary of the date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims, and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the delay in the occurrence of the Appointed Date is for reasons attributable to the Concessionaire, the Performance Security of the Concessionaire shall be encashed and appropriated by the Authority as Damages thereof.





OBLIGATIONS OF THE CONCESSIONAIRE 5.

Obligations of the Concessionaire 5.1

- 5.1.1 Subject to the provisions of Article 23 and other terms and conditions of this Agreement, the Concessionaire shall, at its own cost and expense, procure finance for and undertake the design, engineering, procurement, construction, operation, and maintenance of the Project and observe, fulfill, comply with and perform all its obligations set out in this Agreement or arising hereunder. Further, the Concessionaire acknowledges, agrees, and undertakes that all Contractors and subcontractors under the Project must belong to ADB Member Countries and further that, goods and works for the Project shall be procured from ADB Member Countries as listed in Annexure-I only.
- 5.1.2 The Concessionaire shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement.
 - The Concessionaire shall ensure that its Contractor/s shall comply with all reasonable requests of (a) the national and local authorities responsible for enforcing environmental controls.

Within 28 days of the Commencement Date, the Concessionaire shall ensure that its Contractor shall submit a detailed Site Specific Environmental Management Plan (SSEMP) for the Engineer's no objection showing how he/she intends to comply with environmental laws and regulations and other specific requirements prescribed in the Contract, addressing all the monitoring and mitigation measures set forth in the Environmental Impact Assessment ("EIA") and the Environmental Management Plan ("EMP") of the project. Work shall not commence on the Site until the no objection of SSEMP has been obtained from the Engineer and is being implemented. Such acceptance by the Engineer shall not relieve the Contractor of any of his obligations or responsibilities under the Contract.

The Concessionaire shall ensure that its Contractor shall (a) establish an operational system for managing environmental impacts, (b) comply with the approved SSEMP and any corrective or preventative actions set out in safeguards monitoring reports that the Employer will prepare from time to time to monitor the implementation of the project EMP through the SSEMP, (c) allocate the budget required to ensure that such measures, requirements and actions are carried out, (d) submit semi-annual reports on the compliance of such measures to the Employer.

- (b). Where unanticipated environmental risks or impacts become apparent during the Contract, the Concessionaire shall ensure that its Contractor is required to update the SSEMP to outline the potential impacts to site works and associated mitigation measures for the Engineer's approval."Upon the recommendation of the Independent Engineer to this effect, the Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, such work results to non-compliances of the Environmental Monitoring Plan including of Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement. Provided, however, that in case of an emergency, the Authority may suo moto issue the notice referred to hereinabove.
- 5.1.3 Save and except as otherwise provided in this Agreement or Applicable Laws, as the case may be, the Concessionaire shall, in the discharge of all its obligations under this Agreement, conform with and adhere to Good Industry Practice at all times.
- 5.1.4 The Concessionaire shall, at its own cost and expense, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

essary applications to the relevant Government Instrumentalities with (a) make, or cause to be, such particulars ag forth in Clause 1 Shift bitain and keep in force and effect suist Applicable Permits in conformity with

RSHIP Tranche-2 Package-01. WOB RSHIP II / Annuity / 01

Page 12 of 105

- Applicable Laws. In the event of any delay in getting forest Clearance for reasons beyond the control of the Concessionaire, it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in forest clearance;
- (b) procure, as required the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes, know-how and systems used or incorporated into the Project;
- (c) perform and fulfil its obligations under the Financing Agreements.
- (d) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;
- (e) make reasonable efforts to facilitate the acquisition of land and procuring of environmental and forest clearances required for the purposes of the Agreement;
- (f) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement;
- (g) always act in a manner consistent with the provisions of this Agreement and not cause or fail to do any act, deed or thing, whether intentionally or otherwise, which may in any manner be violative of any of the provisions of this Agreement;
- (h) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement; and
- (i) transfer the Project to the Authority upon Termination of this Agreement, in accordance with the provisions thereof.

5.2 Obligations relating to Project Agreements

- 5.2.1 It is expressly agreed that the Concessionaire shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Concessionaire from its obligations or liability hereunder.
- 5.2.2 The Concessionaire shall submit to the Authority the drafts of all Project Agreements, or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of the Authority to review and/or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/or observation of the Authority and/ or its failure to review and/or convey its observations on any document shall relieve the Concessionaire for its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever.
- 5.2.3 The Concessionaire shall not make any addition, replacement, or amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement, or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Concessionaire shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the Concessionaire.
- 5.2.4 The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination or Suspension (the "Covenant"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90(ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The action of the Project Agreements and undertakes that the state of the Project Agreements, procure and deliver to the Authority

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