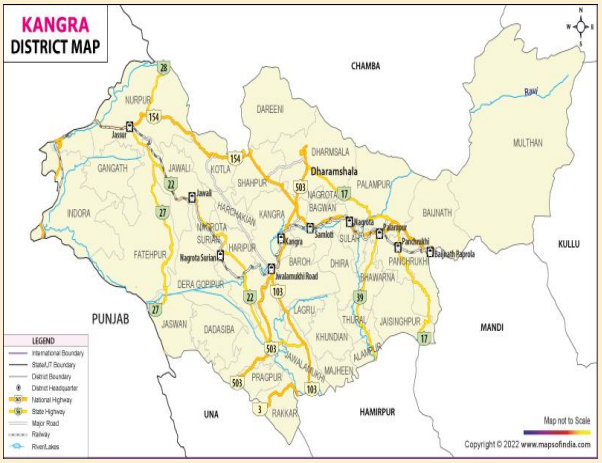
RFQ-cum-RFP Document

Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier,

Distt. Kangra in Himachal Pradesh



सत्यमेव जयते
हिमाचल प्रदेश सरकार

RTDC
(A Government of Himachal Pradesh Undertaking)
Ropeways and Rapid Transport System Development Corporation HP Ltd.
प्रदूषण मुक्त यातायात के लिए हिमाचल की पहल

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June 06, 2023

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DISCLAIMER

1. The information contained in this Request for Qualification cum Request for Proposal document (the "RFQ cum RFP" or "Bid") or subsequently provided to Bidder(s), whether verbally or in documentary or in any other form by or on behalf of Ropeway and Rapid Transport System Development Corporation H.P. Ltd (RTDC, the "Authority") or any of its employees or advisors, is provided to Bidder(s) on the terms and conditions set out in this RFQ cum RFP and such other terms and conditions subject to which such information is provided.

2. This RFQ cum RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective Bidders or any other person. The purpose of this RFP is to provide the prospective bidder(s) ("the 'Bidder' or any other person) with information that may be useful to them in preparing their Bids and submitting their proposals pursuant to this RFQ cum RFP. This RFQ cum RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFQ cum RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this Bid. The Authority had also initiated preparation of Technical-Financial Feasibility Report (TEFR) which is available with the Authority on request. These reports are to be used as a guidance to the prospective bidder.

   The assumptions, assessments, statements and information contained in the RFQ cum RFP and these reports 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 RFQ cum RFP and obtain independent advice from appropriate sources.

3. Information provided in this RFQ cum RFP 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 Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

4. The possession or use of this RFQ cum RFP in any manner contrary to any applicable law is expressly prohibited. The Bidders shall inform themselves concerning and shall observe any applicable legal requirements. The information does not purport to be comprehensive or to have been independently verified. Nothing in this RFQ cum RFP shall be construed as legal, financial or tax advice.

5. The Authority, 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 RFQ cum RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFQ cum RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage.

6. The Authority, its employees, consultants, representatives and advisors also accept 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 RFQ cum RFP.

7. The Authority 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 RFQ cum RFP.

8. The issue of this RFQ cum RFP does not imply that the Authority is bound to select and short list qualified Bids for Bid Stage or to appoint the Selected Bidder or Concessionaire, as the case may be,

for the Project and the Authority reserves the right to reject all or any of the Bidders or Bids without assigning any reason whatsoever or annul the entire Bidding Process for any reason whatsoever, without incurring any liability or being accountable to any person(s) in any manner whatsoever.

9. 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 Authority 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 Authority 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.

10. Nothing in this RFQ cum RFP shall constitute the basis of a contract which may be concluded in relation to the Project nor shall such documentation/information be used in construing any such contract. Each Bidder must rely on the terms and conditions contained in any contract, when, and if, finally executed, subject to such limitations and restrictions which may be specified in such contract.

11. The Bidders are prohibited from any form of collusion or arrangement in an attempt to influence the selection and award process of the Bid. Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the Bidder towards any officer/employee of Authority or to any other person in a position to influence the decision of the Authority for showing any favour in relation to this RFQ cum RFP or any other contract, shall render the Bidder to such liability/penalty as the Authority may deem proper, including but not limited to rejection of the Bid of the Bidder and forfeiture of its Bid Security.

12. Laws of the Republic of India are applicable to this RFQ cum RFP.

13. Each Bidder's procurement of this RFQ cum RFP constitutes its agreement to, and acceptance of, the terms set forth in this Disclaimer. By acceptance of this RFQ cum RFP, the recipient agrees that this RFQ cum RFP and any information herewith supersedes document(s) or earlier information, if any, in relation to the subject matter hereto.

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LETTER OF INVITATION

NO: RTDC/ Bhatarka to Thathri to Chunja Glacier/2023

Dear Sir/Madam,

Sub: Letter of Invitation (LOI) – RFQ cum RFP for Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh on Design, Build, Finance, Operate, and Transfer (DBFOT) Basis in PPP Mode

Background:

With an objective to provide aerial connectivity by means of Ropeway from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh, RTDC by means of a Cable propelled Transit Systems as a feeder service and for furthering the development of Tourism and Urban Transport Infrastructure in the State of Himachal Pradesh. RTDC intends to prepare Technical Economic Feasibility Report for the route: Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh (HP).

Detailed scope of work is given in Section 6 of RFP document.

1. **Eligibility Criteria:** Eligibility Criteria for assignment is given at clause 2.2 of RFQ cum RFP.
2. Total Concession period for the project: Phase – I: 51 years (including construction period of 4 years and 1 year for obtaining approvals, permits, etc) and Phase – II: 45 years (including construction period of 4 years and 1 year for obtaining approvals, permits, etc) *(Phase II has been considered to start after 2 years of commissioning of Phase I)*
1. The RFP document is available to download on website: www.rtdchp.org
2. **Pre-bid meeting will be held on 26/06/2023 at 11.00 A.M.** (in the office of Director, RTDC)
3. The last date for submission of proposals is 24/07/2023 till 1500Hrs hrs.
4. For further details, if required, you may contact:

The Deputy General Manager Ropeways and Rapid Transport System Development Corporation H.P. Limited (RTDC), US Club, Shimla – 171001	PHONE NO.: 0177-2811001, 2811003, 04 E-mail ID: dgmrtdchp@gmail.com

RTDC reserves the right to reject any/all of the proposals without assigning any reason thereof.

Deputy General Manager
RTDC

Ropeway and Rapid Transport System Development Corporation HP Ltd.

Shimla – 171001 (H.P)
Telephone No (01772811004)
Email: dgmrtdchp@gmail.com

RFP NOTICE

Ropeway and Rapid Transport System Development Corporation H.P. Ltd (RTDC) hereby invites Request for Qualification (RFQ) cum Request for Proposal (RFP) from eligible developers through e-tendering for **"Development of Passenger Ropeway Project from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh on Design, Finance, Build, Operate, and Transfer (DBFOT) Basis in PPP Mode".** The RFP details are as below

Sr. No.	Parameters	Details	
1	Tender/Bid No.	RTDC/ Bhatarka to Thathri to Chunja Glacier/2023	
2	Division	Deputy General Manager	
3	Name of Tender/Bid	RFQ cum RFP for **"Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra on Design, Finance, Build, Operate, and Transfer (DBFOT) Basis in PPP Mode"**	
4	Contact Details	PHONE NO.: 0177-2811001, 2811003, 04 E-mail ID: dgmrtdchp@gmail.com	
5	Important Dates		From date/time
		Date of online Publication	08/06/2023 UPTO 5.00 P.M.
		Downloading of tender start date & time	08/06/2023 from 5.00 P.M.
		Last date for receiving queries	20/06/2023 UPTO 5.00 P.M.
		Pre-Bid Meeting	26/06/2023 at 11.00 A.M.
		Authority response to queries latest by	03/07/2023 UPTO 5.00 P.M.
		Last date for Submission of bid	24/07/2023 UPTO 2.00 P.M.
		Physical submission of bid security/POA etc.	24/07/2023 UPTO 2.00 P.M.
		Date of Opening of Technical Bids	24/07/2023 at 3.00 P.M.

The RFP shall be available for free download on registration at: www.rtdchp.org as per the above-mentioned dates.

The submission of the RFP response is through offline mode only.

For participating in this RFP and avoiding last minute technical challenges if any, all the bidders shall follow the guidelines mentioned in the RFP document.

Bidders are suggested to visit RTDC website regularly for further updates.

Date:
Place: Himachal Pradesh

Deputy General Manager
RTDC

Guidelines for Submission

1. Details of Tender:

Sr. No	Name of Work	Bid Processing Fee	Bid Security
1.	RFQ cum RFP for **"Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra on Design, Build, Finance, Operate, and Transfer (DBFOT) Basis in PPP Mode"**	Rs 10,000/- (Rupees Ten Thousand Only) + GST. **Non-Refundable.**	0.5% of the total project cost i.e. Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only)

2. The tender will be received offline on above mentioned on below mentioned address and will be opened as per scheduled date and time given below:

The Deputy General Manager
Ropeways and Rapid Transport System Development Corporation H.P. Limited (RTDC),
US Club, Shimla – 171001

3. Tender Document and Supporting can be downloaded for reference purpose from the official website of RTDC during the period mentioned in the tender notice. Interested Bidder has to make payment of Tender Document Fee (Non- Refundable) using online payment gateway for bid preparation using i.e. Debit Card/Credit Card/Net-Banking.

4. Tender Document Fee receipt can be system generated during bid preparation by the Bidder.

5. Details of Bid Processing Fee (Non-Refundable)

- Bid Processing fees for this work will be Rs 10,000/- (Rs. Ten Thousand Only) + 18% GST.
- Bid Processing Fees Payment as mentioned above have to be made through RTGS/NEFT mode using the System Generated Challan i.e. in favour of "ROPEWAYS & RAPID TRANSPORT SYSTEM DEVELOPMENT CORPORATION HP LIMITED" in the A/c No. 50100297437422 IFSC Code: HDFC000524, HDFC the Mall Shimla. The scanned copy of RTGS/NEFT receipt with UTR No. (Transaction ID) must be enclosed along with e-Bid. Bidder should ensure that the payment of the Bid processing Fee is made at-least 3-5 working days prior to the last date of Bid Preparation and Submission of the Tender Schedule to have seamless submission.
- Bidder need to submit copy of Bid processing Fees paid receipt during bid preparation.
- Bidder failing to complete the payment of Bid processing fees using the above-mentioned process of RTGS/NEFT after downloading the system generated challans will not be able to submit their bids.
- Bid Processing Fees amount is Non-Refundable.

6. Bid Secuity

- 0.5% of the total project cost i.e. Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only) payable in the form of Bank Guarantee or FDR in favour of "ROPEWAYS & RAPID TRANSPORT SYSTEM DEVELOPMENT CORPORATION HP LTD" at Shimla, Himachal Pradesh.
- Bid security shall be refundable not later than 180 (One Hundred Eighty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a performance security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of Bank guarantee acceptable or FDR to the Authority and in such event, the validity period of bank guarantee or FDR as the case may be, shall not be less than 180 (one hundred eighty) days from the bid Due date and a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be rejected if it is not accompanied by the Bid Security.

7. The competent authority (RTDC) reserves the right to reject any or all of the tender offers, without assigning any reason thereof.

8. Validity period of the offer of the bidder will be 180 days from the last date of tender submission.

9. The acceptance of tender will be intimated by email or otherwise by the authority competent to accept the tender or by the higher Authority of RTDC, to the agency, which shall be deemed to be an intimation of the tender given by the Authority Competent to accept the tender.

10. The Bidder should visit the site prior to submission date and ascertain the local site condition, working restrictions, obstructions, conditions in tender document regarding necessary approvals, NOC required for the work from the local Authorities and shall quote the offer inclusive of all such expenses likely to be incurred while execution of the work. No claim or compensation for any extra payments incurred by the Bidders towards the approvals/ NOC's/ permissions or any such additional expenses will be entertained by RTDC, which shall be noted.

11. If there is any amendment in the tender the same shall be published on www.rtdchp.org

12. In case of any queries, Bidder may contact RTDC at dgmrtdchp@gmail.com on any working day.

13. Bidders are suggested to visit RTDC website regularly for further updates.

Deputy General Manager
RTDC

GLOSSARY

Authority	As defined in Clause 1.1.1
Associate	As defined in Clause 2.1.16
Appointed Date	As defined in Clause 2.1.20
Bank Guarantee	As defined in Clause 1.1.1 (Table.S.No. 6)
Bidders	As defined in Clause 1.2.2
Bid Documents	As defined in Clause 1.2.3
Bid Due Date	As defined in Clause 1.1.7
Bidding Process	As defined in Clause 1.2.1
Bid Security	As defined in Clause 1.2.4
Concession Agreement	As defined in Clause 1.1.2
Concessionaire	As defined in Clause 1.1.2
Concession Fee	As defined in Clause 1.2.6
Conflict of Interest	As defined in Clause 2.2.1.3
Consortium/Joint Venture	As defined in Clause 2.2.1.1
Damages	As defined in Clause 2.2.1.3
Technical-Financial Feasibility Report	As defined in Clause 2.1.2
DBFOT	As defined in Clause 1.1.1
Demand Draft	As defined in Clause 1.1.1
Estimated Project Cost	As defined in Clause 1.1.4
Government	Government of Himachal Pradesh
Highest Bidder	As defined in Clause 3.9.2(d)
LOA	As defined in Clause 2.2.1.1
Member	Member of a Consortium
PPP	Public Private Partnership
Project	As defined in Clause 1.1.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in the Disclaimer
RFQ or Request for Qualification	As defined in the Disclaimer
Selected Bidder	As defined in Clause 1.1.2 and 1.2.8

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto hereinabove. The words and expressions beginning with capital letters and not defined herein, but defined in the RFQ cum RFP, shall, unless repugnant to the context, have the meaning ascribed thereto therein.

1. Introduction

1.1. Background

1.1.1. The Ropeways and Rapid Transport System Development Corporation H.P. Limited (RTDC) (the "**Concessioning Authority"/ "Authority**") is engaged in the development of Tourism and Urban Transport Infrastructure in the State of Himachal Pradesh and as part of this endeavor, the Authority has decided to undertake development, operation/ maintenance of the Ropeway Project (the "Project") based on a world class (CEN Certified) cable car technology, with its unique safety features, through Public-Private Partnership (the "PPP") on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis, and has decided to carry out the bidding process for selection of the bidder to whom the Project may be awarded. The RFQ cum RFP can be downloaded from www.rtdchp.org

Brief particulars of the Project are as follows:

Sr. No.	Particulars	Details
1.	Nature of the Project	Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh through PPP on DBFOT basis – Under 2 Phases
2.	Scope of Work	The work comprises of planning, designing, detailed engineering development, financing, construction, testing, commissioning, marketing, operation and maintenance and transfer of the proposed ropeway corridor of 8.73 km
3	Bid Processing Fee	Rs. 10,000/- (Rupees Ten Thousand Only) + GST)
4.	Bid Security	0.5% of the Project Cost i.e. Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only) payable in the form of Bank Guarantee or FDR in favour of "Deputy General Manager, Ropeway and Rapid Transport System Development Corporation H.P. Limited, Shimla at Shimla, Himachal Pradesh.
5.	Estimated Project Cost	**Rs. 585.27 Crores** Phase – I: 229.59 Core (Ropeway System: Rs. 139.32 Crore, Civil works: Rs. 47.79 Crore, Other Misc Costs: Rs. 42.48 Crore).[1] Phase – II: 355.68 Core (Ropeway System: Rs. 185.76 Crore, Civil works: Rs. 74.34 Crore, Other Misc

[1] *Refer paragraph 1.1.3 below*

Sr. No.	Particulars	Details
		Costs: Rs. 95.58 Crore).
6.	Performance Security / Bank Guarantee	2% of Project Cost i.e Rs. 11.70 Crore (Rupees Eleven Crores Seventy Lakhs Only) payable in the form of Bank Guarantee or FDR in favour of "Deputy General Manager, Ropeway and Rapid Transport System Development Corporation H.P. Limited, Shimla" Himachal Pradesh.
7	Project Development Fees	1% of the Project Cost i.e. Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only)
8.	Concession Period	Phase – I: 51 years (including construction period of 4 years and 1 year for obtaining approvals, permits, etc) Phase – II: 45 years (including construction period of 4 years and 1 year for obtaining approvals, permits, etc) *(Phase II may start after 2 years of commissioning of Phase I)*
9.	Validity of Offer	180 days from the Bid Due date

Note: The list is indicative only and is subject to correction for any factual or other errors. The Bidders must themselves verify sites and other details as needed for bidding.

1.1.2. The Selected Bidder, who is either a company incorporated under the Companies Act 1956 or the Companies Act, 2013 or undertakes to incorporate a company under the Companies Act 2013 as such prior to execution of the concession agreement (the "Concessionaire"), shall be responsible for designing, engineering, financing, procurement, construction, operation and maintenance of the Project under and in accordance with the provisions of the long term concession agreement (the "Concession Agreement") to be entered into between the Selected Bidder and the Authority in the form provided by the Authority as part of the Bidding Document pursuant hereto.

1.1.3. The scope of work will broadly include construction of Phase – I between Bhatarka to Thathri (5156 m) incorporating the MGD system and Phase – II between Thathri to Chunja Glacier (3573 m) incorporating 3S System; including ancillary works and operation & maintenance of the ropeway system on DBFOT basis.

The Concessioning Authority shall allocate land of 30,000 sqm at LTP (Bhatarka) for the construction of Hotel, commercial and recreational activity; and 20,000 sqm at ITP (Thathri) for the construction of recreational activity. The Concessionaire will have the liberty to decide details of Hotel, commercial and recreational activities at LTP and ITP. However, he will be required to submit the proposal for the same to the Concessioning

Authority for approval.

1.1.4. The estimated cost of the Project (the "Estimated Project Cost") has been specified in 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders. The Estimated Total Project Cost would include the cost of construction comprising civil, electrical, mechanical and other costs excluding Cost of land. The concessionaire shall also pay required taxes such as GST and any other applicable taxes, etc.

1.1.5. The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "Concession").

1.1.6. The statements and explanations contained in this RFQ cum RFP are intended to provide a proper understanding to the Bidders about the subject matter of this RFQ cum RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority's rights to amend, alter, change, supplement or clarify the scope of work, the concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by the Authority and the Authority shall not be liable for any inconsistencies/omissions/conflicts or contradictions in this RFQ cum RFP/Draft Concession Agreement in any manner whatsoever.

1.1.7. The Authority shall receive Bids in accordance with the terms set forth in this RFP and other documents to be provided by the Authority pursuant to this RFQ cum RFP as modified, altered, amended and clarified from time to time by the Authority (collectively the "Bidding Document"), and all Bids shall be prepared and submitted in accordance with such terms on or before the date specified in clause 1.3 for submission of Bids (The "Bid Due Date").

1.1.8. The Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire's services and obligations (the "Concession"). The Concession period is 51 years for Phase I and 45 years for Phase II (including 4 years period of construction and 1 year of obtaining approvals, etc in each Phase from Concession Agreement), for development/ construction/setting up of the Ropeway System (the "Concession Period"). The extension of concession period shall be at the discretion of the Authority for which Authority will decide in the 26th year of the first concession period.

1.2. Brief Description of Bidding Process

1.2.1. The Authority has adopted a single-stage two-cover system (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The First cover of the Bid comprising of the "Technical Bid" and the second cover comprising of the "Financial Bid" collectively referred to as the "Bid", to be submitted by the Bidders for undertaking the Project. The first stage of the evaluation (the "Qualification Stage") involves qualification of the Bidders as per the eligibility criteria stipulated in this RFQ cum RFP. At the end of this stage, the Authority intends to announce a short-list of maximum 6 (six) suitable qualified Bidders whose financial bids shall only be opened for further evaluation. In case there are more than one bidder having same aggregate score at 6th rank, financial bid of all such bidders will also be opened

1.2.2. Interested Bidders (the "Bidders") are being called upon to submit their Bid in accordance with the terms specified in this Bidding Document. The Bid shall be valid for a period of 180 days from the date specified in Clause 1.3 for Submission of Bids (the "Bid Due Date").

1.2.3. The RFQ cum RFP (The "Bid Documents") includes the draft Concession Agreement. The aforesaid document and any addendum issued subsequent to this RFQ cum RFP will be deemed to form part of the Bidding Document.

1.2.4. A Bidder(s) is required to deposit, along with its Bid, a bid security of Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only) (the "Bid Security"), refundable not later than 180 (One Hundred Eighty) days from the Bid Due Date, except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a performance security under the Concession Agreement. The Bidders will have an option to provide Bid Security in the form of acceptable Bank guarantee or FDR to the Authority and in such event, the validity period of bank guarantee or FDR as the case may be, shall not be less than 180 (one hundred eighty) days from the bid Due date and a claim period of 60(sixty) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be rejected if it is not accompanied by the Bid Security. The format of bank guarantee is provided at Appendix-II.

1.2.5. Bidders are invited to examine the Project in detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the concession including implementation of the project.

1.2.6. The Bidder shall quote Lowest VGF sought in absolute figure and Highest Annual Concession fee (ACF) (the "Concession Fee") in absolute figure in the 8th year of operations, payable to the Authority, for evaluation of the financial bid. The project will be awarded to the Bidder who score the highest weighted financial score. The ACF shall be paid from the 8th year and shall be increased by 1% in absolute figure over previous year's ACF upto the end of concession period.

1.2.7. Generally, the Bidder, quoting the highest Annual Concession fee (ACF), shall be the Selected Bidder in Clause 3.8 of this RFQ cum RFP. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3.8.3 of this RFP be invited to match the Bid submitted by the highest Bidder in case such highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the Bid of the highest Bidder, the Authority may, in its discretion, invite fresh Bids from the remaining Bidders or annul the Bidding Process.

1.2.8. The Concessionaire shall be entitled to levy & charge a predetermined fare, as prescribed in the draft concession agreement and as given above.

1.2.9. Any queries or request for additional information concerning this Bid shall be submitted in writing through e-mail to the officer designated in Clause 2.14.4 below. The email communication shall clearly bear the following identification/title in the subject:

1.3. Schedule of Bidding Process:

The bidding schedule timeline is given below:

S. No.	Event Description	Date
1	Date of online Publication	08/06/2023 UPTO 5.00 P.M.
2	Downloading of tender start date & time	08/06/2023 from 5.00 P.M.

S. No.	Event Description	Date
3	Last date for receiving queries	20/06/2023 UPTO 5.00 P.M.
4	Pre-Bid Meeting	26/06/2023 at 11.00 A.M.
5	Authority response to queries latest by	03/07/2023 UPTO 5.00 P.M.
6	Last date for Submission of bid	24/07/2023 UPTO 2.00 P.M.
7	Physical submission of bid security/POA etc.	24/07/2023 UPTO 2.00 P.M.
8	Date of Opening of Technical Bids	24/07/2023 at 3.00 P.M.

Note: Bid due date shall be minimum 15 days from the date of issue of response to queries/addendum if any.

2. Instructions to Bidders

2A. General

2.1. Scope and General Terms of Bidding

2.1.1. The Authority invites bids in order to select experienced and capable bidder for the implementation of the project.

2.1.2. The Technical-Financial Feasibility Report (TEFR) for the project is being provided (Follow the link for TEFR ……..) only as a reference document by way of assistance to the Bidders who are otherwise expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the TEFR shall be binding on the Authority nor confer any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of these reports.

2.1.3. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Draft Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.

2.1.4. The Bid should be furnished in the format at Annex 2 to Appendix-I : Technical Capacity of Bidder and Annex 3 to Appendix-I : Financial Capacity of Bidder. The Financial Bid shall consist of Annual Concession Fee (ACF), to be quoted by the Bidder clearly in both figures and words, in Indian Rupees, in prescribed format of Financial Bid and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.

2.1.5. The Bidder should submit a Power of Attorney as per the format at APPENDIX-III: Format for Power of Attorney for signing of Bid, authorizing the signatory of the Bid to commit the Bidder.

2.1.6. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at APPENDIX-IV: Format for POA for Lead Member of Consortium.

2.1.7. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid as non-responsive and shall be liable to rejection.

2.1.8. The Bid and all communications in relation to or concerning the Bidding Document and the Bid shall be in English language.

2.1.9. The RFP including all attached documents, provided by the Authority are and shall remain the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of the clause 2.1.4 shall also apply mutatis mutandis to bids and all other documents submitted by the Bidder, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.

2.1.10. This RFP is not transferable.

2.1.11. Any award of Concession pursuant to this RFQ cum RFP shall be subject to the terms of Bidding Documents.

2.1.12. Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 2013 (the "SPV"), to execute the Concession Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

a) number of members in a Consortium shall not exceed 3 (three). However, none of the members in a Consortium should be under any sort of ineligibility under the Bid documents.;

b) subject to the provisions of clause (a) above, the Bid should contain the information required for each member of the Consortium;

c) members of the Consortium shall nominate one member as the lead member (the "Lead Member"), who shall have an equity share holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at APPENDIX-IV: Format For POA for Lead Member of Consortium, signed by all the other members of the Consortium;

d) the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial and technical obligations;

e) an individual Bidder cannot at the same time be member of a Consortium applying RFQ cum RFP. Further, a member of a particular Bidder / Consortium cannot be member of any other Bidder / Consortium applying for RFP;

f) the members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;

g) members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at APPENDIX-V: Format For Joint Bidding Agreement (consortium), for the purpose of submitting a Bid. The Jt. Bidding Agreement, to be submitted along with the Application, shall, inter alia:

i. convey the intent to form an SPV, solely for the purpose of domiciling the Project and no other purpose, with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;

ii. clearly outline the proposed roles and responsibilities, if any, of each member;

iii. commit the minimum equity stake to be held by each member;

iv. commit that each of the members of the consortium, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than 26% (twenty-six per cent) of the subscribed and paid up equity share capital of the SPV; or 5% (five per cent) of the Total Project Cost specified in the Concession Agreement; whichever is higher.

v. members of the Consortium undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and

vi. include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement; and

vii. The lead member of consortium shall hold controlling equity at all times for entire concession period. (For avoidance of doubt the lead member shall hold equity more than other consortium partners at all times during entire concession period).

h) Bidders/Consortium Members claiming techncial experience other than Ropeway System shall enter ino a Memorandum of Understanding with a CEN Standards OEM Ropeway Technology Equipment Manufacturer and supplier.

i) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

2.1.13. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.

2.1.14. A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Bidder, Consortium Member or Associate.

2.1.15. Authority would place sole reliance on the certification provided by the Bidder in this regard in its letter comprising the Technical Bid.

2.1.16. In computing the Technical Capacity and Financial Capacity of the Bidder/ Consortium Members under Clauses 2.2.2 (A) and (B), respective Associates would also be eligible hereunder.

For purposes of this RFP, **Associate** means, in relation to the Bidder/ Consortium Member / Technical Tie-Up Partner and / or to the OEM Ropeway Technology Equipment Manufacturer and supplier or its, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member / Technical Tie-Up Partner/OEM Ropeway Technology Equipment Manufacturer and supplier (the "**Associate**"). As used in this definition, the expression "**control**" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

It is clarified that a certificate from Statutory Auditor of the Bidder or Consortium Member or qualified Chartered Accountant shall be provided to demonstrate that a person is an Associate of the Bidder or the Consortium as the case may be.

2.1.17. The following conditions shall be adhered to while submitting a Bid:

(i) Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;

(ii) information supplied by a Bidder (or other constituent Member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms;

(iii) in responding to the RFP submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and

(iv) in case the Bidder is a Consortium, each Member should substantially satisfy the RFP requirements to the extent specified herein.

2.1.18. While Qualification is open to an entity from any country, the following provisions shall apply:

(i) Where, on the date of the Bid, not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid-up equity share capital in a Bidder or its Member is held by an entity outside India or where a Bidder or its Member is controlled by an entity outside India; or

(ii) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 25% (twenty five percent) of the aggregate issued, subscribed and paid-up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;
Then the Eligibility of such Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

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, the Authority 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, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the Authority of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.1.19. Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

2.1.20. During the period from the date of the Signing of the Concession Agreement until the Appointed Date (the "Development Period"), the Concessionaire shall maintain the existing Site including periphery roads inside the compound Site, in such a manner so as to ensure its maintenance and safety and in the event of any material deterioration or damage other than normal wear and tear, the Concessionaire shall undertake repair thereof. The Concessionaire shall make necessary provisions for inclusion of costs related to maintenance during the Development Period in its Bid.

2.1.21. Appointed Date: The date on which all conditions precedents are achieved by either party i.e. the Authority and Concessionaire as per signed concession agreement shall be termed as Appointed Date.

2.2. Eligibility of Bidders

2.2.1. For determining the eligibility of Bidders for their qualification hereunder, the following shall apply:

2.2.1.1. The bidder may be a single entity or a group of entities **("Consortium Member/Joint Venture"),** coming together to implement the Project. No bidder applying individually or as a member of a JV/Consortium, as the case may be, can be member of another Bidder. However, since there are limited Ropeway manufacturers in the world who qualify under the Global Passenger Safety Standards (CEN Standards), they would be allowed to align (MOU) with multiple main bidders and a firm agreement with the successful bidder will be mandatory upon the Letter of Award (LOA). The term Bidder used herein would apply to both single entity and a JV/Consortium.

2.2.1.2. A bidder may be a natural person, private entity, company either incorporated in India or outside India, Limited Liability Partnership (LLP) firm, Partnership firm, government-owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a JV/Consortium. A JV/Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.7 below.

2.2.1.3. A Bidder shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as a mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Authority and not by way of penalty for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder's proposal (the "Damages") without prejudice to any other right or remedy that may be available to the Authority under the Bidding document and/ or the Concession Agreement or otherwise. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest that affects the Bidding Process, if:

(i) the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder,its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest or management control or otherwise; provided that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2 (72) of the Companies Act 2013.

(ii) such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or

(iii) such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/parties, that puts either or both of them in a position to have access to each other's' information about, or to influence the Bid of either or each other; or

(iv) such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any document, design or technical specifications of the Project.

2.2.1.4. A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii) execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have there under or otherwise, the LOA or the Concession Agreement, as the case maybe, shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFQ cum RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

2.2.1.5. Any investment by the Bidder, which is a foreign company and not registered under Companies Act 2013, shall comply with the latest Foreign Direct Investment (FDI) policies as issued by Department of Industrial Policy and Promotion, Ministry of Commerce and Industry, Government of India (GOI) and other rules and regulations as notified by GOI and Reserve Bank of India. The Bidder shall acquaint itself with all the policies and implications if any, for the proposed Bid before submission of the Bid.

2.2.2. To be eligible for qualification, a bidder shall fulfil the following conditions of eligibility:

A. Technical Capacity:

For demonstrating Technical Capacity and experience (the "Technical Capacity"), the Bidder claiming experience either solely or as consortium shall, over the past 10 (ten) financial years preceding the Application Due Date; should possess experience of undertaking projects in any one or more of the following categories:-

Category 1

Owned, operated & managed at least 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD.

AND/OR

Category 2

Owned, operated & managed at least one project in Core Sector having minimum project cost of Rs. 878 Crores (Rupees Eight Hundred Seventy Eight Crores) excluding land cost. The project should have been undertaken as a PPP project on

BOT, BOLT, or on EPC/ Turnkey project basis or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity.

In this RFP, the Core Sector would be deemed to include highways & bridges, power, telecom, ports, airports, railways, metro rail, industrial parks/ estates, logistic parks, pipelines, irrigation and water supply & sewerage sectors.

AND/OR

Category 3

(i) Installed at least one 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD during the last 10 (ten) financial years prior to the Bid Due Date.

(ii) Further such entity should be able to demonstrate presence in installing and servicing Ropeway equipment during the last 10 (ten) financial years prior to Bid Due Date.

However, for a document executed or issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the documents are being issued. However, a document provided by the Bidder from countries that have signed the Hague Legislation Convention 1961 is not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.

B. Financial Capacity:

In all the above case of Category 1 , 2 and 3 Projects:

(i) The Bidder shall have a minimum Net Worth (the "Financial Capacity") of Rs. 87.80 crores (Rupees Eighty Seven Crores Eighty Lakhs only) at the close of the preceding financial year.

(ii) The Bidder or its holding/ Associate company should be a net profit-making entity for the last five financial years (excluding two financial years 2020-21 and 2021-22 due to covid) preceding the bid due date.

In case of a Consortium, the combined technical & financial capacity of those Members, who have and shall continue to have an equity share of at least 26% (twenty six per cent) each in the SPV, should satisfy the above conditions of eligibility; provided that each such Member shall, for a period of 2 (two) years from the date of full commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity of the SPV; and (ii) 5% (five per cent) of the Total Project Cost.

C. High Net worth Route

The prospective bidder(s) having a Net-worth of Rs 585 Crores (Rupees Five Hundred Eighty-Five Crores only) & above, as on 31st March 2022 will be exempted

from the Technical Capacity & Financial Capacity as per Clause 2.2.2 (A) and Clause 2.2.2 (B) above (the "Minimum Eligibility Criteria"). However, such Bidder shall have to demonstrate this Net-worth independently, without forming a Joint Venture/Consortium.

2.2.3. **Technical Tie-Up**: The Bidder(s) applying under Category 2 or High Net Worth Route(C) shall enter into a MoU / agreement for technical support with an entity having below mentioned experience in respect of the Ropeway projects in conformity with the provisions of the Concession Agreement

- Owned, operated & managed at least 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD

Or

- Installed at least one 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD during the last 10 (Ten) financial years prior to the Bid Due Date.

Or

- CEN Standard OEM Ropeway Technology supplier with experience of manufacturing and commissioning at least 100 passenger ropeways across the globe.

The Bidder undertakes and agrees that in case the Project is awarded to it, the above technical tie up shall be valid for the entire Concession Period. The Bidders shall as part of their technical bid, attach the MoU / agreement for their technical tie up and other relevant documents (such as client certificates, statutory auditor certificate, etc.) in respect of the projects specified above in this Clause 2.2.3 so as to demonstrate the relevant technical experience of the Technical Tie Up Partner. However, the Bidder is permitted to change the Technical Tie Up partner after the Commercial Operation Date provided the new technical tie up partner meets the minimum eligibility criteria defined in RFP document. Considering the limited Technical Tie up Partners available in the field of ropeway, there is no restriction on the ropeway system Technical Tie up Partner to associate with only one bidder. Different Bidders can submit the MOU with a particular Technical Tie up Partner. However, the Bidder is not permitted to change the Technical Tie up Partner after the submission of Bid.

2.2.4. **O&M Experience**: The Bidder, either by itself (any member in case of a JV/Consortium) or through its Technical Tie-up Partner, needs to have O&M experience of a period of 5 (Five) years or more. The Bidder, in its agreement with Technical Tie-up Partner will ensure commissioning of the project and clearly specify the training provided to its manpower by the Technical Tie-up Partner for Operation and Maintenance of the system. In case the Bidder fails in the above the Concession Agreement shall be liable to termination.

2.2.5. The Bidder shall enclose with their Technical Bid, to be submitted as per the format at Appendix-I, complete with its Annexures, the following:

(i) Certificate(s) from a Chartered Accountant/Statutory Auditor[2] or the concerned client(s) stating the payments made, as the case may be, during the past 5 (five) years (immediately preceding the Bid Due Date) in respect of the projects specified in paragraph 2.2.2(A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a JV/consortium), the Bidder should further support its claim for the share in work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and

[2] Chartered Accountant/Statutory Auditor should be member of the Institute of Chartered Accountants of India.

(ii) Certificate(s) from a Chartered Accountant/Statutory Auditor specifying the net worth of the Bidder, as at the close of the financial year (immediately preceding the Bid Due Date), and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.5(ii). For the purposes of this **RFQ cum RFP,** net worth (the "**Net Worth**") shall mean the aggregate value of the paid-up share capital and all reserves created out ofthe profits after deducting the aggregate value of accumulated losses, deferred expenditure and miscellaneous expenditure not written of, as per the audited balance sheet, but doesn't include reserves created out of revaluation of assets, write-back of depreciation and amalgamation.

2.2.6. The Bidder shall submit a Power of Attorney as per the format at Appendix-III, authorizing the signatory of the Bid to commit the Bidder. In case of a JV/Consortium, the members shall submit a Power of Attorney in favour of the Lead Member as per format at Appendix-IV.

For a Power of Attorney executed and issued overseas, the same will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostilled certificate.

2.2.7. Where the Bidder is a single entity, it may be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 2013 (the "SPV"), to execute the Concession Agreement and implement the Project. In case the Bidder is a JV/Consortium, it shall, in addition to forming an appropriate SPV, comply with the following additional requirements:

2.2.7.1 Number of members in a JV/consortium shall not exceed 3 (three).

2.2.7.2 the Bid should contain the information required for each member of the JV/Consortium;

2.2.7.3 Members of the JV/Consortium shall nominate one member as the lead member (the "Lead Member"), who shall have an equity share holding of at least 26% (twenty-six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-IV, signed by all the other members of the JV/Consortium;

2.2.7.4 The Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;

2.2.7.5 an individual bidder cannot at the same time be member of a JV/Consortium bidding for the project. Further, a member of a particular bidder JV/Consortium cannot be member of any other bidder JV/Consortium bidding for the project;

2.2.7.6 Members of the JV/Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-V (the "Jt. Bidding Agreement"), for the purpose of submitting a Bid. The Joint Bidding Agreement, to be submitted along with the bid, shall, inter-alia:

2.2.7.6.1. convey the intent to form an appropriate SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the

Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the JV/Consortium;

2.2.7.6.2. clearly outline the proposed roles and responsibilities, if any, of each member;

2.2.7.6.3. commit the minimum equity stake to be held by each member;

2.2.7.6.4. commit that each of the members of the Consortium, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement;

2.2.7.6.5. members of the JV/Consortium undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity of the SPV at all times until the second anniversary of the commercial operation date of the Project; and

2.2.7.6.6. include a statement to the effect that all members of the JV/Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Closure of the Project is achieved in accordance with the Concession Agreement; and

2.2.7.6.7. except as provided under this "Bidding Document", there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

2.2.8. Any entity which has been barred by the Central/State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a JV/Consortium.

2.2.9. A Bidder including any JV/Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the bidder , JV/Consortium member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, JV/Consortium Member or Associate.

2.2.10. In computing the Technical Capacity and Net Worth of the Bidder/ Members of JV/Consortium under Clauses 2.2.2, 2.2.3, 2.2.4, 3.2, 3.3, 3.4 and 3.5, the Technical Capacity and Net Worth of their respective Associates would also be eligible hereunder.

Note-1: In case a Bidder is a JV/Consortium, and then the term Bidder as used in this Clause 2.2.1 (c), shall include each Member of such Consortium.

Note-2: For purposes of this **RFQ cum RFP**, 'Associate' means, in relation to the Bidder/ Consortium Member / Technical Tie-Up Partner and/or to the OEM Ropeway Technology Equipment Manufacturer and supplier or its, a person who controls, is

controlled by, or is under the common control with such Bidder/Consortium Member/Technical Tie-Up Partner/OEM Ropeway Technology Equipment Manufacturer and supplier (the "**Associate**"). As used in this definition, the expression "**control**" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

2.2.11. The following conditions shall be adhered to while submitting a Bid:

2.2.11.1 Bidder should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidder may format the prescribed forms making due provision for incorporation of the requested information;

2.2.11.2 Information supplied by a Bidder (or its constituent member if the Bidder is a JV/Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms.

2.2.11.3 in responding to the Bid submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and

2.2.11.4 in case the Bidder is a JV/consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.

2.2.12. While the Bid is open to persons from any country, following provisions shall apply:

2.2.12.1 Where, on the Bid submission date, any share of the aggregate issued, subscribed and paid-up equity share capital in a Bidder or its Member is held by persons resident outside India, or where a Bidder or its Member is controlled by persons resident outside India, it shall be governed by the latest rules & regulations of Foreign Exchange Management Act (FEMA) and Securities & Exchange Board of India (SEBI); or

2.2.12.2 if at any subsequent stage after submission of the Bid, there is an acquisition of shares, beyond the limit permitted by the latest rules & regulations of Foreign Exchange Management Act (FEMA) and Securities & Exchange Board of India (SEBI), of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Members; then the Qualification of such Bidder or in the event described in sub-clause (b) above, the continued Qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

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, the Authority 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, 2011, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the authority of any change in its shareholding, as above, and failure to do so shall render the Bid liable for rejection and in the event such failure takes place after the award of concession, it may lead to breach of the concessionaire's obligation relating to change in ownership.

2.2.13. Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and Certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.

2.2.14. The Selected Bidder would be required to make a payment of 1% of project cost i.e . Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only) for the project development Expenses (PDE) to the authority either in the form of Demand Draft in favour of "....." payable at..... or transfer the money by any electronic mode to the account, the details of which are given in clause 2.14.1 of this RFQ cum RFP. This Project development expenses shall be paid as per Clause 2.28 of this RFQ cum RFP.

2.3. Change in composition of the Consortium

2.3.1 Change in the composition of a Consortium will not be permitted by the Authority during the Qualification Stage after submission of bid.

2.3.2 Where the Bidder is a Consortium, change in the composition of a Consortium may be permitted by the Authority during the Bid Stage, only where:

2.3.2.1 the Lead Member continues to be the Lead Member of the Consortium;

2.3.2.2 the substitute is at least equal, in terms of Technical Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and

2.3.2.3 the new Member(s) expressly adopt(s) the Application already made on behalf of the Consortium as if it were a party to it originally, and is not an Applicant/Member/Associate of any other Consortium bidding for this Project.

2.3.2.4 In the event the bid had already been submitted and a change in the JV/consortium is desired then it must be sent in writing to the Authority for approval. However, the basic qualifying criteria of the JV/Consortium should remain unchanged.

2.3.3 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing.

2.3.4 The modified/ reconstituted Consortium shall submit a revised Jt. Bidding Agreement before the Bid Due Date.

2.3.5 Notwithstanding anything to the contrary contained in sub-clause (c) (i) of Clause 2.2.1, an Applicant may, within 10 (ten) days after the Application Due Date, remove from its Consortium any Member who suffers from a Conflict of Interest, or otherwise and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

2.4. Number of bids

Each Bidder is eligible to submit only one Bid for the Project in response to this **RFQ cum RFP.** A Bidder applying individually or as a Member of a JV/Consortium shall not be entitled to submit another Bid either individually or as a member of any JV/Consortium, as the case may be.

2.5. Cost of Bidding

The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.6. Site visit and verification of information

Bidders are encouraged to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.

2.7. Acknowledgement by Bidder

2.7.1 It shall be deemed that by submitting a Bid, the Bidder has:

2.7.1.1 made a complete and careful examination of the Bidding Document;

2.7.1.2 received all relevant information requested from the Authority;

2.7.1.3 Accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Document or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.6 above;

2.7.1.4 satisfied itself about all matters, things and information including matters referred to in Clause 2.6 herein above necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Document and performance of all of its obligations thereunder;

2.7.1.5 acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;

2.7.1.6 acknowledged that it does not have a Conflict of Interest; and

2.7.1.7 agreed to be bound by the undertakings provided by it under and in terms hereof.

2.7.2 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFQ cum RFP, or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

2.8. Right to accept or reject any or all Bids

2.8.1 Notwithstanding anything contained in this RFQ cum RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible bidders to submit fresh Bids hereunder.

2.8.2 The Authority reserves the right to reject any Bid if:

2.8.2.1 at any time, a material misrepresentation is made or uncovered, or

2.8.2.2 the bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

If the Bidder is a JV/Consortium, then the entire JV/Consortium may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Highest Bidder gets disqualified/ rejected, then the Authority reserves the right to:

2.8.2.2.1 invite the remaining Bidders to match the Highest Bidder/ submit their Bids in accordance with the RFQ cum RFP; or

2.8.2.2.2 take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

2.8.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the concession thereby granted by the Authority, that one or more of the qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Bidder/SPV has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Bidder, without the Authority being liable in any manner whatsoever to the Bidder and without prejudice to any other right or remedy which the Authority may have under this RFP, the Bidding Document, the Concession Agreement or under applicable law.

2.8.4 The Authority reserves the right to verify all statements, information and documents submitted by the bidder in response to the RFQ cum RFP. Any such verification or lack of such verification by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

2B. Documents

2.9. Contents of the RFQ cum RFP

This RFQ cum RFP comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.11.

Invitation for Bids

Section 1. Introduction

Section 2. Instructions to bidder

Section 3. Criteria for Evaluation

Section 4. Fraud & Corrupt Practices

Section 5. Pre-Bid Conference

Section 6. Scope of Work

Section 7. Miscellaneous

Appendices

Appendix I: Letter comprising the Bid

Annex -1 to Appendix-I: Details of Bidder

Annex-2 to Appendix-I: Technical Capacity of Bidder

Annex-3 to Appendix-I: Financial Capacity of Bidder

Annex-4 to Appendix-I: Details of Eligible Projects

Annex-5 to Appendix-I: Statement of Legal Capacity

Appendix II: Format of Bank Guarantee for Bid Security

Appendix III: Power of Attorney for signing of Bid

Appendix IV: Power of Attorney for Lead Member of JV/Consortium

Appendix V: Joint Bidding Agreement

Appendix VI: The Financial Bid

The draft concession agreement provided by the authority shall be deemed to be part of this RFP.

2.10. Clarifications

2.10.1 Bidders requiring any clarification on the RFP may notify the Authority in writing through e-mail in accordance with Clause 1.2.9 above. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The Authority shall endeavour to respond to the queries and use addenda, if any, within the period specified therein. Time from the date of issue of clarification/addenda to bid due date shall in no case be less than 15 (fifteen) days. The responses will be sent through e-mail. The Authority will forward all the queries and its responses thereto, to all Bidders without identifying the source of queries.

2.10.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

2.10.3 The Authority may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the Authority shall be deemed to be part of the RFP. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.

2.11. Amendment to the RFQ cum RFP

2.10.4 The Authority may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFQ cum RFP by the issuance of Addenda within the time frame given in the schedule in clause 1.3.

2.10.5 Any Addendum issued hereunder will be published on authority's website.

2.10.6 The authority, for any reason, may extend the bid due date.

2C. Preparation and Submission of Bids

2.12. Language

2.12.1 The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Bid may be in any other language provided that they are accompanied by appropriate translations in the English language. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail.

2.13. Format and Signing of Bid

2.13.1 The Bidder shall provide all the information sought under this RFP. The Authority will evaluate only those bids that are received in the required formats and complete in all respects. Incomplete and/ or conditional bids shall be liable to rejection.

2.13.2 The Bidder shall prepare 1 (one) original set of the Bid (together with originals/ copies of documents required to be submitted along therewith pursuant to this RFP) and clearly marked "ORIGINAL". In addition, the Bidder shall submit 2 (two) copies of the Bid, along with documents required to be submitted along therewith pursuant to this RFP, marked "COPY". The Bidder shall also provide 2 (two) soft copies in Pen Drive. In the event of any discrepancy between the original and the copy, the original shall prevail.

2.13.3 2.12.3 The Bid and its copy shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page in blue ink. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid. The Bid shall contain page numbers and shall be bound together in hard cover.

2.14. Submission and Opening of Bids

2.14.1 The Bidder shall pay ₹ 10,000/- (Rupees Ten Thousand only) plus GST as applicable, as the cost of Bidding process. This can be paid either by NEFT/RTGS/Demand Draft/ Bankers cheque in favour of " ROPEWAY & RAPID TPT SYS DEV CORP HP LTDS" or transfer by any electronic mode, for which the details of bank are as under:

Name of bank	Bank Address	IFSC Code	A/c No	Type of Account
HDFC the Mall Shimla	Shimla	HDFC0000524	50100297437422	.....

2.14.2 The Bidder shall submit the Bid in the format specified at Appendix-I, together with the documents specified in Clause 2.14.3A and seal it in an envelope and mark the envelope as "Technical Bid". The Bidder shall submit the Financial Offer in the format specified at Appendix- V and seal it in another envelope and mark the envelope as "Financial Bid".

Both the envelopes of the Technical Bid and the Financial Bid shall then be sealed in an outer envelope and mark the envelope as "Bid". The Bidder shall seal the original and the copy of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPY". The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3.

2.14.3 (A) Each Technical Bid envelope shall contain:

(i) Scanned copy of proof of payment of cost of bidding process.

(ii) Scanned copy of the **"Bidding Document"** duly filled in and signed by the bidder on each page. This will also include following: -

(a) Letter comprising the Bid as per the format at Appendix-I along with the annexures and supporting documents.

(b) Details of Bidder at Annex 1 to Appendix-I;

(c) Details of Technical Capacity of Bidder at Annex 2 to Appendix-I;

(d) Details of Financial Capacity of Bidder at Annex 2 to Appendix-I;

(e) Details of Eligible Projects at Annex 3 to Appendix-I;

(f) Statemen of Legal Capacity at Annex 4 to Appendix-I;

(g) Bank Guarantee at Appendix-II;

(h) Power of attorney for signing the bid as per the format at Appendix-III;

(i) If applicable, the Power of Attorney for Lead Member of JV/Consortium as per theformat at Appendix-IV;

(j) Joint Bidding agreement in the format at Appendix V;

(k) Scanned copy of concession agreement duly signed on each page.

(B) Each Financial Bid envelope shall contain:

(i) Financial Offer in the prescribed format (Appendix-V);

The final outer envelopes having the Original and Copy, shall clearly bear the following identification:
Bid for: "Development of Development of Passenger Ropeway from Bhatarka to Thathri to Chunja Glacier at Distt. Kangra, Himachal Pradesh on PPP" and shall clearly indicate the name, address, fax number of the Bidder, along with contact person's name, mobile number & email address. In addition, the Bid Due Date should be indicated on the right hand corner of each of the envelopes.

2.14.4 Each of the envelopes shall be addressed to:

ATTN. OF:	Deputy General Manager, Ropeway and Rapid Transport System Development Corporation H.P. Ltd (RTDC)
ADDRESS:	US Club, Shimla – 171001
PHONE NO.:	0177-2811001, 2811003, 04
E-mail ID:	dgmrtdchp@gmail.com

2.14.5 If the envelopes are not sealed and marked as instructed above, RTDC assumes no responsibility for the misplacement or premature opening of the contents of the Bid and consequent losses, if any, suffered by the Bidder.

2.14.6 Bids submitted by fax, telex, telegram or e-mail shall not be entertained and shall be rejected.

2.14.7 Submission of the Bid

- Hardcopy of the Bid should be submitted before HHMM hours on or before the Bid Due Date.
- The Bidder shall submit the Hardcopy of the Bid in the format specified at Appendix-I, together with the documents specified in Clause 2.14.3A and seal it in an envelope and mark the envelope as "Technical Bid".
- The Demand Draft or Bank Guarantee in original towards the payment of the Bid Security shall be put in a separate envelope inside the Technical Bid envelope and mark the envelope as "Bid Security".
- The Bidder shall submit the Financial Offer in the format specified at Appendix-V and seal it in another envelope and mark the envelope as "Financial Bid".
- Both the envelopes of the Technical Bid and the Financial Bid shall then be sealed in an outer envelope and mark the envelope as "Bid".
- The Bidder shall seal the original and the copies of the Bid, together with their respective enclosures, in separate envelopes duly marking the envelopes as "ORIGINAL" and "COPY".
- The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.14.2 and 2.14.3.

RTDC may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Bidders.

2.14.8 If the original Demand Draft/Bankers cheque is not submitted on the date mentioned in schedule at clause 1.3 in the office as mention in clause 2.13.9, the bid will be treated as non- responsive and will not be considered for further evaluation.

2.15. Bid Due Date

2.15.1 Bids shall be submitted offline before 1500 hours IST on the Bid Due Date as mentioned in schedule at clause 1.3.

2.16. Late Bids

2.16.1 E- Portal system will not allow submission after due date and time. The bidders are therefore advised to complete the submission process well in time to avoid any last-minute hiccups. The authority does not take any responsibility for any such bids which could not be submitted on time.

2.17. Contents of the Bid

2.17.1 The contents of bid are prescribed in clause 2.14.8. The bid shall be furnished in the Format at Appendix-I.

2.18. Modifications/substitution/withdrawal of bids

2.18.1 The bidder may modify, substitute or withdraw their bid after submission, prior to the bid due time and date given in clause 1.3. e-GPS system would not permit any modification/ substitution/withdrawal after the due time and date.

2.18.2 The bidders need not to supply any additional information subsequent to submission due date and time unless the same has been expressly sought for.

2D. Evaluation Process

2.19. Opening and Evaluation of Bids

2.19.1 RTDC shall open the Technical Bids at HHMM hours IST on the Bid Due Date, at the place specified in Clause 2.13.3 and in the presence of the Bidders who choose to attend.

2.19.2 Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.21 shall not be opened.

2.19.3 RTDC will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3.

2.19.4 Bidders are advised that qualification of Bidders will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.

2.19.5 Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if any Project is subsequently awarded to it under the Bidding Process on the basis of such information.

2.20. Rejection of Bids

2.20.1 The Authority reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever. It is not obligatory for the Authority to accept any Bid or to give any reasons for their decision.

2.20.2 The Authority reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

2.20.3 If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude relevant project from computation of the Experience Score of the Applicant.

2.20.4 In the event that a Bidder claims credit for an Eligible Project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same from computation of the Experience Score, and may also, while computing the aggregate Experience Score of the Applicant, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Bid in accordance with the provisions of Clauses 2.19.1.

2.21. Validity of Bids

2.21.1 The Bids shall be valid for a period of not less than 180 (one hundred and eighty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the Authority.

2.22. Confidentiality

2.22.1 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 the Authority in relation to, or matters arising out of, or concerning the Bidding Process. The Authority 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. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or is to enforce or assert any right or privilege of the statutory entity and/ or the Authority or as may be required by law or in connection with any legal process.

2.23. Tests of Substantial Responsiveness

2.23.1 The Authority shall determine whether each Bid is substantially responsive to the requirements of the RFQ cum RFP. A Bid shall be considered substantially responsive only if:

2.23.1.1. it contains the proof of payment of requisite amount towards the cost of the bidding Process (further evaluation of bids, whose payment is not received, will not be done).

2.23.1.2. it is accompanied by the Bid security on the prescribed format and the same has been verified from the bank (further evaluation of bids, not having a valid tender security, will not be done).

2.23.1.3. it is received with the letter comprising the bid as per format at Appendix-I along with all the annexures.

2.23.1.4. It is signed on each page.

2.23.1.5. it is accompanied by the Power(s) of Attorney as specified in Clause 2.2.6 and Clause 2.2.7.3;

2.23.1.6. it contains all the information (complete in all respects) as requested in this RFQ cum RFP;

2.23.1.7. it contains information in formats substantially same as those specified in this RFQ cum RFP;

2.23.1.8. it contains certificates from its statutory auditors / Chartered Accountant in the formats specified at Annex-2 to Appendix-I of the RFQ cum RFP for each Eligible Project;

2.23.1.9. it is accompanied by the Joint Bidding Agreement (for JV/Consortium), specific to the Project, as stipulated in Clause 2.2.7.6;

2.23.1.10. it does not contain any condition or qualification;

2.23.1.11. it is not non-responsive in terms hereof; and

2.23.1.12. Bids found responsive in terms of clause 2.22.1 above shall further be evaluated for their Technical and Financial Capacity and experience score will be assigned to each bidder in accordance with the provisions set out in section-3.

2.23.2 The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid

2.24. Clarifications

2.24.1. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.24.2. If any Bidder does not provide clarifications sought under Clause 2.23.1 above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

2.25. Proprietary data

2.25.1. All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The Authority will not return any Bid or any information provided along therewith.

2.26. Correspondence with the Bidder

2.26.1. Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

2E. Bid Security

2.27. Bid Security

2.27.1. The Bidder shall deposit a Bid security of Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only)in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either in the form of a Bank Guarantee acceptable to the Authority as per the Format of Bank Guarantee at Appendix-II or FDR in favour of Deputy General Manager RTDC Shimla, Himachal Pradesh.

2.27.2. Any Bid, not accompanied by the Bid Security, shall be rejected by the Authority as non-responsive.

2F. Project Development Fee

2.28. Project Development Fee (Non – Refundable)

The Selected Bidder, within 60 (sixty) days of issuance of the Letter of Award (LOA), shall make a payment of 50% of Project Development Fee Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only), i.e **Rs. 2.925 Crores** (Rupees Two Crore Ninety Two Lakhs Fifty Thousand only) in the shape of Demand Draft in favour of " Development Authority", payable at Shimla, against expenses incurred ("Project Development Fee") in respect of the Project towards the following:

(a) Engagement of various consultants;
(b) Project promotions including issuance of advertisement in print media and developmental expenditure related to project conducting pre-bid meeting(s) etc. by RTDC.

The Concessionaire shall pay balance 50% of Project Development Fee of Rs. Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only), i.e **Rs. 2.925 Crores** (Rupees Two Cror Ninety Two Lakhs Fifty Thousand only), in the shape of Demand Draft within seven (7) days after the Conditions Precedent have been met.

The Selected Bidder shall make payment of all taxes, levies etc. as may be applicable at the time of payment. This Project Development Fee shall be irrevocable & non-refundable.

3. Criteria for Evaluation of Technical Bid

3A. CRITERIA FOR EVALUATION OF TECHNICAL BIDS

3.1. Evaluation parameters for Qualification Stage

3.1.1. Only those Bidders who meet the eligibility criteria specified in Clauses 2.2.2 and clause 2.2.3 above shall qualify for evaluation under this Section-3. Bid of firms/JV/Consortium who do not meet these criteria, shall be rejected.

3.1.2. The Bidder's competence and capability is proposed to be established by the following parameters:

3.1.2.1. Technical Capacity; and

3.1.2.2. Financial Capacity

3.2. Technical Capacity for purposes of evaluation

3.2.1. The experience of having undertaken Projects (Ropeway or otherwise) as specified in Clause 2.2.2 (A) would qualify as eligible projects (the "Eligible Projects") for the purpose of evaluating Technical Capacity and eligible experience (the "Eligible Experience").

3.2.2. For evaluating Technical Capacity under this Clause, Eligible Experience shall be measured only for Eligible Projects undertaken by the Bidder/ Members of the Consortium. However, in case the Bidder is applying through the High Net-Worth Route or under Category 2, it is required to enter into a MoU/ Agreement for technical support with an entity having mandatory experience of Ropeway project/s as specified in Clause 2.2.3 of this RFP.

3.2.3. In the event, any Eligible Project has been undertaken by the Bidder as a part of a Joint Venture/ Consortium, then the Bidder claiming experience in respect of such Project should have held, in the company owing the Eligible Project, a minimum of 26% (twenty-six per cent) equity during the period for which Eligible Experience is being claimed;

3.2.4. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.

3.3. Financial Capacity for the purpose of evaluation:

3.3.1. The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Consortium) for the last 5 (five) financial years, preceding the year in which the Bid is made.

3.3.2. In case the annual accounts for the latest financial year are not audited and therefore the Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for 5 (five) years preceding the year for which the Audited Annual Report is not being provided.

3.3.3. The Bidder must establish the minimum Net-worth specified in Clause 2.2.2 (B), and provide details as per format at Annex-III of Appendix-I.

3.3.4. The Bidder applying through the High Net-worth Route must establish that it has the Net worth of 100% of the Total Estimated Project Cost in the preceding financial year in terms of Clause 2.2.2(C), and accordingly provide details as per format at Annex-III of Appendix-I duly certified by its statutory auditor.

3.4. **Technical Tie-Up**: The Bidder(s) applying under Category 2 or High Net Worth Route(C) shall enter into a MoU / agreement for technical support with an entity having below mentioned experience in respect of the Ropeway projects in conformity with the provisions of the Concession Agreement

- Owned, operated & managed at least 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD

Or

- Installed at least one 1 (one) Passenger Ropeway System with minimum carrying capacity of 1200 PPHPD during the last 10 (Ten) financial years prior to the Bid Due Date.

Or

- CEN Standard OEM Ropeway Technology supplier with experience of manufacturing and commissioning at least 100 passenger ropeways across the globe.

3.5. For a project to qualify as an Eligible Project under Clause 3.2.1 above:

3.5.1. It should have undertaken a PPP project on BOT, BOLT, BOO, BOOT or EPC or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as a passenger ropeway, aerial ropeway, cable car or funicular will normally be included in this category even if it is not based on a long-term agreement with a public entity;

The entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty-six percent) equity during the entire year for which Eligible Experience is being claimed; and

3.5.2. the entity claiming experience shall, during the past 5 (Five) financial years preceding the Bid Due Date, have paid for development of the Eligible Project (excluding the cost of land).

3.5.3. The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the JV/Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.

3.6. Details of Experience

3.6.1 The Bidder should furnish the details of Eligible Experience of Technical Capacity as per Clause 2.2.2.(A) above, immediately preceding the Bid Due date.

3.6.2 The Bidder(s) / Consortium must provide the necessary information relating to Technical Capacity as per the format at Annex-2 to Appendix-I.

The Bidder(s) / Consortium should also furnish the required project-specific information and evidence in supportto its claim of Technical Capacity, as per format at Annex-4 to Appendix-I.

3.7. Short-listing of Bidders

3.7.1 Only those Bids, which are found to be substantively responsive to the requirements of this RFP document after verifying the Bid Security submitted, will be evaluated. In the Qualification Phase, the information, documents and credentials submitted by the Bidder as a part of its Bid shall be evaluated and measured in terms of its project experience {and that of the Technical Tie Up Partner in case of Bidder applying through the High Turnover Route or under Category2} to determine the technical and financial competency/ capability of the Bidder/s vis -à-vis the requirements of Clauses 2.2.2 & 2.2.3 of this RFP. It is clarified here that in the event, after evaluation of the information, documents and credentials submitted by the Bidder in respect of its Technical Tie Up Partner are not found to be sufficient or the Technical Tie Up Partner does not possess the mandatory experience of Ropeway project/s as specified in Clause 2.2.3 of this RFP Document, the Bid of such a Bidder shall be disqualified.

3.7.2 The financial bids (second cover) of all the technical qualified bidder will be open for selection of successful bidder

3.8. Selection of Bidder

Subject to the provisions of Clause 2.20.1, the Bidder whose Bid is adjudged as responsive in terms of Clause 3.2.1 and who quotes the highest Annual Concession Fee (ACF) per year to be paid to the Authority shall be declared as the selected Bidder (the "Selected Bidder"). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

3.8.1 In the event that two or more Bidders quote the same amount of ACF, as the case may be (the "Tie Bidders"), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.

3.8.2 In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the "first round of bidding"), the Authority may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the Bid of the aforesaid Highest Bidder (the "second round of bidding"). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Selected Bidder. 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.

3.8.3 In the event that no Bidder offers to match the Highest Bidder in the second round of bidding as specified in Clause 3.6.3, the Authority may, in its discretion, invite fresh Bids (the "third round of bidding") from all Bidders except the Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the first round of bidding.

3.8.4 After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt

of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

3.8.5 After acknowledgement of the LOA as aforesaid by the Selected Bidder, it shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.3. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

3.9. Contacts during Bid Evaluation

3.9.1 Bids shall be deemed to be under consideration immediately after they are opened and until such time the Authority makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, contacting by any means, the Authority and/ or their employees/ representatives on matters related to the Bids under consideration.

4. Fraud and Corrupt Practices

4.1 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 anddur ing the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, 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, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Document and/ or the Concession Agreement, or otherwise.

4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or on cessionaire shall not be eligible to participate in any tender or RFP issued by the Authorityduring a period of 2 (two) years from the date such Bidder or Concessionaire, as the case may be,is found by the Authority to have directly or indirectly or through an agent, engaged or indulged inany corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.

4.3 For the purposes of this Clause 4, the following terms shall have the meaning herein after respectively assigned to them:

(a) "**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 the Authority 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 Concession 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 the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under the Clause 2.2.1 (d) of the RFP, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

(b) "**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;

(c) "**coercive practice**" means impairing or harming, or threatening to impair or harm, directly orindirectly, any person or property to influence any person's participation or action in the Bidding Process;

(d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict ofInterest; and

(e) "**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.

5. Pre-Bid Conference

5.1 Pre-Bid conferences of the Bidders shall be convened in the office of authority mentioned in clause 2.14.4 at the time and date as mentioned clause 1.3. A maximum of three representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.

5.2 During the course of Pre-Bid conference(s), the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process. The Authority shall provide clarifications to only those queries which Authority has received in writing from the Bidders. The Authority will not provide clarifications to queries received orally.

6. Scope of Work

6.1. Background

Kangra district lies between 31° 21′ to 32° 59′ N latitude and 75° 47′ 55″ to 77° 45′ E longitude. It is situated on the southern escarpment of the Himalayas. The entire area of the district is traversed by the varying altitude of the Shivaliks, Dhauladhar and the Himalayas from north-west to south-east. The altitude varies from 500 metres above mean sea level (amsl) to around 5000 metres amsl. It is encapsulated in the north by the districts of Chamba and Lahaul and Spiti, in the south by Hamirpur and Una, in the east by Mandi and in the west by Gurdaspur district of Punjab. The present Kangra district came into existence on the 1st September, 1972 consequent upon the re-organisation of districts by the Government of Himachal Pradesh. It was the largest district of the composite Punjab in terms of area till it was transferred to Himachal Pradesh on the 1st November, 1966 and had six tehsils namely Nurpur, Kangra, Palampur, Dehragopipur, Hamirpur and Una.

About Bhatarka

According to Census 2011 information the location code or village code of Bhatarka village is 011848. Bhatarka village is located in Palampur tehsil of Kangra district in Himachal Pradesh, India. It is situated 38km away from district headquarter Palampur. Palampur is the sub-district headquarter of Bhatarka village. As per 2009 stats, Bandla is the gram panchayat of Bhatarka village.

About Thathri

According to Census 2011 information the location code or village code of Thathri village is 009547. Thathri village is located in Dharmsala tehsil of Kangra district in Himachal Pradesh, India. It is situated 9km away from Dharmsala, which is both district & sub-district headquarter of Thathri village. As per 2009 stats, Sounkni Da Kot is the gram panchayat of Thathri village.

6.2. Features

The aerial distance between Bhatarka to Thathri to Chunja Glacier in Kangra, is approximately 8.73 km under 2 phase. Phase – I include construction of Ropeway between Bhatarka to Thathri of approx. 5156 m and Phase II include construction of Ropeway between Thathri to Chunja Glacier of approx. 3573 m. The authority also provide 30,000 sqm land at LTP for Hotel facilities, commericial activies, eatery, ropeway station, parking etc.

6.3. Scope of Work

The intended work is to provide connectivity through continuously moving detachable aerial ropeway system between Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh. The scope of work will be as follows:

6.3.1. The successful bidder will prepare the concept plan for the development of aerial ropeway system as per their own design based on the alignment provided by Development Authority, the Authority, which includes the development of stations at locations and necessary Towers.

6.3.2. The firm will develop the Uran Passenger Aerial ropeway system as per CEN (European) standards by a CEN certified and accredited Ropeway Manufacturer.

6.3.3. The work may also include development of ropeway stations with proper access on the area allotted by the Authority, as per their own concept according to the development permitted by local authorities in that area.

6.3.4. The concessionaire will develop all the necessary and sufficient infrastructure, required for the effective operation of ropeway, dispersal of traffic, parking, cloak room, evacuation of people etc. at stations as per instructions given by the Authority.

6.3.5. The Concessionaire will provide necessary infrastructure for smooth passage between the proposed Bhatarka to Thathri to Chunja Glacier in Kangra, for passengers to commute.

6.3.6. The Concessionaire will plan aerial ropeway system to connect between proposed stations by fixing the span between two towers, number of towers and height of tower at all point as per their own concept and design. However, Concessionaire has to submit the plan and design of the same to RTDC the Authority for its approval.

6.3.7. The Concessionaire will design entire ropeway system including civil design of stations, intermediate towers, any other structure required as per their concept on their own cost and the same shall be submitted to RTDC, the Authority for their review and approval before implementation and execution

6.3.8. The concessionaire before start of commercial operation should get the system safety certification from accredited notified body according EU regulation (EC) 2016/424. It should be officially certified inspection body and testing body according to EN ISO/IEC 17020 (inspection) EN ISO/IEC 17025 (testing). Accredited scope of standards for inspection body should include at least most important CEN ropeway standards as e.g. EN 1709, EN 12929, EN 12930.

6.3.9. The Concessionaire will get final approval along with system safety certification as per CEN standards from accredited body from Ropeway and Rapid Transport System Development Corporation H.P. Ltd (RTDC), the Authority for the entire ropeway system after its development and before the commercial operation. The operation of the ropeway system has to be carried out as per the CEN standards and safety standards rules approved by the state government time to time till the concession period.

6.3.10. The stations developed at all locations will have to be maintained properly to meet need of passengers/tourists as per the prevailing laws and regulation of the state government.

6.3.11. The maintenance of entire ropeway system will be carried out as per the CEN Standards and prevailing rules for safety and security laid down by the government time to time for entire concession period.

6.3.12. The Concessionaire will provide best in class safety mechanism (as per CEN Standards) in the entire ropeway system to prevent any accident and mishaps during operation for entire concession period. Accordingly, bidder will submit the safety plan to RTDC, the Authority in advance prior to start of operation.

6.3.13. The Concessionaire has to provide necessary public announcement and security system (as per CEN Standards) along the alignment to alert passengers and prevent any breach in the security. To achieve this the bidder will plan security mechanisms such as, deployment of specialised personal at vantage points, CCTV security system, PA system, alarm system or any other system which he seems suitable at his own cost.

6.3.14. The Concessionaire will provide suitable evacuation system as per CEN standard in case of emergency stoppage of ropeway in midway, any failure in the tower, failure in machinery or any other problems in the cable car, etc. during the operation of ropeway.

6.3.15. The Concessionaire will develop the entire ropeway system considering earthquake factor as per earthquake zone defined in IS codes for this project area.

6.3.16. The concessionaire will have to take insurance for the passengers, insurance of the machinery, equipment, civil structures, etc

6.3.17. The Concessionaire will provide medical aid system at all stations by deploying first aid units and ambulances or the concessionaire may also tie up with local ambulance services wherever possible

6.3.18. The Concessionaire has to provide efficient fire detection and suppression system for the entire ropeway including stations.

6.3.19. The Concessionaire will submit operations manual, standard operating procedure, maintenance manual, overhauling system of the ropeway, traffic dispersal system, evacuation plan of people for all the stations, fire-fighting system, medical aid system, security system, etc. for the approval of RTDC, the Authority before the operation.

6.3.20. All the necessary statutory approvals needed for construction and operation will be taken by the Concessionaire prior to the sanction of plan, during the construction period and operation of services, etc

6.3.21. The Concessionaire will take power connection directly from source, as required for the entire ropeway system including terminal stations and mid stations

6.3.22. The Concessionaire will provide alternate power source for existing system in case of emergency, with adequate numbers of generators at all the stations (terminal stations and mid stations)

6.3.23. The Concessionaire will arrange at their own cost- Information Network system, including telephone line, OFC cables, etc. as par their requirement. The ropeway system should be mounted with modern cabins.

6.3.24. The Concessionaire should implement and execute any other works related to smooth operation and maintenance of entire ropeway system during concession period as and when directed by RTDC, the Authority on its own cost

6.3.25. The Concessionaire should arrange and develop a system to monitor weather (wind speed, rainfall, etc.) in liaison with Meteorological Department to ensure safe services

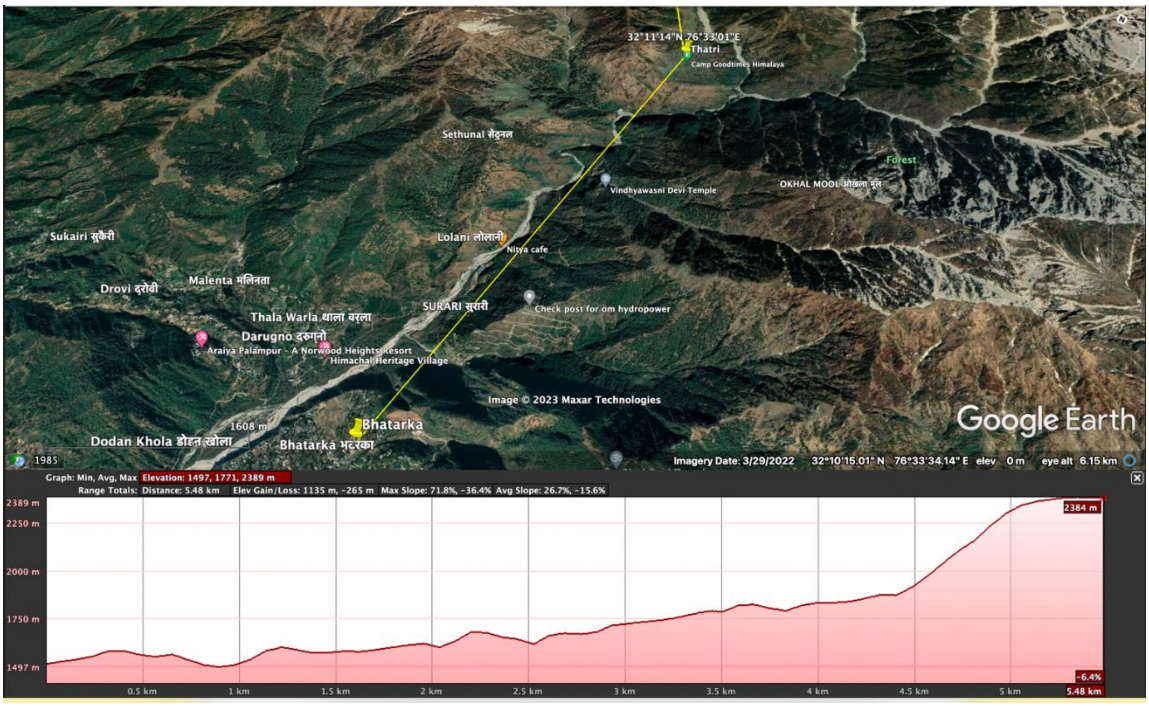
6.3.26. The Concessionaire shall pay to the Authority irrevocable and non-refundable Project Development Fee @ 1% of project cost i.e. of Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only) in the form of in favour of Ropeway and Rapid Transport System Development Corporation, HP Ltd as per clause 2.28 above.

6.4. Project Location and Cost

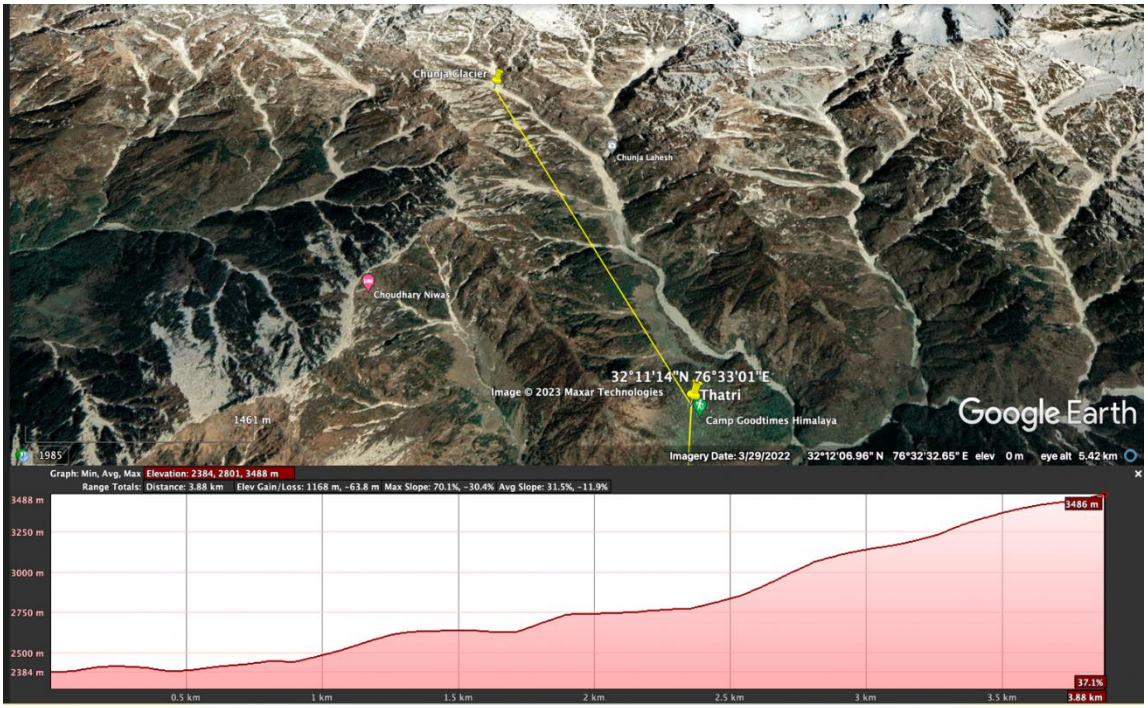
The project is proposed from Bhatarka to Thathri to Chunja Glacier in Kangra, total 8.73 km length. Total estimated cost of the project is Rs. 585.27 Crores.

6.4.1. The proposed alignment from Bhatarka to Thathri to Chunja Glacier in Kangra, is 8.73 Km, with 3 stations under two phases: Phase I include construction of Ropeway between Bhatarka to Thathri of approx. 5156 m and Phase II include construction of Ropeway between Thathri to Chunja Glacier of approx. 3573 m.

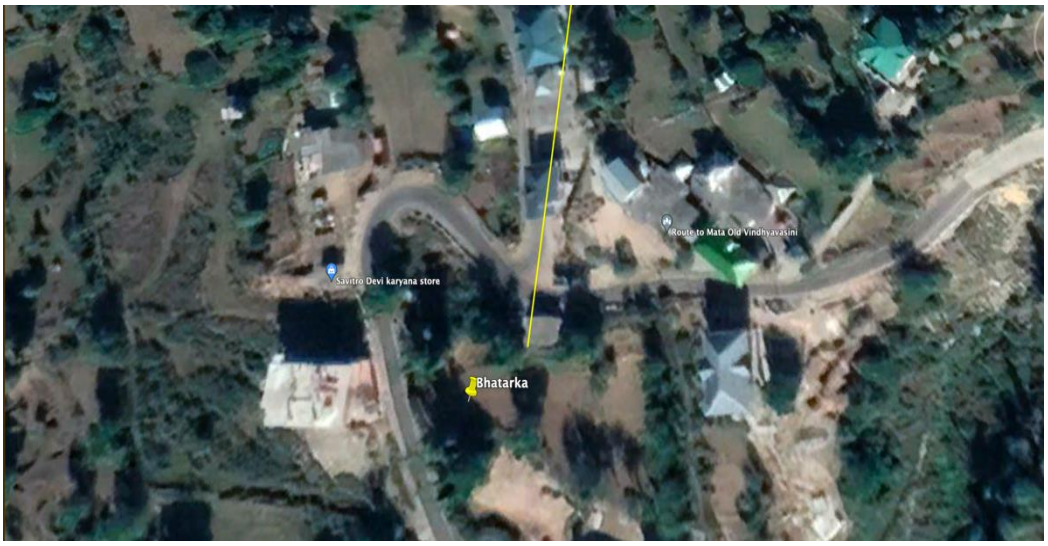
Phase – I: include construction of Ropeway between Bhatarka to Thathri of approx. 5156 m



Phase – II: include construction of Ropeway between Thathri to Chunja Glacier of approx. 3573 m.



6.4.2. Proposed LTP – At Bhatarka

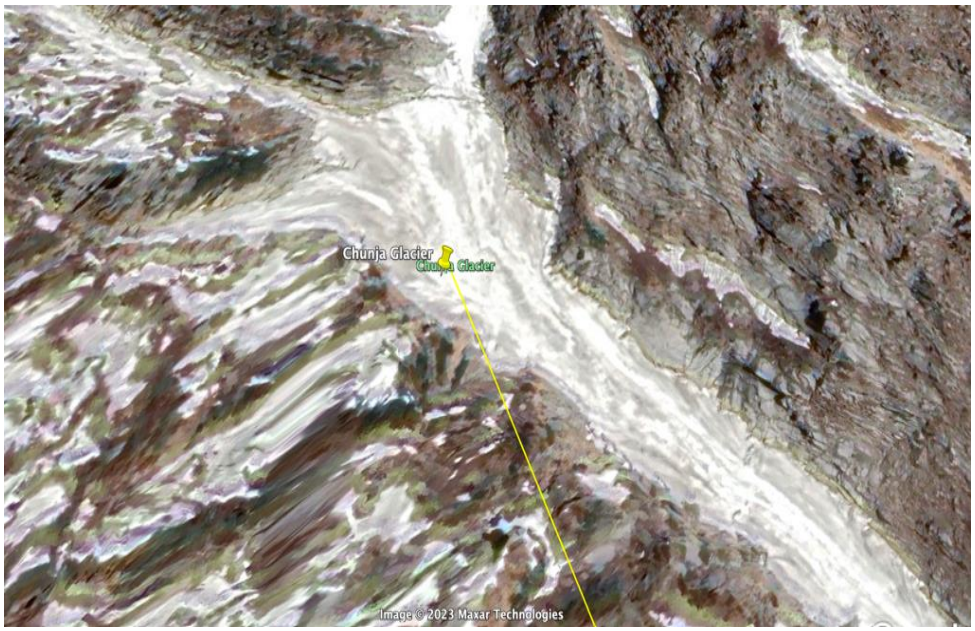


Coordinates:
Latitude - 32°08’28“N
Longitude - 76°32'36“E

6.4.3. Proposed ITP – At Thathri

Coordinates:
Latitude - 32° 11‘14“N
Longitude - 76°33'01“E

6.4.4. Proposed UTP – At Chunja Glacier



Coordinates:
Latitude - 32°12'59"N
Longitude - 76°32'04" E

6.4.5. SYSTEM DETAILS:

Following are the basic assumptions for the project as envisaged by the Authority. However, the bidder can suggest a suitable design which will make the ropeway more efficient and attractive to users.

Particular	Phase – I: MGD	Phase II: 3 S System
Number of towers:	28	8
Elevation Difference	887 m	1100 m
Cabin distance on line	168 m	588 m
Station speed	0.2 m/s	0.2 m/s
Average Line speed	7 m/s	7 m/s
No. of cabins	69 (8-seater)	15 (28-seater)
Cabin capacity	8	28
Total Trip Time	12.3 min	8.5 min
Working period for ropeway	350 days	350 days
Hourly Capacity	1200 PPHPD	1200 PPHPD

6.5. Project Framework Implementation Strategy

6.5.1. RTDC intends to develop the project on "Design, Build, Finance, Operate and Transfer" (DBFOT) basis by inviting Public Private Participation (Concessionaire) to finance, construct, operate and maintain the aerial ropeway system between Bhatarka to Thathri to Chunja Glacier in Kangra, during the specified Concession Period.

RTDC will enter into a Concession Agreement with the Concessionaire of 51 years for Phase I and 45 years for Phase II (including 4 years period of construction and 1 year of obtaining approvals, etc in each Phase), for development/ construction/setting up of the Ropeway System for each Phase. During the period the Concessionaire shall carry out the services as per the technical specifications, performance standards and guidelines given as part of the Concession Agreement. The period of concessionaire could be extended by 20 years. RTDC will approach the Concessionaire and decide the extension period in the 26th year of the Concession period.

6.5.2. The aerial ropeway shall be transferred to RTDC at the end of the Concession Period (or extended Concession period) in full working condition as per Concession Agreement.

6.5.3. The construction period for the Project shall not be more than 4 years from Appointed Date within which the Concessionaire will complete the design and construction of aerial ropeway as per the requirements, technical specifications and standards.

6.5.4. The Concessionaire would be given the right for revenue generation during the concession period as per the Concession Agreement.

6.5.5. The Bidder shall quote Annual Concession fee (ACF) payable to the Authority which shall constitute the sole criteria for evaluation of the financial bid. The project will be awarded to the Bidder quoting the highest ACF in absolute figures in the 8th year of commercial operations (after the end of moratorium period of 7 years). The ACF shall be paid from the 8th year and shall be increased by 1% in absolute figures over the previous year's ACF for upto the end of concession period.

6.5.6. The extension of concession shall be as per Draft Concession Agreement.

6.5.7. RTDC shall appoint the Independent Engineer. The tenure of the Independent Engineer during construction period, under this Draft Concession Agreement, shall be from the period beginning from the Commencement Date and up to Defect Liability Period.

6.5.8. The title, interest, ownership and rights with regard to aerial ropeway constructed by the Concessionaire for RTDC along with fixtures/fittings provided therein shall vest with the RTDC except that these will be operated and maintained by the Concessionaire as agreed in this Agreement. The assets created by the Concessionaire will be under the possession of the Concessionaire during the period of the Concession and will be transferred to RTDC at zero cost in working condition upon the expiry or earlier termination of the Concession Agreement. These assets will not be encumbered by the Concessionaire. in any circumstances in any manner whatsoever subject to Draft Concession Agreement contained herein.

6.6. Appraisal of the Design

6.6.1. Design Description

(a) The aerial ropeway system will be designed by concessionaire as per projected traffic, station loading and selected system. Indicative station locations co-ordinates and right of way details are provided as part of tender drawings.

(b) In addition, the bidders have to provide "Rain Water Harvesting" at all possible locations. Solar Panels and Batteries for lighting in station amenities. Access facilities for differently abled persons are mandatory. Digital clock of superior quality shall be installed at station platforms and the Concessionaire shall be responsible for display of correct time. Photo-luminous paint meeting the relevant BIS specifications as applicable to directional signs will be used at appropriate locations.

6.6.2. Miscellaneous

Drinking Water Facility for the users shall be only purified filtered water.

6.7. Planning

The concessionaire shall implement a online web-based project information management system (PIMS) for the project. It shall provide access to all consultants, suppliers, sub-contractors working on the project. It shall provide PIMS access to the Authority for live update on the project. The Concessionaire shall regularly update progress, provide progress photographs and videos on PIMS.

6.8. Services to be provided

6.8.1. Safety & Security: The safety and security of the ropeway system and operation rests with the Concessionaire. The Concessionaire shall maintain security personnel, gadgets as required as part of the maintenance services.

6.8.2. Electricity Supply: The Concessionaire shall ensure adequate electricity supply for proper lighting of the ropeway stations and facilities. RTDC shall only facilitate the concessionaire for getting an electricity connection; however, the concessionaire shall be solely responsible for arranging and providing the same and bear all costs for connection as well as regular payment of necessary charges. Concessionaire shall provide rooftop grid connected solar power at all stations.

6.8.3. Water Supply Arrangement: The Concessionaire shall arrange adequate water for drinking & general cleanliness of the ropeway facilities

6.8.4. Landscaping: The Concessionaire shall put flowering plants and other shrubs around each station area to the extent possible on both sides as per the approval of the RTDC and maintain the same in good condition at all times.

6.8.5. Cleaning of the ropeway gondolas and stations: The Concessionaire shall keep close watch on graffiti and also ensure regular cleaning of the station areas and gondola cabins.

6.8.6. Garbage Disposal: The Concessionaire shall install segregated litterbins as specified at all station locations and disposal of the collected waste shall be the responsibility of the Concessionaire.

6.8.7. Any other work as needed and agreed upon jointly by RTDC and the concessionaire.

7. Miscellaneous

7.1 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.

7.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;

7.2.1 suspend and/or cancel the Bidding Process and/ or amend and/ or supplement the BiddingProcess or modify the dates or other terms and conditions relating thereto;

7.2.2 consult with any Bidder in order to receive clarification or further information;

7.2.3 retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or

7.2.4 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.

7.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents 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 with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

7.4 The Bidding Document is to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this RFQ cum RFP, in the event of any conflict between them the priority shall be in the following order:

7.4.1 the Bidding Documents;

7.4.2 the RFQ cum RFP.

APPENDIX – I

Letter comprising the Technical Bid

(Refer Clauses 2.17)

Dated:

To,

Deputy General Manager,

Ropeway and Rapid Transport System

Development Corporation H.P. Ltd (RTDC)

U.S. Club, Shimla-1

Sub: Bid for " Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh on Designn, Build, Finance, Operate, and Transfer(DBFOT) basis under PPP Mode".

Dear Sir,

1. With reference to your **RFQ cum RFP** dated ..... I/we, having examined the **RFQ cum RFP** and understood their contents, hereby submit my/our Bid for the aforesaid Project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for aforesaid Project, and we certify that all information provided in the Bid is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
3. This statement is made for the express purpose of our selection as Concessionaire for the development, construction, operation and maintenance of the aforesaid Project.
4. I/We shall make available to the Authority any additional information it may find necessary orrequire to supplement or authenticate the Bid.
5. I/We acknowledge the right of the Authority to reject our Bid without assigning any reason orotherwise and hereby waive our right to challenge the same on any account whatsoever.
6. We certify that in the last three years, we/any of the JV/Consortium members or our/ their associate have neither failed to perform on any contract, as evidenced by imposition of a penalty or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
7. I/We declare that:
   (a) I/We have examined and have no reservations to the RFP, including any Addendum issued by the Authority; and
   (b) I/We do not have any conflict of interest in accordance with Clauses 2.2.1.3 and 2.2.1.4 of the RFP;
   (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
   (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisionsof Clause 4 of the RFP, no person acting for us or on our behalf has engaged

or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and

(e) the undertaking given by us along with the **Bid** in response to the **"Bidding Document"** for the project were true and correct as on the date of making the **Bid** and are also true and correct as on theBid due date and I /We shall continue to abide by them.

8. I/We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.20 of the RFP.

9. I/We believe that we/ our JV/Consortium/ proposed JV/Consortium satisfy(s) the Net Worth criteria and meet(s) the requirements as specified in the RFP.

10. I/We declare that we/ any Member of the JV/Consortium, or our/its Associates are not a Member of a/any other JV/Consortium submitting a Bid for the Project.

11. I/We certify that in regard to matters other than security and integrity of the country, we/any Member of the JV/Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.

12. I/We further certify that in regard to matters relating to security and integrity of the country, we/any Member of the JV/Consortium or any of our/their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.

13. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/managers/employees.

14. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.

15. I/We acknowledge and undertake that our JV/Consortium was qualified and short- listed on the basis of Technical Capacity and Financial Capacity of those of its Members or Technical Tie-Up Partner, who shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid-up equity of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement. We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership.

16. I/we acknowledge and undertake that I/We shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid up equity of the SPV at all times until the 2nd (second) anniversary of the commercial operation date of the Project.

17. I/We acknowledge and agree that in the event of a change in control of an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of short- listing and qualification under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify our JV/Consortium or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.

18. I/We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, 2013, or shall incorporate as such prior to execution of the Concession Agreement.

19. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.

20. In the event of my/ our being declared as the Selected Bidder, I/we agree to enter into a Concession

Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.

21. I/We have studied all the Bidding Documents carefully and also surveyed the project Ropeway Alignment and the traffic. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any document or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.

22. I/We offer a Bid Security of Rs. 2.926 Crore (Rupees Two Crore Ninety Two Lakhs Sixty thousand only) to the Authority in accordance with RFQ cum RFP. The Bid Security in the form of a Bank guarantee is attached.

23. The documents accompanying the Bid, as specified in clause 2.14.7 of the RFP, have been submitted offline.

24. I/We agree and understand that the Bid is subject to the provisions of the Bidding Document. In no case, I/we shall have any claim or right of whatsoever nature if the Project/Concession is not awarded to me/us or our Bid is not opened or rejected.

25. I/We agree and undertake to abide by all the terms and conditions of the RFP.

26. We, the JV/Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.

27. The Annual Concession Fee which shall be paid as per the provisions of the Draft Concession Agreement, as has been quoted by me / us after taking into consideration all the terms and conditions stated in the RFP, Draft Concession Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the project.

28. I/We agree to pay all the applicable taxes to the Central Government for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement. Further I/We undertake that any taxes, levies, etc that may be payable to any State Government or local Authorities of the State of Himachal Pradesh for undertaking this Project, shall be paid by us.

29. I/We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.

30. I/ We hereby agree to pay the Project Development Fee (non-refundable) Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only) and the applicable GST to RTDC in acordance with Clause 2.28, within 21 (twenty one) days of issuance of Letter of Award (LOA) or at the time of completion of Conditions Precedent, as the case may be.

31. I/ We certify that in terms of the RFP, my/our Net Worth is ₹.....(Rupees..... in words).

32. We agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement in accordance with the Concession Agreement.

In witness thereof, I/ We submit this Bid under and in accordance with the terms of the RFQ cum RFP.

Yours faithfully,

Date: (Signature, Name and designation of the Authorised signatory)

Place:

Name and seal of Bidder/Lead Member

Note:- *The bidder may strike out the provisions applicable to JV/consortium, if the bidder is not a JV/Consortium.*

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Bidder/ Lead Member

Annex-1 to Appendix I
Details of Bidder

1. Details of Bidder
   a) Name:
   b) Country of incorporation:
   c) Address of the corporate headquarters and its branch office(s), if any, in India:
   d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Projects:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
   i. Name:
   ii. Designation:
   iii. Company:
   iv. Address:
   v. Telephone Number:
   vi. E-Mail Address:
   vii. Fax Number:
4. Particulars of the Authorised Signatory of the Bidder:
   i. Name:
   ii. Designation:
   iii. Address:
   iv. Phone Number:
   v. Fax Number:
5. In case of a JV/Consortium:
   i. The information above (1-4) should be provided for all the members of theJV/Consortium.
   ii. A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.7.6 should be attached to the Bid.
   iii. Information regarding role of each member should be provided as per table below:

Sl. No.	**Name of Member**	**Role*** {Refer Clause2.2.7.6}	**Percentage of equity in the JV/Consortium** {Refer Clauses 2.2.7.6}
1.			
2.			
3.			
4.			

* The role of each member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at Annex-4 to Appendix-1.

(a) The following information shall also be provided for each member of the JV/Consortium:

Name of Bidder/member of JV/Consortium:

No.	Criteria	Yes	No
1.	Has the **Bidder/**constituent of the JV/Consortium been barred by the Central/ State Government, or any entity controlled by them, from participating in any project[s] (BOT or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Bid		
3.	Has the **Bidder/**constituent of the JV/Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delayor has been penalised due to any other reason in relation to execution of acontract, in the last three years?		

6. A statement by the **Bidder** and each of the members of its JV/Consortium (where applicable) disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

ANNEX-2 to Appendix I

Technical Capacity of the Bidder @

(*Refer to Clauses 2.2.2 (A) and 3.2 of the* **RFP**)

Bidder type #	Member Code*	Project Code**	Project Cost (US$ Mn) ***	Project Cost (Rs. Crore) ****
(1)	(2)	(3)	(4)	(5)
Single entity **Bidder**		a		
		b		
		c		
		d		
JV/Consortium Member 1		1a		
		1b		
		1c		
		1d		
JV/Consortium Member 2		2a		
		2b		
		2c		
		2d		
JV/Consortium Member 3		3a		
		3b		
		3c		
		3d		

@ Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.1.16 and/ or by a project company eligible under Clause 3.5.1.

A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled JV/Consortium Member. In case of a JV/Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence toestablish the relationship of the Bidder with such Associate, in terms of Clause 2.1.16, shall be provided.

* Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.

** Refer Annex-4 to this Appendix-I. Add more rows if necessary.

*** Refer Clause 3.2.1.

**** For conversion of US dollars to rupees, the rate of conversion shall be Rupees 72 (Seventy Two) to one US dollar. In case of any other currency, the same shall first be converted to US Dollars as on thedate 60 (Sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

Annex-3 to Appendix I

Financial Capacity of the Bidder
(Refer to Clauses 2.2.2(B), 2.2.5 (ii) and 3.3 of the RFP)

Bidder type *	**Member Code ****	**Net Worth (in ₹ crore) *** Preceding Year**
Single entity Bidder		
JV/Consortium Member 1		
JV/Consortium Member 2		
JV/Consortium Member 3		
Total		

Name and address of Bidder's Bankers:

* A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled JV/Consortium Members. In case of a JV/Consortium, row titledSingle entity Bidder may be ignored.

** For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

*** The Bidder should provide details of its own Financial Capacity and / or of an Associate specified in Clause 2.2.2 (B).

For conversion of other currencies into rupees, see note in Annex-2 to Appendix-I.

Instructions:

The Bidder/its constituent JV/consortium members shall attach copy of the balance sheet, financial statements and Annual Report for preceding 5 (five) Financial Years (excluding two financial years 2020-21 and 2021-22 due to covid) (i.e. F.Y. 2015-16, 2016-17, 2017-18, 2018-19 & 2019-20). The financial statement shall:

a) reflect the financial situation of the Bidder and its Associates where the Bidder is relying on its Associate's financials;

b) be audited by a statutory auditor;

c) be complete, including all notes to the financial statements; and

d) Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

1. Net Worth shall mean the aggregate value of the paid-up share capital and all reserves created out of the profits after deducting the aggregate value of accumulated losses, deferred expenditure and miscellaneous expenditure not written of, as per the audited balance sheet, but doesn't include reservescreated out of revaluation of assets, write-back of depreciation and amalgamation.
2. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted inaccordance with Clause 2.2.7.6 of the **RFP**.
3. The Bidder shall also provide the name and address of the Bankers to the Authority.
4. The Bidder shall provide an Auditor's Certificate specifying the net worth of the Bidder and also specifying the methodology adopted for calculating such net worth in accordance with Clause 2.2.5 (ii) of the **RFP**.

Annex- 4 to Appendix I

Details of Eligible Projects

(Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the **RFP**)

Project Code: **Member Code:**

Item (1)	Refer Instruction (2)	Particulars of the Project (3)
Title & nature of the project		
Entity for which the project wasconstructed/developed	5	
Location		
Capital cost of Project / Project cost (excluding land cost)	6	
Date of commencement ofproject/ contract		
Date of completion/Commissioning	7	
Equity shareholding (with period during which equitywas held)	8	
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)	11	

Instructions:

1. Bidders are expected to provide information in respect of each Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.2 of the **RFQ cum RFP**, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Bid. Bidder s should also refer to the Instructions below.
2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a JV/Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and soon.
3. A separate sheet should be filled for each Eligible Project.
4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, O&M means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write "Associate" along with Member Code.
5. Particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided.
6. Provide the estimated capital cost of Eligible Project. Refer to Clauses 3.2.1 and3.5.1.
7. The date of commissioning of the project, upon completion, should be indicated. In the case of projects under construction, the likely date of completion or commissioning, as the case may be, shall be indicated.
8. The equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.5.1).
9. Experience for any activity relating to an Eligible Project shall not be claimed bytwo or more Members of the JV/Consortium. In other words, no double counting by aJV/Consortium in respect of the same experience shall be permitted in any manner whatsoever (Refer Clause 3.5.3).
10. Certificate from the Bidder's statutory auditors or Chartered Accountant or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory

auditors, the auditors who audit the annual accounts of the Bidder/ Member/Associate may provide the requisite certification.

Certificate from the qualified Chartered Accountant/
Statutory Auditors regarding Eligible Projects*

Based on its books of accounts and other published information authenticated by it+*, this is to certify that …….. (name of the Bidder/Member/Associate) is/ was an equity shareholder in …….. (title of the project company) and holds/ held ₹. ……cr. (Rupees crore) ofequity (which constitutes ……..%*** of the total paid up and subscribed equity capital) of the projectcompany from ……..(date) to ..... (date). The project was/is likely to be commissioned on ……..……. (date of commissioning of the project).

We further certify that the total estimated capital cost / Project Cost of the project is Rs cr. (Rupees ……crore), of which ₹. ……..…… cr. (Rupees crore) of capital expenditure was incurred during the past five financial years as per year- wise details noted below:

.....

.....

Name of the Chartered Accountant / Audit Firm:

Seal of the Chartered Accountant / Audit firm: (Signature, designation, name of and the authorised signatory)

Date:

* Refer Clause 3.2.1 of the RFP.

** In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.

*** Refer instruction no. 8 in this Annex-4.

11. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.9, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/Chartered Accountant / Company Secretary regarding Associate*

"Based on the authenticated record of the Company, this is to certify that (a) more than 50% (fifty per cent) of the subscribed and paid up voting equity of .....(name of the Associate) is held, directly or indirectly**, by ……(name of Bidder / JV/Consortium Member). By virtue of the aforesaid shareholding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.10 of the RFQ cum RFP.

Or

(b) more than 50% (fifty per cent) of the subscribed and paid up voting equity of .....(name of Bidder / JV / Consortium Member) is held, directly or indirectly by .....(Associate) or is controlled by .....(Associate) or .....(name of Bidder/JV/Consortium Member is under common control with .....(Associate). By virtue of the aforesaid shareholding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.10 of the RFQ cum RFP"

Please delete (a) or (b) whichever is not applicable.

A brief description of the said equity held, directly or indirectly, is given below: {Describe the share-holding of the Associate in the Bidder / JV/Consortium Member}

Name of the audit firm/ Company Secretary / Chartered Accountant: Seal of the firm: (Signature, name and designation of Date: the authorised signatory).

12. It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant project in computation of Experience Score$^{\Theta}$.

***** In the event that the Bidder /JV/ Consortium Member exercises control oven an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

****** In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of "control" is not broken.

Θ Refer Clause 3.5.5 of the RFP.

Annex 5 to Appendix I

Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder/Lead Member of JV/ Consortium)

Ref. Date:

To,

Deputy General Manager,

Ropeway and Rapid Transport System

Development Corporation H.P. Ltd (RTDC)

U.S. Club, Shimla-1

Dear Sir,

We hereby confirm that we/ our members in the JV/Consortium (constitution of which has been described in the Bid) satisfy the terms and conditions laid out in the RFP.

We have agreed that (insert member's name) will act as the Lead Member of our JV/Consortium. *We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the JV/Consortium on its behalf* and has been duly authorized to submit the **RFP**. Further, the authorised signatory is vested with requisite powers to furnish such letterand authenticate the same.

Thanking you,

Yours faithfully, (Signature, name and designation of the authorized signatory)

For and on behalf of.....

***Please strike out whichever is not applicable.**

Sub: Bid for " Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh under PPP Mode".

APPENDIX II

Bank Guarantee for Bid Security
(Refer Clauses 1.1.1, 1.2.4 and 2.27)

B.G. No. Dated:

1. In consideration of you, *****, having its office at **** (hereinafter referred to as the "Authority", which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of ..... (a company registered under the Companies Act, 2013) and having its registered office at..... (and acting on behalf of its JV/Consortium) (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the "**Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh (India).** Project on [DBFOT] basis (hereinafter referred to as "the Project") pursuant to the RFQ cum RFP dated .....issued in respect of the Project and other related documents including without limitation the draft concession agreement (hereinafter collectively referred to as "Bidding Dsocuments"), we (Name of the Bank) having our registered office at ..... and one of its branches at..... (hereinafter referred to as the "Bank"), at the request of the Bidder, do hereby in terms of Clause 1.2.3 read with Clause 2.20.1 of the RFQ cum RFP, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Bidding Document (including the RFQ cum RFP) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of ₹ ***** (Rupees ***** only) (hereinafter referred to as the "Guarantee") as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Document shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the Bidding.
   Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Document for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding ₹ *****(Rupees ***** only).
4 This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed toby the Bank, and shall continue to been forceable till all amounts under this Guarantee have been paid.
5 We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Document including ,inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Document, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.

6 The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.

7 In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Document or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Document by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Document or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8 Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.

9 We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.

10 It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall been forceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.

11 We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.

12 The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.

13 For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to ₹ *** crore (Rupees ***** crore only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [***

(indicate date falling 180 days after the Bid Due Date)].Signed and Delivered by Bank

By the hand of Mr./Ms. ....., its .....and authorized official.

(Signature of the Authorised

Signatory) (Official Seal)

APPENDIX III
Power of Attorney for signing of Bid

(Refer Clause 2.2.6)

Know all men by these presents, We (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr./Ms (name) son/daughter/wife of…… and presently residing at , who is presently employed with us/ the Lead Member of our JV/Consortium and holding the position of , as our true and lawful attorney (hereinafter referred to as the "Attorney") to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid for qualification andsubmission of our bid for the "Developmeny of Passenger Ropeway Project proposed or being developed by the Development Authority (RTDC) (the "Authority") including but not limited to signing and submission of all Bid s, bids and other documents and writings, participate in Pre- Bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

AND we hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things doneby our said Attorney in exercise of the powers hereby conferred shall and shall always be deemedto have been done by us.

IN WITNESS WHEREOF WE, ……..., THE ABOVE-NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS …... DAY OF ……. 2…….

For ……

(Signature, name, designation and address)

(Notarised)

Witnesses:

1.

2.

(Signature, name, designation and address)

Accepted

…… (Signature)

(Name, Title and Address of the Attorney)

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power ofAttorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention1961 are not required to belegalised by the Indian Embassy if it carries a conforming Apostilled certificate.

APPENDIX IV

Power of Attorney for Lead Member of JV/Consortium

(Refer Clause 2.2.6)

Whereas the Development Authority (**RTDC**), ("the **Authority**") has invited Bids from interested parties for **"** Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh under PPP Mode, the "Project") (the "**Project**").

Whereas, ……., ……. and …… (collectively the "JV/Consortium") being Members of the JV/Consortium are interested in bidding for the Project in accordance with the termsand conditions of the RFP and other connected documents in respect of the Project, and

Whereas, it is necessary for the Members of the JV/Consortium to designate one of them as the LeadMember with all necessary power and authority to do for and on behalf of the JV/Consortium, all acts,deeds and things as may be necessary in connection with the JV/Consortium's bid for the Project andits execution.

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, ……... having our registered office at……..., M/s having our registered officeat ……..., and ……...having our registered office at ……..., (hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/S…….. having its registered office at ……..., being one of the Members of the JV/Consortium, as the Lead Member and true and lawful attorney of the JV/Consortium (hereinafter referred to as the "Attorney"). We hereby irrevocably authorise the Attorney (with power to sub- delegate) to conduct all business for and on behalf of the JV/Consortium and any one of us duringthebidding process and, in the event the JV/Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the JV/Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the qualification of the JV/Consortium and submission of its bid for the Project, including but not limited to signing andsubmission of all Bids, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the JV/Consortium and generally to represent the JV/Consortium in all its dealings with the Authority, and/ or any other Government Agency or anyperson, in all matters in connection with or relating to or arising out of the JV/Consortium's bid for theProject and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us JV/Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWEROF ATTORNEY ON THIS ……. DAY OF…… 20……

For……..

(Signature)

……..

(Name &Title)

For……..

(Signature)

……..

(Name &Title)

For……..

(Signature)

…….. (Name &Title)

Witnesses:

1.

2.

…… (Executants)

(To be executed by all the Members of the JV/Consortium)

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
- Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
- For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidder s from countries that have signed the Hague Legislation Convention 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostilled certificate.

APPENDIX V
Joint Bidding Agreement

(Refer Clause 2.14)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the …… day of 20…

AMONGST

1. …… Limited, a company incorporated under the Companies Act, 2013 and having its registered office at (hereinafter referred to as the "First Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. …… Limited, a company incorporated under the Companies Act, 2013 and having its registered office at …… (hereinafter referred to as the "Second Part" which expression shall, unless repugnant to the context include its successors and permitted assigns)

WHEREAS,

(A) Ropeway and Rapid Transport System Development Corporation H.P. Ltd (RTDC) (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the Bid") by its Request for Proposal No..... dated ……(**RFP**) forqualification and short- listing of bidders for development and operation/ maintenance of "Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh under PPP Mode) Project (the "Project") through PPP.

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP and other bid documents in respect of the Project, and

(C) It is a necessary condition under the RFP that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Bid.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

In this Agreement, the capitalized terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

2.1 The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposesof jointly participating in the Bidding Process for the Project.

2.2 The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, eitherdirectly

or indirectly or through any of their Associates.

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "SPV") under the Indian Companies Act 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

a. Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;

b. Party of the Second Part shall be the Financial Member of the Consortium; and

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. Shareholding in the SPV

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

6.2 The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First and Second Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP.

6.3 The Parties undertake that each of the Parties specified in Clause 6.2 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid-up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.

6.4 The Parties undertake that they shall collectively hold at least 51% (fifty-one per cent) of the subscribed and paid-up equity share capital of the SPV at all times until the second anniversary of the commercial operation date of the Project.

6.5 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

a. Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

b. The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval notal ready obtained;

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organisationaldocuments thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument towhich such Party is a party or by which such Party or any of its properties or assets are bound or that isotherwise applicable to such Party; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre- qualified for the Project or does not get selected for award of the Project, the Agreementwill stand terminated in case the Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

9.1 This Joint Bidding Agreement shall be governed by laws of India.

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties

without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED	SIGNED, SEALED AND DELIVERED
For and on behalf of	For and on behalf of
LEAD MEMBER by:	SECOND PART by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)

In the presence of:

1. 2.

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) andwhen it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution/power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalisedby the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.

APPENDIX VI

(To be given in a separate cover as per the RFP)

Letter comprising the Financial Bid

(Refer Clause 1.2.6)

Dated:

To,

Deputy General Manager,

Ropeway and Rapid Transport System

Development Corporation H.P. Ltd (RTDC)

U.S. Club, Shimla-1

Sub: Financial Bid for " Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier in Kangra, Himachal Pradesh under PPP Mode".

Dear Sir,

With reference to your RFP dated ....., I/we, having examined the Bidding Document and understood their contents, hereby submit Financial Bid for the aforesaid Project. The Financial Bid is unconditional and unqualified.

1. I/ We hereby agree to pay to the Authority by way of Annual Concession Fee (the "Concession Fee") of Rs. .....(Rupees in words) in the 8 th year of commercial operations (after the end of moratorium period of 7 years). The ACF shall be paid from the 8th year and shall be increased by 1% in absolute figure over previous year's ACF upto the end of concession period.

2. I / We agree to pay the GST and all other applicable taxes to the Central Government, any State Government and / or Local Authorities or the State of Himachal Pradesh for undertaking the aforesaid Project in accordance with the Bidding Documents and the Concession Agreement.

3. I/We agree to keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFQ cum RFP.

In witness thereof, I/We submit this Financial Bid under and in accordance with the terms of the RFP and the Bidding documents.

Your faithfully

Signature, name and designation of the Authorised Signatory

Date:

Place

Name and seal of Bidder / Lead Member

ROPEWAY AND RAPID TRANSPORT SYSTEM DEVELOPMENT CORPORATION HP LTD

Shimla – 171001 (H.P)
Telephone No (01772811001)
Email: cgmrtdchp@gmail.com

CONCESSION AGREEMENT

For

Development of Passenger Ropeway System from Bhatarka to Thathri to Chunja Glacier,

Distt. Kangra in Himachal Pradesh

Between

ROPEWAY AND RAPID TRANSPORT SYSTEM DEVELOPMENT CORPORATION HP LTD.

AND

June 06, 2023

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CONCESSION AGREEMENT

THIS AGREEMENT is entered into on this the _____day of ____,20__

BETWEEN

The Ropeway and Rapid Transport System Development Corporation HP Limited acting through its Chief General Manager, having its office located at U.S. Club, Shimla 120001, Himachal Pradesh (hereinafter referred to as the **"Concessioning Authority"** or the " **Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators,successors and assigns) of One Part;

AND

{… Limited}, a company incorporated under the provisions of the [Companies Act, 1956] [Companies Act, 2013]and having its registered office at ……, (herein after 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 Concessioning Authority's principal objective is promotion of transport infrastructure in the State of Himachal Pradesh.

(B) The Himachal Pradesh Aerial Ropeways Act, 1968 (as amended till date) has been enacted by the Government of Himachal Pradesh to provide for the construction of aerial ropeways in the State of Himachal Pradesh and for matters connected therewith and incidental thereto;

(C) That, amongst other initiatives, the Concessioning Authority has been authorized by the State Government of Himachal Pradesh to construct an Passenger Ropeway from Bhatarka to Thathri to Chunja Glacier at Kangra, (hereinafter referred to as "Bhatarka to Thathri to Chunja Glacier Ropeway") on PPP basis.

(D) The Authority had accordingly invited proposals by its [Notice/ Request for Qualification No. *** dated ***] (the "Request for Qualification" or "RFQ") for short listing of bidders for construction, operation and maintenance of Bhatarka to Thathri to Chunja Glacier Ropeway on DBFOT basis and had shortlisted certain bidders including, inter alia, the {the selected bidder/ consortium comprising ……, ……and ……(collectively the "Consortium") with as its lead member (the "Lead Member").

(E) The Authority had prescribed the technical and commercial terms and conditions, and invited bids (the "**Request for Proposals**" or "**RFP**") from the bidders shortlisted pursuant to the RFQfor undertaking the Project.

(F) After evaluation of the bids received, the Authority had accepted the bid of the {selected bidder/ Consortium} and issued its Letter of Award No. ……. dated ..... (hereinafter called the "**LOA**") to the {selected bidder/ Consortium} requiring, inter alia, the execution of this Concession Agreement within 45 (forty-five) days of the date of issue thereof.

(G) The selected bidder/ Consortium has since promoted and incorporated the Concessionaire as a limited liability company under the Companies Act 2013, and has requested the Authority toaccept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium under the LOA, including the obligationto enter into this Concession Agreement pursuant to the LOA for executing the Project.

(H) By its letter dated ……., the Concessionaire has also joined in the said request of the selected bidder/ Consortium to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the selected bidder/ Consortium 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 bidder/ Consortium for the purposes hereof.}

(I) The Authority has agreed to the said request of the {selected bidder/Consortium and the}

Concessionaire and has accordingly agreed to enter into this Concession Agreement with the Concessionaire for execution of the Project on DBFOT basis, subject to and on the terms and conditions set forth hereinafter.

(J) The Concessionaire, within 21 (twenty-one) days of issuance of the Letter of Award (LOA), shall make a payment of 50% of Project Development Fee of Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only), i.e Rs. 2.925 Crores (Rupees Two Crore Ninety Two Lakhs Fifty Thousand only) net of any taxes, in the form of Demand Draft, in favour of" Ropeways and Rapid Transport System Development Corporation H.P. Limited", payable at Shimla as a pre-condition for the signing of this Concession Agreement. The Concessionaire shall pay balance 50% of Project Development Fee of Rs. 5.85 Crore (Rupees Five Crore and Eighty-Five Lakhs only), i.e Rs. 2.925 Crores (Rupees Two Cror Ninety Two Lakhs Fifty Thousand only) in the form of Demand Draft at the time of completion of Conditions Precedent.

(K) That the Concessionaire represents and warrants that they have duly fulfilled all other terms and conditions necessary for the execution of this Agreement as per the terms contained in the Bidding documents and are in a position to execute this Agreement and implement the Project as envisaged in the Bid and this Agreement

NOW, **THEREFORE**, in consideration of the foregoing and the respective covenants and agreement sset 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:

PART I: PRELIMINARY

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

The words and expressions beginning with capital letters and defined in this Agreement (including those in Article 49) 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 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 convenienceof 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 ornot they are followed by such phrases;

(f) 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 constructed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

(i) any reference to day shall mean a reference to a calendar day;

(j) references to a "**business day**" shall be construed as a reference to a day (other than a Sunday) on which banks in Himachal Pradesh are generally open for business;

(k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(l) references to any date, period shall mean and include such date, period 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;

(o) 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;

(r) 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 shall not operate so as to increase liabilities orobligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

(t) 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 handof 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 ofthis Agreement;

(v) references to Recitals, Articles, Clauses, Sub-clauses or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule 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 sameand are not by way of penalty (the "**Damages**"); and

(x) time shall be of the essence in the performance of the Parties' respective obligations. Ifany 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 inthis Agreement, bear its ordinary English meaning and, for these purposes, the General ClausesAct, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

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 betweenthem, 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 the 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

ARTICLE 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) Planning, designing, detailed engineering, development, financing, construction, testing, commissioning of the Bhatarka to Thathri to Chunja Glacier Ropeway (**Bhatarka to Thathri to Chunja Glacier Ropeway)** 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 in conformity with the Specifications and Standards set forth in Schedule-D;

(b) operation and maintenance of the Bhatarka to Thathri to Chunja Glacier Ropeway in accordance with the provisions of this Agreement;

(c) performance and fulfilment of all other obligations of the Concessionaire in accordancewith 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;

(d) The Concessionaire shall prepare the concept plan for the development of the aerial ropeway system as per its own design based on the alignment provided by the Authority, which includes the development of terminal and intermediate stations at all the locations specified in proposed alignment and necessary columns/pillar;

(e) The Concessionaire shall develop the Aerial Ropeway System as per CEN Standards (Highest Passenger Safety Standard). The system should be duly audited and checked by the authorised auditor of the Concessionaire and further certified by expert accredited body as per CEN Standards;

(f) The construction work includes development of 3 stations from Bhatarka to Thathri to Chunja Glacier Ropeway on the area allotted by the Authority, as per their own concept according to the development permitted by Concessioning Authority in that area;

(g) The Concessionaire shall develop the entire necessary infrastructure, required for the effective operation of the ropeway, dispersal of traffic, parking, cloak room, evacuation of people, etc;

(h) The Concessionaire shall provide necessary infrastructure for smooth and easy access and/or passage between the proposed ropeway stations;

(i) The Concessionaire shall plan and design the aerial ropeway system to connect between the Bhatarka to Thathri to Chunja Glacier Ropeway according to the Global Passenger Safety Standards (CEN Standards). The number and height of towers at all points shall be as per its own concept and design. However, the Concessionaire shall have to submit the plan and design of the same to the Concessioning Authority before start of execution;

(j) Before the start of commercial operation, the Concessionaire shall get final approval from Concessioning Authority for the partial or entire ropeway system as the case may be along with system safety certification as per CEN standards after its development and construction;

(k) The Concessionaire shall maintain the ropeway stations developed to meet the need of passengers as per the prevailing laws and regulation of the government;

(l) The Concessionaire shall operate and maintain the entire ropeway system as per the CEN Standards and the prevailing rules for safety and security as laid down by the government

from time to time for entire concession period;

(m) The Concessionaire shall provide passenger safety mechanisms (as per CEN Standards) for the entire ropeway system to prevent any accident and mishaps during operation for entire the concession period;

(n) The Concessionaire shall provide necessary security system at Stations to prevent any breach of security. In order to achieve the same, the Concessionaire shall plan security mechanisms such as, deployment of specialised personnel at vantage points, CCTV security system, PA system, alarm system or any other system which it seems suitable at its own cost;

(o) The Concessionaire shall have the ropeway installed which includes certified passenger evacuation system as per CEN Standards or higher, to take care of emergency evacuation in case of stoppage of ropeway in midway, breaking of wire rope, any failure in the column, failure in machinery, any problems in the cable car, etc. during the operation of ropeway;

(p) The Concessionaire shall develop the entire ropeway system considering relevant earthquake factor as per seismic zones prescribed in Indian Standards, so that any mishaps and public accident are prevented during the operations;

(q) The concessionaire shall take insurance for the passenger, insurance of the machinery, equipment, civil structures, etc.;

(r) The Concessionaire shall ensure availability and place for providing medical aid at the stations;

(s) The Concessionaire shall provide efficient and suitable fire detection and fire suppression system for the entire ropeway including at stations;

(t) The Concessionaire shall submit operational manual, standard operating procedure, maintenance manual, overhauling system of the ropeway, traffic dispersal system between the route of Bhatarka to Thathri to Chunja Glacier Ropeway station, evacuation plan for the passenger stations, firefighting system, medical aid system, security system, etc. for the approval of Concessioning Authority before the operation;

(u) All the necessary statutory approvals needed for construction and operation shall be taken by the Concessionaire prior to the sanction of plan, during the construction period and operation of services, etc;

(v) The Concessionaire shall take power connection directly from source, as required for the entire ropeway system including all stations and/or shall provide power connection through its own resources;

(w) The Concessionaire shall provide alternate power source for existing system in case of emergency, with adequate numbers of generators at the drive stations;

(x) The Concessionaire shall arrange at its own cost- Information Network system, including telephone line, OFC cables, etc. as per its requirement;

(y) The Concessionaire shall implement and execute any other works related to smooth operations and maintenance of entire ropeway system including at the stations during concession period, if required;

(z) The Concessionaire shall arrange and develop a system to monitor weather, if required (wind speed, rainfall, etc.) in liaison with Meteorological Department to ensure safe services;

(aa) The ropeway system should consist of State-of-Art Cabins with automatic locking doors.

ARTICLE 3: GRANT OF CONCESSION

3.1 The Concession

3.1.1 Subject to and in accordance with the provisions of this Agreement, the Applicable Laws and the 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") for a period of 51 years for Phase I and 45 years for Phase II (including the period of obtaining approvals, etc of 1 year from Concession Agreement and a construction period of 4 years in each Phase), for development/ construction/setting up of the Ropeway System (the "Concession Period") for each Phase commencing from the Appointed Date, 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: Provided that, in the event the Concessionaire shall have discharged its obligations without anymaterial breach for a period of 25 (twenty-five) years from the Appointed Date, it may, by notice to be given no later than the 26th (twenty-sixth) anniversary of the Appointed Date, seek extension of the Concession Period and in such an event, it shall be entitled to additional Concession Period of 20 (twenty) years beyond the 40 years (forty years) period in accordance with the terms of the Concession Agreement. For the avoidance of doubt, material breach shall for the purpose thereof mean inter-alia suspension of Concessionaire and/or levy of damages in aggregate exceeding a sum equivalent to 50% (fifty percent) of the Performance Security, over the Concession Period.

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 Bhatarka to Thathri to Chunja Glacier Ropeway;

(c) manage, operate and maintain Bhatarka to Thathri to Chunja Glacier Ropeway and regulate the use thereof by thirdparties;

(d) demand, collect and appropriate Fee from Users for using the Bhatarka to Thathri to Chunja Glacier Ropeway and refuse usage if the Fee due is not paid;

(e) perform and fulfil all of the Concessionaire's obligations under and in accordance withthis Agreement;

(f) 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

(g) 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 the XXX Ropeway nor transfer, lease or part possession thereof, save and except as expressly permitted bythis Agreement or the Substitution Agreement.

3.1.3 Subject to and in accordance with the provisions of this Agreement and Applicable Laws, the Concession hereby granted shall, without prejudice to the provisions of Clause 3.1.2, entitle the Concessionaire to undertake development, operation and maintenance of the real estate specified in Schedule-A, [subject to the conditions stipulated in Schedule-B and Schedule-D,] and to exploit such development for commercial purposes (the "Real Estate Development") with the right to sub-license any or all parts thereof by means of Project Agreements.

ARTICLE 4: CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as expressly provided in Articles 4, 9, 10, 25, 35, 45 and 48, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "**Conditions Precedent**").

4.1.2 The Concessionaire may, upon providing the Performance Security to the Authority in accordance with Article 9, at any time after 90 (ninety) days from the date of this Agreementor 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 90 (ninety) days of the notice, or such longer period not exceeding 180 (one hundred and eighty) days as may be specified therein, and the Conditions Precedent required to be satisfied by the Authority shall be deemedto have been fulfilled when the Authority shall have:

(a) facilitated requisite government orders/ gazette notifications necessary for Project implementation, in the manner most feasible, based on submission of the list of permissions/clearances required for the Project by the Concessionaire to the Concessioning Authority.

(b) procured for the Concessionaire the Right of Way to the Site in accordance with the provisions of Clause 10.3.1;

(c) environment and forest clearance from Ministry of Environment and Forest;

(d) procured for the Concessionaire the Right of Way to *****;][1]

(e) procured all Applicable Permits relating to environmental/forest protection and conservation of the Site:

4.1.3 The Conditions Precedent required to be satisfied by the Concessionaire prior to the AppointedDate 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 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, duly attested by a Director of the Concessionaire;

(g) delivered to the Authority from {the Consortium Members, their respective} confirmation, in original, of the correctness of their representations and warranties setforth in Sub clauses (k), (l) and (m) of Clause 7.1 of this Agreement; and

(h) delivered to the Authority a legal opinion from the legal counsel of the Concessionairewith respect to the authority of the Concessionaire to enter into this Agreement and the enforceability of the provisions thereof:

1 If completion of construction on any part of the Site is considered critical for issue of Provisional/Completion Certificate, such part shall be specified in this Sub-clause so that it does not form part of the Appendix referred to in Clause 10.3.1, on or after the Appointed Date.

Provided that upon request in writing by the Concessionaire, the Authority may, in itsdiscretion, 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 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 fulfilment 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 breach of this Agreement by the Concessionaire or due toForce Majeure, the Authority shall pay to the Concessionaire Damages in an amount calculatedat the rate of 0.1% (zero point one per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 5% (five percent) of the Performance Security.

4.3 Damages for delay by the Concessionaire

In the event that (i) the Concessionaire does not procure fulfilment of any or all of the Conditions Precedent set forth in Clause 4.1.3 within a period of 180 (one hundred and eighty)days from the date of this Agreement, 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 amountcalculated at the rate of 0.2% (zero point two per cent) of the Performance Security for each day's delay until the fulfilment of such Conditions Precedent, subject to a maximum of 5% (five percent) of the Performance Security.

4.4 Non-fulfilment of Conditions precedent by either party

In the event, the maximum damages as envisaged above have been reached and still either party has not been able to fulfill any or all of the Conditions Precedent and no waiver has been granted, the same shall be treated as a case of default and lead to Termination of the Agreement unless such a default has occurred due to Force Majeure.

i. In case of failure by the Concessioning Authority to fulfill the Conditions Precedent, the Concessionaire may terminate the Agreement with 30 days prior written notice. In case such an event occurs, the RTDC/ Concessioning Authority shall return the Bid Security to the Concessionaire.

ii. If Concessionaire fails to fulfill the Conditions Precedent, the Concessioning Authority may terminate the Agreement and forfeit the Bid Security or the Performance Security, as the case may be, and the deposit for Project Development Fee. However, before any such termination of Agreement, the Concessionaire shall be given adequate time and opportunity to represent its case. If the Concessionaire fails to represent the case within the time limit given or if the Concessioning Authority is not satisfied with the representation of the Concessionaire, the Concessioning Authority may terminate the agreement in the manner stated above.

iii. However Concessioning Authority may, without any obligation, waive fully or partially any of the Conditions Precedent as specified in this Article 4, at any time in its sole discretion.

Provided however, that instead of terminating the Agreement, the Concessioning Authority and Concessionaire, by mutual consent, may extend the time period for fulfillment of Conditions Precedent.

ARTICLE 5: OBLIGATIONS OF THE CONCESSIONAIRE

5.1 Obligations of the Concessionaire

5.1.1 Subject to and on the 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 XXX Ropeway and observe, fulfil, comply withand perform all its obligations set out in this Agreement or arising hereunder.

5.1.2 The Concessionaire shall comply with all Applicable Laws and Applicable Permits (includingrenewals as required) in the performance of its obligations under this Agreement.

5.1.3 Subject to the provisions of Clauses 5.1.1 and 5.1.2, the Concessionaire shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

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:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining Applicable Permits (other than those set forth in Clause 4.1.2), and obtain and keep inforce and effect such Applicable Permits in conformity with the Applicable Laws;

(b) procure, as required, the appropriate proprietary rights, licences, agreements and permissions for materials, methods, processes and systems used or incorporated into the Bhatarka to Thathri to Chunja Glacier Ropeway;

(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) 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;

(f) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(g) procure that all facilities and amenities within the Bhatarka to Thathri to Chunja Glacier Ropeway are operated and maintained in accordance with Good Industry Practice and the Users have non-discriminatory access for use of the same

(h) support, cooperate with and facilitate the Authority in the implementation and operation of the Project in accordance with the provisions of this Agreement;

(i) transfer the Bhatarka to Thathri to Chunja Glacier Ropeway to the Authority upon Termination of this Agreement, in accordance with the provisions thereof; and

(j) Transfer of land, real estate, ropeway system and any other asset SPV is holding; in working condition including all stations, towers, ticketing facilities, gondolas, station amenities etc. should be made as per the Indian Accounting Standard and certified by CEN system safety auditor.

5.1.5 provide to the representative(s) of the Concessioning Authority, at reasonable times and upon prior intimation, access to the Project Site to review progress in construction and to ascertain compliance with any of the requirements of this Agreement. Provided that non-inspection by the Concessioning Authority of any works shall not, in relation to such works;

5.1.6 amount to any consent or approval by the Concessioning Authority nor shall the same be deemed to be waiver of any of the rights of the Concessioning Authority under this Agreement; and (ii) release or discharge the Concessionaire from its obligations or liabilities under this Agreement in respect of such work;

5.1.7 provide monthly reports on the progress of Construction Works or such other relevant information as may be required by the Independent Engineer;

5.1.8 promptly carry out at its cost such further works as may be necessary to remove any defects or deficiencies observed by the Independent Engineer and ensure timely completion of construction of the Project / the Project Facilities and Services in all respects in accordance with the provisions of this Agreement; and

5.1.9 to ensure safe and timely construction and completion of the Project/Project Facilities and Services, the Concessionaire may, at its cost, interrupt and divert/create barriers on the flow of water or on the road or port traffic, adjacent to the Project Site if such interruption and diversion is imperative for the efficient progress of Construction Works and conforms to Good Industry Practice; provided that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Independent Engineer which approval shall not be unreasonably withheld. For the avoidance of doubt, it is agreed that the Concessionaire shall at all times be responsible for ensuring safe operation of Construction Works and shall remove the interruption or diversion within the period specified by the Independent Engineer.

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 allits obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreementshall 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 havethe 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 s. Within 7 (seven) daysof execution of any Project Agreement or amendment thereto, the Concessionaire shall submitto 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 noreview and/or observation of the Authority and/or its failure to review and/or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilitiesunder this Agreement in any manner nor shall the Authority be liable for the same in any mannerwhatsoever.

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 financialliability or obligation on the Authority, and in the event that any replacement or amendment ismade 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 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire shallnot sub-licence, assign or in any manner create an Encumbrance on any Project Asset formingpart of Real Estate Development without prior written approval of the Authority, which approval the

Authority may, in its discretion, deny if such sub-licence, assignment or Encumbrance has or may have a Material Adverse Effect on the rights and obligations of the Authority under this Agreement or Applicable Laws; provided that the provisions of this Clause 5.2.4 shall not apply where the Concessionaire grants a sub-licence for a cumulative period, including any renewals thereof, not exceeding 11 (eleven) months. For the avoidance of doubt,it is agreed that if the Authority does not deny the approval required under this Clause 5.2.4 within a period of 60 (sixty) days from the date of receiving a notice alongwith full particularsand documents from the Concessionaire, the approval shall be deemed to have been granted tothe extent such sub-licence, assignment or Encumbrance, as the case may be, is in accordance with the provisions of this Agreement.

5.2.5 Notwithstanding anything to the contrary contained in Clause 5.2.4, the Concessionaire shall not sub–licence, assign or in any manner create an Encumbrance on any Project Asset formingpart of Real Estate Development at any time prior to the [3rd (third) anniversary] of the Appointed Date. For the avoidance of doubt, the restriction imposed herein shall not apply to assignment under the Substitution Agreement.

5.2.6 The Concessionaire shall procure that each of the Project Agreements contains provisions thatentitle 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 ProjectAgreements shall be deemed to cease to be in force and effect on the Transfer Date without anyliability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Concessionaire expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the

counter party(ies) of each of the Project Agreements, whereunder such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

5.3 Obligations relating to Change in Ownership

5.3.1 The Concessionaire shall not undertake or permit any Change in Ownership, except with the approval of the Authority.

The Applicant/Consortium has caused the Concessionaire to be incorporated as a special purpose company to implement, operate and maintain the Project/Project Facilities and Services in accordance with this Agreement. The shareholding pattern of Concessionaire/each member of the Consortium in the Concessionaire is [……..].

(a) Shareholding: The Concessionaire shall ensure that the Applicant/ members of the Consortium maintain Management Control at least until expiry of the two (2) years after COD as also maintain their equity holding in the Concessionaire such that:

(i) Selected Bidder/Consortium Members together with its/their Associates hold not less than 51% (Fifty One Percent) of its issued and paid up equity and that no member of Consortium whose technical and financial capacity was evaluated for the purposes of Pre-qualifications in response to Request for Qualification shall hold less than 26% (Twenty Six Percent) of such equity until expiry of two (2) years after COD. At any time, after expiry of the aforesaid share holding period, lead member can approach Authority for approval proposing a new entity/ consortium. Authority may at its sole discretion consider and approve it subject to the entity/consortium meeting the eligibility criteria as prescribed in Bid Document for the Project; and

(ii) M/s [……] ("Lead Member") of the Consortium (original or new as the case may be) legally and beneficially holds at any time not less than 51% (fifty one percent) of the Consortium's holding in the paid-up equity capital of the Concessionaire.

Any Transfer of shareholding in the Concessionaire and/or direct or indirect change in the Management Control of the Concessionaire, including by way of a restructuring or amalgamation, shall only be with the prior written approval of the Concessioning Authority which consent shall not be withheld except; (i) for reasons of national security; or (ii) if the Person proposed for assuming such Management Control would by virtue of the restrictions imposed under the Applicable Law or the conditions of bidding (including restrictions to avoid anti-competitive and monopolistic practice) and/or public policy be disqualified from undertaking the Project.

Provided, nothing contained in this Article shall preclude or prevent pledge of shares in the Concessionaire in favour of Senior Lenders as security for the Financial Assistance subject to the enforcement and consequent Transfer thereof only with the prior written consent of the Concessioning Authority as stated hereinbefore and in accordance with the Financing Documents.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agree and acknowledges that:

(i) 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 25% (twenty five per cent) of the total Equity of the Concessionaire; or

(ii) acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or personsacting in concert with him;

shall constitute a Change in Ownership requiring prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Concessionaire without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavour to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement.

For the purposes of this Clause 5.3.2:

(a) 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 Concessionaire;

(b) 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 Concessionaire; and

(c) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company, holding directly or through one or more companies (whether situatedin India or abroad) the Equity of the Concessionaire, not less than half of the directorson the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 25% (twenty five per cent) of the Equity of the Concessionaire, shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

5.4 Employment of foreign nationals

The Concessionaire acknowledges, agrees and undertakes that employment of foreign personnel by the Concessionaire and/or its contractors and their sub-contractors shall be subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall andwill always be of the Concessionaire and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Concessionaire or any of its Contractors or sub-contractors shall not constitute Force MajeureEvent, and shall not in any manner excuse the Concessionaire from the performance and discharge of its obligations and liabilities under this Agreement.

5.5 Employment of trained personnel

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective functions.

5.6 Obligations relating to medical aid

For providing medical aid to the Users, the Concessionaire shall, set up and operate a MedicalAid Post at the Project Site equipped to render first aid and to assist in accessing emergency medical aid from hospitals/ clinics in the vicinity.

5.7 Obligations relating to basic amenities

5.7.1 The Concessionaire shall, during the entire term of the Concession Period, in addition to the infrastructure required to be developed, operated and maintained by it under this Agreement, provide and maintain amenities, in adequate numbers in accordance with Good Industry Practice for non-discriminatory use by the Users of the Project. These shall include drinking water facilities, sanitation facilities, toilets, telephone and communication facilities.

5.7.2 The Concessionaire shall, during the entire term of the Concession Period, provide and procure hygienic and safe low-cost eateries and canteens, in adequate numbers and in accordance withGood Industry Practice.

5.8 Obligations relating to noise control

The Concessionaire shall take all such measures as may be necessary in accordance with Applicable Laws and Good Industry Practice to control and mitigate the noise arising from theProject and its impact on Users and the neighbourhood.

5.9 Sole purpose of the Concessionaire

The Concessionaire having been set up for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, theConcessionaire or any of its subsidiaries shall not, except with the previous written consent ofthe Authority, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

5.10 Branding of XXX Ropeway

6 The XXX Ropeway or any part thereof shall not be branded in any manner to advertise, displayor reflect the name or identity of the Concessionaire or its shareholders. The Concessionaire undertakes that it shall not, in any manner, use the name or entity of XXX Ropeway to advertiseor display its own identity, brand equity or business interests, including those of its shareholders, save and except as may be necessary in the normal course of business. For the avoidance of doubt, it is agreed that the Concessionaire may display its own name at a spot where other public notices are displayed for the Users. It is further agreed that the XXX Ropeway shall be known, promoted, displayed and advertised by the name of Bhatarka to Thathri to Chunja Glacier Ropeway.

6.1 Facilities for physically challenged and elderly persons

The Concessionaire shall, in conformity with the guidelines issued from time to time by the Ministry of Social Justice and Empowerment, or a substitute thereof, procure a barrier free environment for the physically or visually challenged and for elderly persons using the XXX Ropeway.

5.12 Obligations relating to operation and maintenance of the Ropeway

The Concessionaire agrees that it shall enter into agreement with Technical Tie-up Partner to ensure that the training is provided to its manpower by the Technical Tie-up Partner for Operation and Maintenance of the system. In the period of two (2) years after the commissioning of the project, the Technical Tie-up Partner will ensure periodic handholding in the training of the manpower and will also certify the competence of the trained manpower.

5.13 Obligations relating to aesthetic quality of the XXX Ropeway

The Concessionaire shall maintain a high standard in the appearance and aesthetic quality of the XXX Ropeway and achieve integration of the XXX Ropeway with the character of the surrounding landscape through both appropriate design and sensitive management of all visibleelements. The Concessionaire shall engage professional architects and town planners of reputefor ensuring that the design of the XXX Ropeway meets the aforesaid aesthetic standards.

5.14 Obligations relating to water, air and sound pollution control

The Concessionaire shall take all such measures as may be necessary in accordance with Applicable Laws and Good Industry Practice to control and mitigate the water, air and sound pollution arising from the Project and its impact on Users and the neighbourhood.

5.15 Obligations relating to establish a cloak room facility at station buildings

The Concessionaire shall establish a cloak room at the station buildings with adequate number of lockers for visitors and passengers who shall avail the ropeway facilities. The notification of Locker Fee shall be issued by the Concessionaire itself and fixed and modified by the Concessionaire according to market demand and the locker fee rate shall be intimated to Authority forthwith.

ARTICLE 6: OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

6.1.1 The Authority shall, at its own cost and expense undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 The Authority agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and the Applicable Laws, the following:

(a) upon written request from the Concessionaire, and subject to the Concessionaire complying with Applicable Laws, provide reasonable support and assistance to the Concessionaire in procuring Applicable Permits required from any Government Instrumentality for implementation and operation of the Project;

(b) upon written request from the Concessionaire, provide reasonable assistance to the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water and electricity at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services;

(c) procure that no barriers are erected or placed on or about the XXX Ropeway by any Government Instrumentality or persons claiming through or under it, except for reasonsof Emergency, national security, law and order or collection of inter-state taxes;

(d) make best endeavours to procure that no local Tax, or charge is levied or imposed on the use of whole or any part of the Bhatarka to Thathri to Chunja Glacier Ropeway;

(e) subject to and in accordance with the Applicable Laws, grant to the Concessionaire the authority to regulate traffic on the Bhatarka to Thathri to Chunja Glacier Ropeway;

(f) assist the Concessionaire in procuring police assistance for regulation of traffic,removal of trespassers and security on or at Bhatarka to Thathri to Chunja Glacier Ropeway;

(g) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(h) support, cooperate with and facilitate the Concessionaire in the implementation and operation of the Project in accordance with the provisions of this Agreement; and

(i) upon written request from the Concessionaire and subject to the provisions of Clause 5.5, provide reasonable assistance to the Concessionaire and any expatriate personnel of the Concessionaire or its Contractors to obtain applicable visas and work permits forthe purposes of discharge by the Concessionaire or its Contractors their obligations under this Agreement and the Project Agreements.

ARTICLE 7: REPRESENTATIONS AND WARRANTIES

7.1 Representations and warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

(a) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;

(b) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will belegally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(c) it is subject to the laws of India, and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunderincluding any obligation, liability or responsibility hereunder;

(d) the information furnished in the Bid and as updated on or before the date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(e) the execution, delivery and performance of this Agreement will not conflict with, resultin the breach of, constitute a default under, or accelerate performance required by anyof the terms of its Memorandum and Articles of Association {or those of any memberof the Consortium} or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or anyof its properties or assets is bound or affected;

(f) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may result in the breach of thisAgreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(g) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists whichmay give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(h) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;

(i) it shall at no time undertake or permit any Change in Ownership except in accordancewith the provisions of Clause 5.3 and that the {selected bidder/ Consortium Members},together with{its/ their} Associates, hold not less than 51% (fifty-one percent) of its issued and paid up Equity as on the date of this Agreement; and that no member of theConsortium whose technical and financial capacity was evaluated for the purposes of pre-qualification and short-listing in response to the Request for Qualification shall hold less than 26% (twenty six per cent) of such Equity during the Construction Period;

(j) {the selected bidder/ Consortium Members and its/their} Associates have the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;

(k) {the selected bidder/ each Consortium Member} is duly organised and validly existingunder

the laws of the jurisdiction of its incorporation, and has requested the Authorityto enter into this Agreement with the Concessionaire pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

(l) all its rights and interests in the XXX Ropeway shall pass to and vest in the Authorityon the Transfer Date free and clear of all liens, claims and Encumbrances, without anyfurther act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interestor other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement;

(m) no representation or warranty by it contained herein or in any other document furnishedby it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact oromits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(n) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith; and

(o) all information provided by the {selected bidder/ Consortium Members} in response tothe Request for Qualification and Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects.

(p) it is duly organised, validly existing and in good standing under the laws of India and hereby expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising thereunder including any obligation, liability or responsibility hereunder;

(q) it has full power and authority to execute, deliver and perform its obligations under this Agreement.

(r) it has taken all necessary action to authorise the execution, delivery and performance of this Agreement;

(s) this Agreement constitutes the legal, valid and binding obligation of the Concessionaire, enforceable against it in accordance with the terms hereof;

(t) there are no actions, suits or proceedings pending or to its best knowledge, threatened against or affecting it before any court, administrative body or arbitral tribunal which might materially and adversely affect its ability to meet or perform any of its obligations under this Agreement.

(u) agrees generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings.

(v) consents generally in respect of the enforcement of any judgement against it in any proceedings in any jurisdiction to the giving of any relief or the issue of any process in connection with such proceedings.

7.2 Representations and warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

(b) it has taken all necessary actions under the Applicable Laws to authorise the execution, delivery and performance of this Agreement;

(c) it has the financial standing and capacity to perform its obligations under this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) 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 Instrumentality which may result in any Material Adverse Effect on the Authority's ability to perform its obligations under this Agreement;

(f) it has complied with Applicable Laws in all material respects;

(g) it has the right, power and authority to manage and operate the XXX Ropeway up to the Appointed Date; and

(h) it has good and valid right to the Site and has power and authority to grant a licence in respect thereto to the Concessionaire.

7.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party 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 or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

ARTICLE 8: DISCLAIMER

8.1 Disclaimer

8.1.1 The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluationof the Request for Qualification, Request for Proposals, Scope of the Project, Specifications and Standards, Site, existing structures, local conditions, physical qualities of ground, subsoil and geology, traffic volumes and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Concessionaire confirms that it shall have no claim whatsoever against the Authority in this regard.

8.1.2 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or errorin or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, {the Consortium Members and their} Associates or any person claiming through or under any of them.

8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement or render it voidable.

8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire pursuant to this Agreement.

8.1.5 Except as otherwise provided in this Agreement, all risks relating to the Project shall be borne bythe Concessionaire and the Authority shall not be liable in any manner for such risks or theconsequences thereof.

PART III: DEVELOPMENT AND OPERATIONS

ARTICLE 9: PERFORMANCE SECURITY

9.1 Performance Security

9.1.1 The Concessionaire shall, for the performance of its obligations hereunder during the Construction Period, provide to the Authority no later than 180 (one hundred and eighty) days from the date of this Agreement, an irrevocable and unconditional guarantee from a Bank for a sum equivalent to Rs. 11.70 crore (Rupees Eleven crore Seventy lakhs only)[2] in the form set forth in Schedule-F (the "**Performance Security**"). Until such time the Performance Security is provided by the Concessionaire pursuant hereto and the same comes into effect, the Bid Security shall remain in force and effect, and upon such provision of the Performance Security pursuant hereto, the Authority shall release the Bid Security to the Concessionaire.

9.1.2 Notwithstanding anything to the contrary contained in this Agreement, in the event Performance Security is not provided by the Concessionaire within a period of 180 (one hundred and eighty) days from the date of this Agreement, the Authority may encash the Bid Security and appropriate the proceeds thereof as Damages and thereupon 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 this Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

9.2 Appropriation of Performance Security

Upon occurrence of a Concessionaire Default or failure to meet any Condition Precedent, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the relevant amounts from the Performance Security as Damages for such Concessionaire Default or failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 30 (thirty) days thereof, replenish, in case of partial appropriation, to its original level the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, and the Concessionaire shall, within the time so granted, replenish or furnish fresh Performance Security as aforesaid, failing which the Authority shall be entitled to terminate this Agreement in accordance with Article 38 Upon replenishment or furnishing of a fresh Performance Security, as the case may be, as aforesaid, the Concessionaire shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Concessionaire Default or to meet any Condition Precedent, and in the event of the Concessionaire not curing its default or meeting such Condition Precedent within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 38.

9.3 Release of Performance Security

The Performance Security shall remain in force and effect for a period from the Appointed Date till the Commercial Operation Date and shall be released by the Authority to the concessionaire upon the start of commercial operation.

[2] Calculated @2% (two per cent) and rounded off of the amount specified in the definition of Total Project Cost.

ARTICLE 10: RIGHT OF WAY

10.1 The Site

The site of the Bhatarka to Thathri to Chunja Glacier Ropeway shall comprise of the real estate described in Schedule-A and in respect of which the Right of Way shall be provided and granted by the Authority to the Concessionaire as a licensee under and in accordance with this Agreement (the "**Site**"). For theavoidance of doubt, it is hereby acknowledged and agreed that references to the Site shall be construed as references to the real estate required for the XXX Ropeway as set forth in Schedule-A.

10.2 Licence, Access and Right of Way

10.2.1 The Authority hereby grants to the Concessionaire access to the Site for carrying out any surveys, investigations and soil tests that the Concessionaire may deem necessary during the Development Period, it being expressly agreed and understood that the Authority shall have noliability whatsoever in respect of survey, investigations and tests carried out or work undertakenby the Concessionaire on or about the Site pursuant hereto in the event of Termination or otherwise.

10.2.2 In consideration of the Concession Fee, this Agreement and the covenants and warranties on the part of the Concessionaire herein contained, the Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Concessionaire, commencing from the Appointed Date, leave and licence rights in respect of all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Site which is described, delineated and shown in Schedule-A hereto (the "**Licensed Premises**"), on an "as is where is" basis, free of any Encumbrances, to develop, operate and maintain the said Licensed Premises,together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Licensed Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever.

10.2.3 The licence, access and right of way granted by this Agreement to the Concessionaire shall always be subject to existing rights of way. It is expressly agreed that the licence granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the licence, upon the Termination of this Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Site by the Concessionaire or its sub-licensees, the licence in respect of the Site shall automatically terminate, without any further act of the Parties, upon Termination of this Agreement.

10.2.4 The Concessionaire hereby irrevocably appoints the Authority (acting directly or through a nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the licence granted hereunder at any time after the Concession Period has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorised officer of the Authority, and the Concessionaire consents to it being registered for this purpose.

10.2.5 It is expressly agreed that trees on the Site are property of the Authority except that the Concessionaire shall be entitled to exercise usufructuary rights thereon during the Concession Period.

10.3 Procurement of the Site

10.3.1 Pursuant to the notice specified in Clause 4.1.2, the Authority Representative and the Concessionaire shall, on a mutually agreed date and time, inspect the Site and prepare a memorandum containing an inventory of the Site including the vacant and unencumbered land, buildings, structures, road works, trees and any other immovable property on or attached to the Site. Such memorandum shall have appended thereto an appendix (the "Appendix") specifying in reasonable detail those parts of the Site to which vacant access and Right of Way has not been granted to the Concessionaire. Signing of the memorandum, in two counterparts (each of which shall constitute an original), by the

authorised representatives of the Parties shall, subject to the provisions of Clause 10.2.2, be deemed to constitute a valid licence and Right of Way to the Concessionaire for free and unrestricted use and development of the vacant and unencumbered Site during the Concession Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever. For the avoidance of doubt, it is agreed that valid licence and Right of Way with respect to the parts of the Site as set forth in the Appendix shall be deemed to have been granted to the Concessionaire upon vacant access thereto being provided by the Authority to the Concessionaire.

10.3.2 Without prejudice to the provisions of Clause 10.3.1, the Parties hereto agree that on or prior to the Appointed Date, the Authority shall have granted vacant access and Right of Way necessary for the XXX Ropeway, and in the event Financial Close is delayed solely on account of delay in grant of such vacant access and Right of Way, the Authority shallbe liable to payment of Damages under and in accordance with the provisions of Clause 4.2.

10.3.3 On and after signing the memorandum referred to in Clause 10.3.1, and until the Transfer Date,the Concessionaire shall maintain a round-the-clock vigil over the Site and shall ensure and procure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, the Concessionaire shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its cost and expenses.

10.3.4 The Authority shall make best efforts to procure and grant, no later than 90 (ninety) days fromthe Appointed Date, the Right of Way to the Concessionaire in respect of all land included in the Appendix, and in the event of delay for any reason other than Force Majeure or breach of this Agreement by the Concessionaire, it shall pay to the Concessionaire Damages in a sum calculated at the rate of Rs. 50 (Rupees fifty) per day for every 1,000 (one thousand) square metres or part thereof, commencing from the 91st (ninety first) day of the Appointed Date anduntil such Right of Way is procured.

10.3.5 Upon receiving Right of Way in respect of any land included in the Appendix, the Concessionaire shall complete the Construction Works thereon within a reasonable period, to be determined by the Independent Engineer, in accordance with Good Industry Practice; provided that the issue of Provisional Certificate shall not be affected or delayed on account ofvacant access to any part of the Site not being granted to the Concessionaire or any constructionon such part of the Site remaining incomplete on the date of Tests on account of the delay or denial of such access thereto. For the avoidance of doubt, it is expressly agreed that Construction Works on all lands, for which Right of Way is granted within 90 (ninety) days ofthe Appointed Date, shall be completed before the Project Completion Date. It is further agreedthat the obligation of the Concessionaire to complete the affected Construction Works shall subsist so long as the Authority continues to pay the Damages specified herein, and upon the Authority ceasing to pay such Damages after giving 60 (sixty) days' notice thereof to the Concessionaire, the obligation of the Concessionaire to complete such works on such part of the Site shall cease forthwith. It is also expressly agreed that completion of the respective Construction Works, within the time determined by the Independent Engineer hereunder, shallbe deemed to be Project Milestones for the purposes of levy and recovery of Damages under and in accordance with the provisions of Clause 12.3.2.

10.3.6 The Concessionaire shall, if so required by the Authority, procure on behalf of the Authority, on the terms and to the extent specified by the Authority, the additional land required for [Stations, ancillary buildings, maintenance depots and electric sub-stations or for] constructionof works specified in Change of Scope Order issues under Article 16, in accordance with this Agreement and upon procurement, such land shall form part of the Site and vest in the Authority; provided that the Concessionaire may, by notice given to the Authority no later than60 (sixty) days from [the Appointed Date or the date of Change of Scope Order, as the case may be,] require the Authority to initiate and undertake proceedings for acquisition of such landunder the provisions of the Applicable Laws and the Authority shall take all such steps as maybe reasonably necessary for such land acquisition forthwith; provided further that the cost of land acquired under this Clause 10.3.6 shall be borne by the Authority in accordance with the Act [; provided also that the land to be acquired by the Authority hereunder as a part of the Siteshall be seemed to be included in the Appendix referred to in this Clause 10.3 and dealt with inaccordance with the provisions thereof]. [For the avoidance of doubt, it is agreed that the minimum area of land to be acquired for the Stations, ancillary buildings, maintenance depots,electric sub-stations, and approach road thereof shall conform to the provisions of Schedule – B and Schedule – C. It is further agreed that the Authority may, at any time after such Bid Date,*suo moto* acquire the land required hereunder.

10.4 Site to be free from Encumbrances

Subject to the provisions of Clause 10.3, the Site shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the acquisition and use of such Site for the duration of the Concession Period, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of way, easements, privileges, liberties and appurtenances to the Licensed Premises shall not be deemed to be Encumbrances. It is further agreed that the Concessionaire accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Site.

10.5 Protection of Site from encroachments

During the Concession Period, the Concessionaire shall protect the Site from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Concessionaire to place or create anyEncumbrance or security interest over all or any part of the Site or the Project Assets, or on anyrights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.6 Special/temporary right of way

The Concessionaire shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Site. The Concessionaire shall obtain at its cost such facilities on or outside the Site as may be required by it for the purposes of the XXX Ropeway and the performance of its obligations under this Agreement.

10.7 Access to the Authority

10.7.1 The licence, right of way and right to the Site granted to the Concessionaire hereunder shall always be subject to the right of access of the Authority and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under thisAgreement.

10.7.2 The Concessionaire shall allow free access to the Site at all times for the authorised representatives of the Authority, lenders, Independent Engineer, and for the persons duly authorised by any Government Instrumentality to inspect the Project or Project Facilities or toinvestigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons, reasonable assistance necessary to carry out their respective duties and functions.

10.7.3 The Concessionaire shall, for the purpose of operation and maintenance of any utility specifiedin Article 11, allow free access to the Site at all times for the authorised persons of the controlling body of such utility.

10.8 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of the license granted to the Concessionaire under this Agreement and the Concessionaire hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vestin and belong to the Authority or the concerned Government Department. The Concessionaire shall take all reasonable precautions to prevent its workmen or any other personfrom removing or damaging such interest or property and shall inform the Authority forthwithof the discovery thereof and comply with such instructions as the concerned Government Department may reasonably give for the removal of such property. It is agreed that the Authority shall ensure that the instructions hereunder are issued by the concerned Government Department within a reasonable period.

ARTICLE 11: UTILITIES, ASSOCIATED ROADS AND TREES

11.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the Concessionaire shall ensure thatthe respective entities owning the existing roads, right of way or utilities on, under or above theSite are enabled by it to keep such utilities in continuous satisfactory use, if necessary, by providing suitable temporary or permanent diversions with the authority of the controlling bodyof that road, right of way or utility, and the Authority shall, upon written request from the Concessionaire, initiate and undertake at the Concessionaire's cost, legal proceedings for acquisition of any right of way necessary for such diversion.

11.2 Shifting of obstructing utilities

The Concessionaire shall, subject to Applicable Laws and with assistance of the Authority, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only if such utility causes orshall cause a material adverse effect on the construction, operation or maintenance of the XXXRopeway. The cost of such shifting shall be borne by the Concesssionaire and in the event any delay in shifting thereof, the Concessionaire shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay on the part of the entity owning such electric lines, waterpipes or telephone cables, as the case may be.

11.3 New utilities and roads

11.3.1 The Concessionaire shall allow, subject to such conditions as the Authority may specify, accessto, and use of the Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Concessionaire, it may require the user of the Site to pay compensation or damages as per Applicable Laws. For the avoidance of doubt, it is agreed that use of the Site under this Clause 11.3.1 shall not in any manner relieve the Concessionaire of its obligation to maintain the XXX Ropeway in accordance with this Agreement and any damage caused by such use shall be restored forthwith.

11.4 Felling of trees

The Authority shall assist the Concessionaire in obtaining the Applicable Permits for felling oftrees to be identified by the Authority for this purpose if and only if such trees cause a materialadverse effect on the construction, operation or maintenance of the XXX Ropeway. The cost of such felling shall be borne by the Concessionaire, and in the event of any delay in felling thereof 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 the felling oftrees. For the avoidance of doubt, the Parties hereto agree that the felled trees shall be deemedto be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate.

ARTICLE 12: CONSTRUCTION OF THE BHATARKA TO THATHRI TO CHUNJA GLACIER ROPEWAY

12.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Concessionaire shall:

(a) submit to the Authority and the Independent Engineer its detailed design, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in Schedule-G;

(b) appoint its representative duly authorised to deal with the Authority in respect of all matters under or arising out of or relating to this Agreement;

(c) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, the Applicable Laws and Applicable Permits and Specifications andStandards; and

(d) make its own arrangements for quarrying of materials needed for the XXX Ropeway under and in accordance with the Applicable Laws and Applicable Permits.

12.2 Drawings

In respect of the Concessionaire's obligations relating to the Drawings of the XXX Ropewayas set forth in Schedule-H, the following shall apply:

(a) The Concessionaire shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, 3 (three) copies each of all Drawings to the Independent Engineer for review.

(b) By submitting the Drawings for review to the Independent Engineer, the Concessionaire shall be deemed to have represented that it has determined and verifiedthat the design and engineering, including field construction criteria related thereto, arein conformity with the Scope of the Project and Specifications and Standards.

(c) Within 15 (fifteen) days of the receipt of the Drawings, the Independent Engineer shallreview the same and convey its observations to the Concessionaire with particular reference to their conformity or otherwise with the Scope of the Project and Specifications and Standards. The Concessionaire shall not be obliged to await the observations of the Independent Engineer on the Drawings submitted pursuant hereto beyond the said 15 (fifteen) days period and may begin or continue Construction Worksat its own discretion and risk.

(d) If the aforesaid observations of the Independent Engineer indicate that the Drawings are not in conformity with the Scope of the Project or Specifications and Standards, such Drawings shall be revised by the Concessionaire and resubmitted to the Independent Engineer for review. The Independent Engineer shall give its observations, if any, within 7 (seven) days of receipt of the revised Drawings.

(e) No review and/or observation of the Independent Engineer and/or its failure to review and/or convey its observations on any Drawings shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Independent Engineer or the Authority be liable for the same in any manner.

(f) Without prejudice to the foregoing provisions of this Clause 12.2, the Concessionaire shall

submit to the Authority for review and comments, its Drawings relating to alignment of the XXX Ropeway and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, within 30 (thirty) days of the receipt of such Drawings. The provisions of this Clause 12.2 shall apply *mutatis mutandis* to the review and comments hereunder.

(g) Within 90 (ninety) days of the Project Completion Date, the Concessionaire shall furnish to the Authority and the Independent Engineer a complete set of as-built Drawings, in 2 (two) hard copies and in micro film form or in such other medium as may be acceptable to the Authority, reflecting the XXX Ropeway as actually designed, engineered and constructed, including an as-built survey illustrating the layout of the XXX Ropeway and setback lines, if any, of the buildings and structures forming part of Project Facilities.

12.3 Construction of the Ropeway

12.3.1 On or after the Appointed Date, the Concessionaire shall undertake construction of the XXX Ropeway as specified in Schedule-B and Schedule-C, and in conformity with the Specifications and Standards set forth in Schedule-D. The [**** day] from the Appointed Date shall be the scheduled date for completion of the XXX Ropeway (the "**Scheduled Date**") and the Concessionaire agrees and undertakes that construction of the XXX Ropeway shall be completed on or before the Scheduled Date. For the avoidance of doubt, it is agreed that the Project Completion Schedule and Scheduled Date shall not apply to Real Estate Development.

12.3.2 The Concessionaire shall construct the XXX Ropeway in accordance with the Project Completion Schedule set forth in Schedule-G. In the event that the Concessionaire fails to achieve any Project Schedule Date within a period of 90 (ninety) days from the date set forth for such construction in Schedule-G, unless such failure has occurred due to Force Majeure or for reasons solely attributable to the Authority, it shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Security for delay of each day until such date is achieved; provided that if the Scheduled Date is extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-G shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-G has been amended as above; provided further that in the event Project Completion Date is achieved on or before the Scheduled Date, the Damages paid under this Clause 12.3.2 shall be refunded by the Authority to the Concessionaire, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 12.3.2 shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

12.3.3 In the event that the XXX Ropeway is not completed within the Scheduled Date, unless the delay is on account of reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to terminate this Agreement.

ARTICLE 13: MONITORING OF CONSTRUCTION

13.1 Monthly progress reports

During the Construction Period, the Concessionaire shall, no later than 7 (seven) days after theclose of each month, furnish to the Authority and the Independent Engineer a monthly report on progress of the Construction Works and shall promptly give such other relevant informationas may be required by the Independent Engineer.

13.2 Inspection

The Authority and its authorised representative shall at all reasonable times:

(a) have full access to all parts of the Site and to all places from which natural Materials are being obtained for use in the Works; and

(b) during production, manufacture and construction at the Site and at the place of production, be entitled to examine, inspect, measure and test the Materials and workmanship, and to check the progress of manufacture of Materials. All such visits required to be done by the Authority and his Engineer in India and Abroad Should be arranged by the Concessionaire. All the cost required for such Visits such as Travelling, Lodging, Boarding and Incidental charges will be on account of Concessionaire and he will not be paid anything extra for same.

The Concessionaire is to allow for up to Four representatives of the Authority and its representatives to participate in the Factory Acceptance Test (FAT). It is estimated that each FAT in average will take 4 days + travel days. There shall be a maximum of 2 (two) trips, one during manufacture and one before dispatch of Material. The Concessionaire has to arrange international round-trip flight tickets (economy class); local transportation, accommodations and food at the place of FAT, and pay per diem allowances to those representatives during the FAT. The Concessionaire has to confirm with the Employer about rates of per diems during each FAT.

13.3 Tests

13.3.1 For determining that the Construction Works conform to the Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests, at such time and frequency and in such manner as may be specified by the Independent Engineer from time to time, in accordance with Good Industry Practice for quality assurance. The size of sample for such tests shall, to the extent possible, not exceed 10% (ten percent) of the quantity and/or number of tests that the owner or builder of such works would normally undertake in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the tests in accordance with the instructions ofthe Independent Engineer and furnish the results thereof to the Independent Engineer. One halfof the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire. For the avoidance of doubt, the costs to be incurred on any Test which is undertaken for determining the rectificationof any defect or deficiency in construction shall be borne solely by the Concessionaire.

13.3.2 In the event that results of any tests conducted under this Clause 13.3 establish any defects or deficiencies in the Construction Works, the Concessionaire shall carry out remedial measures and furnish a report to the Independent Engineer in this behalf. The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out tests to determine that such remedial measures have brought the Construction Works into compliance with Specifications and Standards, and the procedure set forth in this Clause 13.3, shall be repeated until such Construction Works conform to the Specifications and Standards. For the avoidance of doubt, it is agreed that tests pursuant to this Clause 13.3 shall be undertaken in addition to and independent of the tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good

Industry Practice. It is also agreed that a copy of the results of such tests shall be sent by the Concessionaire to the Independent Engineer forthwith.

13.4 Delays during construction

Without prejudice to the provisions of Clause 13.3.2, if the Concessionaire does not achieve Scheduled Date or the Independent Engineer shall have reasonably determined that the rate of progress of Construction Works is such that commissioning of XXX Ropeway is not likely to be achieved by the Scheduled Date, it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Independent Engineer in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve the Project Completion Date.

13.5 Suspension of unsafe Construction Works

13.5.1 Upon recommendation of the Independent Engineer to this effect, the Authority may by noticerequire the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, such work threatens the safety of the Usersand pedestrians.

13.5.2 The Concessionaire shall, pursuant to the notice under Clause 13.5.1, suspend the ConstructionWorks or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works and the Users. The Concessionaire may, by notice, require the Independent Engineer to inspect such remedial measures forthwith and make a report to the Authority recommending whether or notthe suspension hereunder may be revoked. Upon receiving the recommendations of theIndependent Engineer, the Authority shall either revoke such suspension or instruct theConcessionaire to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 13.5 shall berepeated until the suspension hereunder is revoked.

13.5.3 Subject to the provisions of Clause 35.7, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of suspension (the "**Preservation Costs**"), shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

13.5.4 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine any extension of the dates set forth in the Project Completion Schedule to which the Concessionaire is reasonably entitled, and shall notify the Authority accordingly whereupon the Authority shall extend such Project Completion Schedule dates in accordance with the recommendations of the Independent Engineer. In the event that the Scheduled Date is extended pursuant hereto, the Concession Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Date.

13.6 Video recording

During the Construction Period, the Concessionaire shall provide to the Authority for every calendar quarter, a video recording, which will be compiled into a 3 (three)-hour compact discor digital video disc, as the case may be, covering the status and progress of Construction Worksin that quarter. The first such video recording shall be provided to the Authority within 7 (seven)days of the Appointed Date and thereafter, no later than 15 (fifteen) days after the close of eachquarter.

ARTICLE 14: COMPLETION CERTIFICATE

14.1 Tests

14.1.1 At least 30 (thirty) days prior to the likely completion of the XXX Ropeway, the Concessionaireshall notify the Independent Engineer of its intent to subject the XXX Ropeway to Tests. The date and time of each of the Tests shall be determined by the Independent Engineer in consultation with the Concessionaire and notified to the Authority who may designate its representative to witness the Tests. The Concessionaire shall provide such assistance as the Independent Engineer may reasonably require for conducting the Tests. In the event of the Concessionaire and the Independent Engineer failing to mutually agree on the dates for conducting the Tests, the Concessionaire shall fix the dates by giving not less than 10(ten)day notice to the Independent Engineer. For the avoidance of doubt, it is agreed that the provisionsof this Article 14 shall not apply to Real Estate Development.

14.1.2 All Tests shall be conducted in accordance with Schedule-J. The Independent Engineer shall observe, monitor and review the results of the Tests to determine compliance of the XXX Ropeway with Specifications and Standards and if it is reasonably anticipated or determined bythe Independent Engineer during the course of any Test that the performance of the XXX Ropeway or any part thereof does not meet the Specifications and Standards, it shall have the right to suspend or delay such Test and require the Concessionaire to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Independent Engineer shall provideto the Concessionaire and the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Independent Engineer may require the Concessionaire to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the XXX Ropeway with Specifications and Standards.

14.2 Completion Certificate

Upon completion of Construction Works and the Independent Engineer determining the Tests to be successful, it shall forthwith issue to the Concessionaire and the Authority a certificate substantially in the form set forth in Schedule-K (the "**Completion Certificate**").

14.3 Provisional Certificate

14.3.1 The Independent Engineer may, at the request of the Concessionaire, issue a provisional certificate of completion substantially in the form set forth in Schedule-K (the "**Provisional Certificate**") if the Tests are successful and the XXX Ropeway can be safely and reliably placed in commercial operation though certain associated works and / or facilities for Users forming part thereof are outstanding and not yet complete. In such an event, the Provisional Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (the "**Punch List**"); provided that the Independent Engineer shall not withhold the Provisional Certificate for reason of any work remaining incomplete if the delay in completion thereof is attributable to the Authority.

14.3.2 The Parties hereto expressly agree that a Provisional Certificate under this Clause 14.3 may, upon request of the Concessionaire to this effect, be issued for operating part of a line, if at least 75% (seventy five percent) of the total length of such line has been completed. Upon issue of such provisional certificate, the provisions of Article 15 shall apply to such completed part.

14.4 Completion of Punch List items

14.4.1 All items in the Punch List shall be completed by the Concessionaire within 90 (ninety) days of the date of issue of the Provisional Certificate and for any delay thereafter, other than for reasons solely attributable to the Authority or due to Force Majeure, the Authority shall be entitled to recover Damages from the Concessionaire to be calculated and paid for each day ofdelay until all items are completed, at the lower of (a) 0.1% (zero point one per cent) of the Performance Security, and (b)

0.2% (zero point two per cent) of the cost of completing such items as estimated by the Independent Engineer. Subject to payment of such Damages, the Concessionaire shall be entitled to a further period not exceeding 120 (one hundred and twenty)days for completion of the Punch List items. For the avoidance of doubt, it is agreed that if completion of any item is delayed for reasons solely attributable to the Authority or due to Force Majeure, the completion date thereof shall be determined by the Independent Engineer in accordance with Good Industry Practice, and such completion date shall be deemed to be thedate of issue of the Provisional Certificate for the purposes of Damages, if any, payable for such item under this Clause 14.4.1.

14.4.2 Upon completion of all Punch List items, the Independent Engineer shall issue the Completion Certificate. Failure of the Concessionaire to complete all the Punch List items within the time set forth in Clause 14.4.1 for any reason, other than conditions constituting Force Majeure or for reasons solely attributable to the Authority, shall entitle the Authority to terminate this Agreement.

14.5 Withholding of Provisional Certificate

14.5.1 If the Independent Engineer determines that the XXX Ropeway or any part thereof does not conform to the provisions of this Agreement and cannot be safely and reliably placed in commercial operation, it shall forthwith make a report in this behalf and send copies thereof tothe Authority and the Concessionaire. Upon receipt of such a report from the Independent Engineer and after conducting its own inspection, if the Authority is of the opinion that the XXX Ropeway is not fit and safe for commercial service, it shall, within 7 (seven) days of receiving the aforesaid report, notify the Concessionaire of the defects and deficiencies in the XXX Ropeway and direct the Independent Engineer to withhold issuance of the Provisional Certificate. Upon receipt of such notice, the Concessionaire shall remedy and rectify such defects or deficiencies and thereupon Tests shall be undertaken in accordance with this Article14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

14.5.2 Notwithstanding anything to the contrary contained in Clause 14.5.1, the Authority may, at anytime after receiving a report from the Independent Engineer under that Clause, direct the Independent Engineer to issue a Provisional Certificate under Clause 14.3, and such direction shall be complied forthwith.

14.6 Rescheduling of Tests

If the Independent Engineer certifies to the Authority and the Concessionaire that it is unable to issue the Completion Certificate or Provisional Certificate, as the case may be, because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Concessionaire shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

ARTICLE 15: ENTRY INTO COMMERCIAL SERVICE

15.1 Commercial Operation Date (COD)

XXX Ropeway or part thereof shall be deemed to be complete when the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Article 14, and accordingly the commercial operation date of the Project shall be the date on which such Completion Certificate or the Provisional Certificate is issued] [3] (the "**COD**"). The XXX Ropeway shall enter into commercial service on COD whereupon the Concessionaire shall be entitled to demand and collect Fee in accordance with the provisions of Article 28, provided, however, that the entry of XXX Ropeway or part thereof into commercial service shall always be subject to compliance with the provisions of Clause 18.

15.2 Damages for delay

Subject to the provisions of Clause 12.3, if COD does not occur prior to the 91st (ninety first) day after the Scheduled Date, unless the delay is on account of reasons solely attributable to theAuthority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the amount of Performance Security for delay of each day until COD is achieved.

[3] This provision may be suitably modified in case of a project where Fee is being levied and collected prior to the Appointed Date. In such a case, clause 15.2 shall be omitted.

ARTICLE 16: CHANGE OF SCOPE

16.1 Change of Scope

16.1.1 The Authority may, notwithstanding anything to the contrary contained in this Agreement, require the provision of additional works and services which are not included in the Scope of the Project as contemplated by this Agreement (the "**Change of Scope**"). Any such Change ofScope shall be made in accordance with the provisions of this Article 16 and the costs thereof shall be expended by the Concessionaire and reimbursed to it by the Authority in accordance with Clause 16.3.

16.1.2 If the Concessionaire determines at any time that a Change of Scope is necessary for providingsafer and improved services to the Users, it shall by notice in writing require the Authority to consider such Change of Scope. The Authority shall, within 60 (sixty) days of receipt of such notice, either accept such Change of Scope with modifications, if any, and initiate proceedings therefor in accordance with this Article 16 or inform the Concessionaire in writing of its reasonsfor not accepting such Change of Scope.

16.1.3 Any works or services which are provided under and in accordance with this Article 16 shall form part of the XXX Ropeway and the provisions of this Agreement shall apply *mutatis mutandis* to such works or services.

16.2 Procedure for Change of Scope

16.2.1 In the event of the Authority determining that a Change of Scope is necessary, it shall issue tothe Concessionaire a notice specifying in reasonable detail the works and services contemplated thereunder (the "**Change of Scope Notice**").

16.2.2 Upon receipt of a Change of Scope Notice, the Concessionaire shall, with due diligence, provideto the Authority such information as is necessary, together with preliminary Documentation insupport of:

(a) the impact, if any, which the Change of Scope is likely to have on the Project Completion Schedule if the works or services are required to be carried out during theConstruction Period; and

(b) the options for implementing the proposed Change of Scope and the effect, if any, eachsuch option would have on the costs and time thereof, including a detailed breakdownby work classifications specifying the material and labour costs calculated in accordance with the schedule of rates applicable to the works assigned by the Authorityto its contractors, along with the proposed premium/discount on such rates; provided that the cost incurred by the Concessionaire in providing such information shall be reimbursed by the Authority to the extent such cost is certified by the Independent Engineer as reasonable.

16.2.3 Upon receipt of information set forth in Clause 16.2.2, if the Authority decides to proceed withthe Change of Scope, it shall convey its preferred option to the Concessionaire, and the Partiesshall, with the assistance of the Independent Engineer thereupon make good faith efforts to agree upon the time and costs for implementation thereof. Upon reaching an agreement, the Authority shall issue an order (the "**Change of Scope Order**") requiring the Concessionaire toproceed with the performance thereof. In the event that the Parties are unable to agree, theAuthority may, by issuing a Change of Scope Order, require the Concessionaire to proceed withthe performance thereof pending resolution of the Dispute, or carry out the works in accordancewith Clause 16.5.

16.2.4 The provisions of this Agreement, insofar as they relate to Construction Works and Tests, shallapply *mutatis mutandis* to the works undertaken by the Concessionaire under this Article 16.

16.3 Payment for Change of Scope

16.3.1 Within 30 (thirty) days of issuing a Change of Scope Order, the Authority shall make an advance

payment to the Concessionaire in a sum equal to 20% (twenty per cent) of the cost ofChange of Scope as agreed hereunder, and in the event of a Dispute, 20% (twenty per cent) ofthe cost assessed by the Independent Engineer. The Concessionaire shall, after commencementof work, present to the Authority bills for payment in respect of the works in progress or completed works, as the case may be, supported by such Documentation as is reasonably sufficient for the Authority to determine the accuracy thereof. Within 30 (thirty) days of receiptof such bills, the Authority shall disburse to the Concessionaire such amounts after making a proportionate deduction for the advance payment made hereunder, and in the event of any Dispute, final adjustments thereto shall be made under and in accordance with the Dispute Resolution Procedure.

16.3.2 Notwithstanding anything to the contrary contained in Clause 16.3.1, all costs arising out of any Change of Scope Order issued during the Construction Period shall be borne by the Concessionaire, subject to an aggregate ceiling of 0.25% (zero point two five per cent) of the Total Project Cost. Any costs in excess of the ceiling shall be reimbursed by the Authority in accordance with Clause 16.3.1. In the event that the total cost arising out of Change of Scope Orders (if any) issued prior to the Project Completion Date is less than 0.25% (zero point two five per cent) of the Total Project Cost, the difference thereof shall be credited by theConcessionaire to the Safety Fund within a period of 180 (one hundred and eighty) days of theProject Completion Date. For the avoidance of doubt, it is agreed that the aforesaid 0.25% (zeropoint two five per cent) of the Total Project Cost shall, to the extent borne by the Concessionaire, be deemed to form part of the actual capital cost of the Project.

16.4 Restrictions on certain works

16.4.1 Notwithstanding anything to the contrary contained in this Article 16, but subject to the provisions of Clause 16.4.2, the Authority shall not require the Concessionaire to undertake anyworks or services if such works or services are likely to delay completion of the XXX Ropeway;provided that in the event that the Authority considers such works or services to be essential, itmay issue a Change of Scope Order, subject to the condition that the works forming part of oraffected by such Order shall not be reckoned for purposes of determining completion of XXX Ropeway and issuing the Provisional Certificate.

16.4.2 Notwithstanding anything to the contrary contained in this Article 16, the Concessionaire shall be entitled to nullify any Change of Scope Order if it causes the cumulative costs relating to all the Change of Scope Orders to exceed 5% (five per cent) of the Total Project Cost in any continuous period of 3 (three) years immediately preceding the date of such Change of Scope Order or if such cumulative costs exceed 20% (twenty per cent) of the Total Project Cost at any time during the Concession Period.

16.5 Power of the Authority to undertake works

16.5.1 Notwithstanding anything to the contrary contained in Clauses 16.1.1, 16.2 and 16.3, the Authority may, after giving notice to the Concessionaire and considering its reply thereto, award any works or services, contemplated under Clause 16.1.1, to any person on the basis of open competitive bidding; provided that the Concessionaire shall have the option of matching the first ranked bid in terms of the selection criteria, subject to payment of 2% (two per cent) of the bid amount to the Authority[4] and thereupon securing the award of such works or services.For the avoidance of doubt, it is agreed that the Concessionaire shall be entitled to exercise suchoption only if it has participated in the bidding process and its bid does not exceed the first ranked bid by more than 10% (ten percent) thereof. It is also agreed that the Concessionaire shall provide access, assistance and cooperation to the person who undertakes the works or services hereunder.

16.5.2 The works undertaken in accordance with this Clause 16.5 shall conform to the Specificationsand Standards and shall be carried out in a manner that minimises the disruption in operation of the XXX Ropeway. The provisions of this Agreement, insofar as they relate to ConstructionWorks and Tests, shall apply *mutatis mutandis* to the works carried out under this Clause 16.5.

[4] The Authority shall transfer 75% (seventy five percent) of the amount so received to the first ranked bidder whose bid shall have been matched by the Concessionaire.

16.6 Reduction in Scope of the Project

16.6.1 If the Concessionaire shall have failed to complete any Construction Works on account of Force Majeure or for reasons solely attributable to the Authority, the Authority may, in its discretion,require the Concessionaire to pay 80% (eighty percent) of the sum saved therefrom, and upon such payment to the Authority, the obligations of the Concessionaire in respect of such works shall be deemed to have been fulfilled. For the avoidance of doubt, it is agreed that in the eventsuch reduction in Scope of the Project causes or will cause a reduction in net after-tax return ofthe Concessionaire, the Parties shall meet, as soon as reasonably practical, and agree on a full or partial waiver of the aforesaid payment of 80% (eighty per cent) so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no reduction in Scope of the Project. It is further agreed that the liability of the Authority under this Clause 16.6 shall not extend beyond waiver of the aforesaid 80% (eighty per cent). It is also agreed that in the event of a Dispute, the Dispute Resolution Procedure shall apply.

16.6.2 For determining the obligations of the Concessionaire under this Clause 16.6, the provisions ofClauses 16.1, 16.2 and 16.4 shall apply *mutatis mutandis*, and upon issue of Change of Scope Order by the Authority hereunder, the Concessionaire shall pay forthwith the sum specified therein.

ARTICLE 17: OPERATION AND MAINTENANCE (O&M)

17.1 O&M obligations of the Concessionaire

17.1.1 During the Operation Period, the Concessionaire shall operate and maintain the XXX Ropeway in accordance with this Agreement either by itself, or through the O&M Contractor and if required, modify, repair or otherwise make improvements to the XXX Ropeway to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Specifications and Standards and Good Industry Practice. The obligations of the Concessionaire hereunder shall include:

(a) permitting safe, smooth and uninterrupted flow of passengers on the XXX Ropeway during normal operating conditions;

(b) collecting and appropriating the Fee;

(c) minimising disruption to traffic in the event of accidents or other incidents affecting the safety and use of the XXX Ropeway by providing a rapid and effective response and maintaining liaison with emergency services of the State;

(d) carrying out periodic preventive maintenance of the XXX Ropeway;

(e) undertaking routine maintenance of the XXX Ropeway;

(f) undertaking major maintenance of the XXX Ropeway;

(g) preventing, with the assistance of concerned law enforcement agencies, any unauthorised use of the XXX Ropeway;

(h) preventing, with the assistance of the concerned law enforcement agencies, any encroachments on the XXX Ropeway;

(i) protection of the environment and provision of equipment and materials therefore;

(j) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the XXX Ropeway;

(k) maintaining a public relations unit to interface with and attend to suggestions from the Users, government agencies, media and other agencies; and

(l) complying with Safety Requirements in accordance with Article 18.

17.1.2 The Concessionaire shall remove, promptly from the Project Site, all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project Site in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice. [For the avoidance of doubt, it is agreed that the debris and material excavated shall be carried to and deposited at ****]

17.1.3 The Concessionaire shall maintain, in conformity with Good Industry Practice, all stretches of approach roads, over-passes, under-passes or other structures situated on the Site but not forming part of the XXX Ropeway.

17.2 Maintenance Requirements

The Concessionaire shall procure that at all times during the Operation Period, the XXX Ropeway conforms to the maintenance requirements set forth in Schedule-L (the "**Maintenance Requirements**").

17.3 Maintenance Manual

17.3.1 No later than 180 (one hundred and eighty) days prior to the Scheduled Date, the Concessionaire shall submit the authorised repair and maintenance manual (the "**MaintenanceManual**") of the technology and equipment supplier which shall be in compliance with Specifications and Standards for the regular and preventive maintenance of the XXX Ropewayin conformity with the Specifications and Standards, Maintenance Requirements, Safety Requirements and Good Industry Practice, and shall provide 5 (five) copies thereof to the Authority and 2 (two) copies to the Independent Engineer. The Maintenance Manual shall be revised and updated once every 3 (three) years and the provisions of this Clause 17.3 shall apply, *mutatis mutandis*.

17.3.2 Without prejudice to the provision of Clause 17.3.1, the Maintenance Manual shall, in particular, include provisions for maintenance of Project Assets and shall provide for life cyclemaintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, suchthat their overall condition conforms to Good Industry Practice.

17.4 Maintenance Programme

17.4.1 On or before COD and no later than 45 (forty five) days prior to the beginning of each Accounting Year during the Operation Period, as the case may be, the Concessionaire shall provide to the Authority and the Independent Engineer, its proposed annual programme of preventive, urgent and other scheduled maintenance (the "**Maintenance Programme**") to comply with the Maintenance Requirements, Maintenance Manual and Safety Requirements asper Specifications and Standards. Such Maintenance Programme shall include:

(a) preventive maintenance schedule;

(b) arrangements and procedures for carrying out urgent repairs;

(c) criteria to be adopted for deciding maintenance needs;

(d) intervals and procedures for carrying out inspection of all elements of the XXX Ropeway;

(e) intervals at which the Concessionaire shall carry out periodic maintenance;

(f) arrangements and procedures for carrying out safety related measures; and

(g) intervals for major maintenance works and the scope thereof.

17.4.2 Within 15 (fifteen) days of receipt of the Maintenance Programme, the Independent Engineer shall review the same and convey its comments to the Concessionaire with particular reference to its conformity with the Maintenance Requirements, Maintenance Manual and Safety Requirements.

17.4.3 The Concessionaire may modify the Maintenance Programme as may be reasonable in the circumstances, and the procedure specified in Clauses 17.4.1 and 17.4.2 shall apply *mutatis mutandis* to such modifications.

17.5 Safety, breakdowns and accidents

17.5.1 The Concessionaire shall ensure safe conditions for the Users, and in the event of unsafe conditions, it shall follow the relevant operating procedures as per Specifications and Standards,and removal of obstruction and debris without delay. Such procedures shall conform to the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice.

17.5.2 The Concessionaire's responsibility for rescue operations on the XXX Ropeway shall be limited to getting the passengers to the nearest Station for disembarkation. The technology provider shall

define procedure/ capability under such circumstances. Alternatively, rescue operations procedure to be followed as per Specifications and Standards with the responsibilityof the Concessionaire to get people safely on the ground.

17.6 De-commissioning due to Emergency

17.6.1 If, in the reasonable opinion of the Concessionaire, there exists an Emergency which warrantsde-commissioning and closure to traffic of the whole or any part of the XXX Ropeway, the Concessionaire shall be entitled to de-commission and close the whole or any part of the XXX Ropeway to traffic for so long as such Emergency and the consequences thereof warrant; provided that such decommissioning and particulars thereof shall be notified by the Concessionaire to the Authority without any delay, and the Concessionaire shall diligently carry out and abide by any reasonable directions that the Authority may give for dealing with such Emergency.

17.6.2 The Concessionaire shall re-commission the XXX Ropeway or the affected part thereof as quickly as practicable after the circumstances leading to its decommissioning and closure haveceased to exist or have so abated as to enable the Concessionaire to re-commission the XXX Ropeway and shall notify the Authority of the same without any delay.

17.6.3 Any decommissioning or closure of any part of the XXX Ropeway and the re-commissioning thereof shall, as soon as practicable, be brought to the notice of affected persons by means of public announcements/notice.

17.7 Damages for breach of maintenance obligations

17.7.1 In the event that the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Maintenance Requirements within the period specified therein, it shall be deemed to be in breach of this Agreement and the Authority shall be entitled to recover Damages, to be calculated and paid for each day of delay until the breach is cured, at the higher of (a) 0.5% (zero point five per cent) of Average Daily Fee, and (b) 0.1% (zero point one per cent) of the cost of such repair or rectification as estimated by the Independent Engineer. Recovery of suchDamages shall be without prejudice to the rights of the Authority under this Agreement, including the right of Termination thereof.

17.7.2 The Damages set forth in Clause 17.8.1 may be assessed and specified forthwith by the Independent Engineer; provided that the Authority may, in its discretion, demand a smaller sumas Damages, if in its opinion, the breach has been cured promptly and the Concessionaire is otherwise in compliance with its obligations hereunder. The Concessionaire shall pay such Damages forthwith and, in the event, that it contests such Damages, the Dispute Resolution Procedure shall apply.

17.8 Authority's right to take remedial measures

17.8.1 In the event the Concessionaire does not maintain and/or repair the XXX Ropeway or any partthereof in conformity with the Maintenance Requirements, the Maintenance Manual or the Maintenance Programme, as the case may be, and fails to commence remedial works within 15(fifteen) days of receipt of the O&M Inspection Report or a notice in this behalf from the Authority or the Independent Engineer, as the case may be, the Authority shall, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover itscost from the Concessionaire. In addition to recovery of the aforesaid cost, a sum equal to 20%(twenty per cent) of such cost shall be paid by the Concessionaire to the Authority as Damages.For the avoidance of doubt, the right of the Authority under this Clause 17.9.1 shall be withoutprejudice to its rights and remedies provided under Clause 17.8.

17.8.2 The Authority shall have the right, and the Concessionaire hereby expressly grants to the Authority the right, to recover the costs and Damages specified in Clause 17.9.1 directly from the Escrow Account as if such costs and Damages were O&M Expenses, and for that purpose,the Concessionaire hereby agrees to give irrevocable instructions to the Escrow Bank to makepayment from the Escrow Account in accordance with the instructions of the Authority under this Clause 17.9.2 and debit the same to O&M Expenses.

17.9 Overriding powers of the Authority

17.9.1 If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and, in particular, the Maintenance Requirements, and such breach is causing or likely to cause material hardship or danger to the Users, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for rectifying or removing such hardship or danger, as the case may be.

17.9.2 In the event that the Concessionaire, upon notice under Clause 17.10.1, fails to rectify or removeany hardship or danger within a reasonable period, the Authority may exercise overriding powers under this Clause 17.10.2 and take over the performance of any or all the obligations ofthe Concessionaire to the extent deemed necessary by it for rectifying or removing such hardship or danger; provided that the exercise of such overriding powers by the Authority shallbe of no greater scope and of no longer duration than is reasonably required hereunder; providedfurther that any costs and expenses incurred by the Authority in discharge of its obligations hereunder shall be deemed to be O&M Expenses, and the Authority shall be entitled to recoverthem from the Concessionaire in accordance with the provisions of Clause 17.9 along with theDamages specified therein.

17.9.3 In the event of a national emergency, civil commotion or any other act specified in Clause 35.3,the Authority may take over the performance of any or all the obligations of the Concessionaireto the extent deemed necessary by it or as directed by the Government, and exercise such controlover the XXX Ropeway or give such directions to the Concessionaire as may be deemed necessary; provided that the exercise of such overriding powers by the Authority shall be of nogreater scope and of no longer duration than is reasonably required in the circumstances whichcaused the exercise of such overriding power by the Authority. For the avoidance of doubt, it is agreed that the consequences of such action shall be dealt in accordance with the provisionsof Article 35 It is also agreed that the Concessionaire shall comply with such instructions as the Authority may issue in pursuance of the provisions of this Clause 17.10, and shall provide assistance and cooperation to the Authority, on a best effort basis, for performance of its obligations hereunder.

17.10 Restoration of loss or damage to XXX Ropeway

Save and except as otherwise expressly provided in this Agreement, in the event that the XXX Ropeway or any part thereof suffers any loss or damage during the Concession Period from anycause whatsoever, the Concessionaire shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the XXX Ropeway conforms to the provisions of this Agreement.

17.11 Modifications to the XXX Ropeway

The Concessionaire shall not carry out any material modifications to the XXX Ropeway save and except where such modifications are necessary for the XXX Ropeway to operate in conformity with the Specifications and Standards, Maintenance Requirements, Good Industry Practice and Applicable Laws; provided that the Concessionaire shall notify the Independent Engineer of the proposed modifications along with particulars thereof at least 15 (fifteen) daysbefore commencing work on such modifications and shall reasonably consider any suggestionsthat the Independent Engineer may make within 15 (fifteen) days of receiving the Concessionaire's proposal. For the avoidance of doubt, if any modification to the XXX Ropeway or part thereof has a material effect on the safety of Users, the same shall be subject to safety related certification in accordance with Applicable Laws and the procedure specifiedin Clause 18.3. For the avoidance of doubt, all modifications made hereunder shall comply withSpecifications and Standards, Applicable Laws and the provisions of this Agreement.

17.12 Excuse from performance of obligations

The Concessionaire shall not be considered in breach of its obligations under this Agreement ifany part of the XXX Ropeway is not available to traffic on account of any of the following forthe duration thereof:

(a) an event of Force Majeure;

(b) measures taken to ensure the safe use of the XXX Ropeway except when unsafe conditions occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or

(c) compliance with a request from the Authority or the directions of any Government Instrumentality, the effect of which is to close all or any part of the XXX Ropeway.

Notwithstanding the above, the Concessionaire shall keep all unaffected parts of the XXX Ropeway open to traffic provided they can be operated safely.

17.13 Barriers and diversions

The Authority shall procure that during the Operation Period, no barriers are erected or placed by any Government Instrumentality on the XXX Ropeway except for reasons of Emergency, national security, law and order or collection of inter-state taxes. The Authority shall also make best endeavours to procure that no Government Instrumentality shall undertake or cause to be undertaken, except for reasons of Emergency, national security or law and order, any diversions of traffic from, or closing down of approach roads to the XXX Ropeway that may cause a material adverse effect on the flow of traffic to and from the XXX Ropeway.

17.14 Advertising on the Site

The Concessionaire shall be permitted commercial advertising, display or hoarding at specific places on the Site if such advertising, display or hoarding shall diminish the aesthetic quality of the XXX Ropeway or violates Applicable Laws. All advertising on the XXX Ropeway shall also conform to Good Industry Practice. For the avoidance of doubt, it is agreed that the rights of the Concessionaire hereunder shall be subject to Applicable Laws, as in force and effect from time to time, and no compensation shall be claimed on account thereof.

ARTICLE 18: SAFETY REQUIREMENTS

18.1 Safety Requirements

18.1.1 The Concessionaire shall comply with the provisions of this Agreement, Applicable Laws, Applicable Permits and conform to Good Industry Practice for securing the safety of the Users. In particular, the Concessionaire shall develop, implement and administer a surveillance and safety program for providing a safe environment on or about the XXX Ropeway, and shall comply with the safety requirements set forth in Schedule-M (the "**Safety Requirements**").

18.1.2 The Authority shall appoint an experienced and qualified firm or organisation ("**Safety Consultant**") for carrying out safety audit of the XXX Ropeway in accordance with the Safety Requirements and shall take all other actions necessary for securing compliance with the Safety Requirements.

18.2 Expenditure on Safety Requirements

All costs and expenses arising out of or relating to Safety Requirements shall be borne by the Concessionaire to the extent such costs and expenses form part of the works and services included in the Scope of the Project, and works and services, if any, not forming part of the Scope of the Project shall be undertaken in accordance with the provisions of Article 16. Costsand expenses on works and services not covered hitherto before and arising out of Safety Requirements shall, subject to the provisions of Clause 18, be borne from out of a dedicatedsafety fund (the "**Safety Fund**") to be funded, owned and operated by the Authority or a substitute thereof.

ARTICLE 19: MONITORING OF OPERATION AND MAINTENANCE

19.1 Monthly status reports

During Operation Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the Authority and the Independent Engineer a monthly report stating in reasonable detail the condition of the XXX Ropeway including its compliance or otherwise with the Maintenance Requirements, Maintenance Manual, Maintenance Programme and Safety Requirements, and shall promptly give such other relevant information as may be required by the Independent Engineer. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

19.2 Reports of unusual occurrence

The Concessionaire shall, prior to the close of each day, send to the Authority and the Independent Engineer, by facsimile or e-mail, a report stating accidents and unusual occurrences on the XXX Ropeway relating to the safety and security of the Users and XXX Ropeway. A weekly and monthly summary of such reports shall also be sent within 3 (three) days of the closing of each week and month, as the case may be. For the purposes of this Clause 19.2, accidents and unusual occurrences on the XXX Ropeway shall include:

(a) death or injury to any person;

(b) damaged or dislodged fixed equipment;

(c) obstruction in opening/closing of doors of a coach;

(d) any obstruction on the XXX Ropeway, which results in slow down of the services being provided by the Concessionaire;

(e) disablement of any cabin during operation;

(f) communication failure affecting the operation of XXX Ropeway;

(g) smoke or fire; and

(h) such other relevant information as may be required by the Authority or the Independent Engineer.

19.3 Inspection

The Independent Engineer shall inspect the XXX Ropeway at least once a month. It shall make a report of such inspection (the "**O&M Inspection Report**") stating in reasonable detail the defects or deficiencies, if any, with particular reference to the Maintenance Requirements, Maintenance Manual, the Maintenance Programme and Safety Requirements, and send a copy thereof to the Authority and the Concessionaire within 7 (seven) days of such inspection.

19.4 Tests

For determining that the XXX Ropeway conforms to the Maintenance Requirements, the Independent Engineer shall require the Concessionaire to carry it, or cause to be carried out, tests specified by it in accordance with Good Industry Practice. The Concessionaire shall, with due diligence, carry out or cause to be carried out all such tests in accordance with the instructions of the Independent Engineer and furnish the results of such tests forthwith to the Independent Engineer.

One half of the costs incurred on such tests, and to the extent certified by the Independent Engineer as reasonable, shall be reimbursed by the Authority to the Concessionaire.

19.5 Remedial measures

19.5.1 The Concessionaire shall repair or rectify the defects or deficiencies, if any, set forth in the O&M Inspection Report or in the Test results referred to in Clause 19.4 and furnish a report inrespect thereof to the Independent Engineer and the Authority within 15 (fifteen) days of receiving the O&M Inspection Report or the Test results, as the case may be; provided that where the remedying of such defects or deficiencies is likely to take more than 15 (fifteen) days, the Concessionaire shall submit progress reports of the repair works once every week until such works are completed in conformity with this Agreement.

19.5.2 The Independent Engineer shall require the Concessionaire to carry out or cause to be carried out Tests, at its own cost, to determine that such remedial measures have brought the XXX Ropeway into compliance with the Maintenance Requirements and the procedure set forth in this Clause 19.5 shall be repeated until the XXX Ropeway conforms to the Maintenance Requirements. In the event that remedial measures are not completed by the Concessionaire inconformity with the provisions of this Agreement, the Authority shall be entitled to recover Damages from the Concessionaire under and in accordance with the provisions of Clause 17.8.

19.6 Monthly Fee Statement

During the Operation Period, the Concessionaire shall furnish to the Authority, within 7 (seven)days of completion of each month, a statement of Fee substantially in the form set forth in Schedule-Q (the "**Monthly Fee Statement**") The Concessionaire shall also furnish to the Authority such other information as the Authority may reasonably require, at specified intervals, in discharge of its statutory functions.

ARTICLE 20: TRAFFIC REGULATION AND SECURITY

20.1 Traffic regulation by the Concessionaire

20.1.1 The Concessionaire shall regulate the traffic on the XXX Ropeway in accordance withApplicable Laws and subject to the supervision and control of the Authority [or a substitute thereof empowered in this behalf under the Applicable Laws].

20.1.2 The Concessionaire shall, in consultation with the Authority and representatives of Users, evolve and publicise a system based on Good Industry Practice such that no User or category of Users is discriminated against or unduly favoured, as the case may be, in the use of the XXXRopeway.

20.1.3 The Concessionaire shall have the right and obligation to manage, operate and regulate the XXX Ropeway on a common carrier basis providing non-discriminatory services to all persons.

20.2 Security

20.2.1 The Authority acknowledges and agrees that unless otherwise specified in this Agreement it shall, at its own cost and expense, provide or cause to be provided security within the limits of the XXX Ropeway for the prevention of terrorism, hijacking, sabotage and/or similar acts or occurrences; provided that the Authority and the Concessionaire may at any time mutually enterinto an agreement to jointly provide security services in the XXX Ropeway.

20.2.2 The Concessionaire shall be responsible for the security arrangements within the XXX Ropeway in order to maintain orderly conduct of its business and the security thereof.

20.2.3 The Concessionaire shall abide by and implement any instructions of the Authority forenhancing the security within and around the XXX Ropeway. The Concessionaire shall not beentitled to any compensation for disruption of its operations or loss or damage resulting from the Authority's actions or the actions of any organisation authorised by the Authority other thanthose resulting from willful or grossly negligent acts or omissions of such organisation. The Authority agrees that it shall cause the relevant organisations to take such actions as reasonablydeemed necessary by them, without unduly or unreasonably disrupting the operations of the XXX Ropeway or interfering with the exercise of rights or fulfilment of obligations by the Concessionaire under this Agreement. The Concessionaire agrees that it shall extend its full support and cooperation to the Authority and to the other organisations authorised by the Authority in the discharge of their obligations thereunder.

20.2.4 Subject to the rights of the Concessionaire under this Clause 20.2, the Authority or any agencyduly authorised by it shall be entitled to inspect and search the XXX Ropeway or part thereof and to search any person or vehicle entering the Site or departing there from, without unduly or unreasonably disrupting the operations of the XXX Ropeway.

20.2.5 The Authority agrees that it shall, at the request of the Concessionaire, procure and provide the services of security forces of the Authority on a best effort basis.

20.2.6 The Authority shall ensure and procure that the personnel of the Concessionaire and all its contractors, suppliers, sub-contractors and agents and the Users of the XXX Ropeway are allowed free ingress and egress from the limits of the XXX Ropeway without any unreasonable interference by the personnel of the Authority, including the security personnel employed by or on behalf of the Authority.

20.2.7 The Authority and the Concessionaire shall jointly make best endeavours to ensure that the security of the XXX Ropeway is maintained such that the level of risk premium under insurance covers (if any) that is to be borne by the Concessionaire shall be at the lowest possible rate. The Parties hereto agree that in the event of a significant rise in such risk premium arising out of a change in the security environment, the Concessionaire shall, notwithstanding anything to the contrary contained in this Agreement, be entitled to pass on 80% (eighty per cent) of such increase to the Users by means of a corresponding increase in Fee.

ARTICLE 21: KEY PERFORMANCE INDICATORS

21.1 Key Performance Indicators

Without prejudice to the obligations specified in this Agreement, the Concessionaire shall operate the XXX Ropeways such that it achieves or exceeds the performance indicators specified in this Article 21 (the "**Key Performance Indicators**")

21.2 Operation of Ropeway Carriers

21.2.1 The XXX Ropeways shall be operated such that the service shall operate between [XXX hours]and [YYY hours] at the service levels specified in this Clause 21.2; provided that the durationof services may be customized as per the requirements specified in RFP.

21.2.2 The Concessionaire shall at all times ensure that:

(a) the ropeway carriers are clean, hygienic and free of odour; and

(b) there is adequate lighting within the carrier and Station in conformity with theSpecifications and Standards.

21.3 Provisions of Carriers

The number of passengers shall not exceed the design capacity of the carriers.

21.4 Operation of Terminal Stations

21.4.1 The Parties hereto agree that the primary purpose of the Station is to provide space for the Users who normally stay at a Station for a period of time no longer than necessary, to wait forand enter the carriers or to exit the Station or after exiting from the carriers.

21.4.2 The design, construction, operation and maintenance of the Stations shall be such that:

(a) a user alighting at the platform should be able to reach a point outside the Station in not more than [3 (three)] minutes of brisk walking and a User crossing the fee collection point should be able to reach the platform in not more than [2 (two)] minutesof brisk walking; and

(b) in case of Emergency, evacuation from any point on the platform to a point of safety in an open space within or outside the Station shall not exceed [100 (one hundred)] meters.

21.4.3 The entry and exit gates, including the automatic ticket verification machines, shall be so designed and operated that the waiting time for the Users shall not exceed [2 (two)] minutes.

21.4.4 The Concessionaire shall provide adequate number of ticket vending machines and ticket counters such that waiting time for the Users shall not exceed [2 (two)] minutes.

21.4.5 The Concessionaire shall at all times ensure that:

(a) the Stations and its toilets are clean, hygienic and free of odour;

(b) there is adequate lighting within the Stations in conformity with the Specifications and Standards;

(c) the temperature in common areas within the Station is maintained in accordance with Maintenance Requirements;

(d) all entry and exit points, passages, circulation areas and vehicular traffic are so managed that they do not have a queue with a waiting time exceeding [5 (five)] minutes;

(e) all lifts, public address systems and lighting systems function efficiently, and their availability is no less than 98% (ninety-eight per cent) in a month; and

(f) 50% (fifty) percent of all phone calls relating to the XXX Ropeway are answered within 30 (thirty) seconds.

21.5 Monthly status report

During Operation Period, the Concessionaire shall, no later than 7 (Seven) days after the close of each month, furnish a monthly report stating in detail the compliance with all the Key Performance Indicators specified in this Article 21 along with an analysis of the reasons for failures, if any, and the strategies for addressing the same and for otherwise improving the operational performance of the XXX Ropeway.

21.6 Penalty for shortfall in performance

The Concessionaire shall ensure and procure compliance of each of the Key Performance Indicators specified in this Article 21 and for any shortfall in average performance during a quarter, it shall pay Damages within 30 (thirty) days of the quarter in which the shortfall occurred. The Damages due and payable under this Clause 21.6 shall be determined at the rate of [1% (one per cent) of the total revenue from fee in the respective quarter for every shortfall of 10% (ten per cent)] in any single performance indicator specified in this Article 21; provided, however, that the Authority may waive the Damages, in part or full, if it is satisfied that the Concessionaire has been carrying out its obligations diligently and efficiently and that the shortfall to be waived was on account of reasons beyond the control of the Concessionaire.

21.7 CEN certification

The Concessionaire shall, within 6 (six) months from COD, achieve and thereafter maintain The Concessionaire shall commercially operate the ropeway only after the issue of certificate of completion for compliance as per CEN Standards from the Certified Safety Auditor for the installed Ropeway system (CEN standard) which shall be an accredited notified body according to EU regulation (EC) 2016/24. The same shall be officially certified inspection body and testing body according to EN ISO/IEC 17020 (inspection) and EN ISO/IEC17025 (testing).

21.8 Passenger Charter

The Concessionaire shall publish and implement a charter articulating the rights and expectations of Users (the "**Passenger Charter**") substantially in the form specified in Schedule-U. The Concessionaire shall at all times be accountable and liable to Users in accordance with the provisions of the Passenger Charter and Applicable Laws.

ARTICLE 22: EMERGENCY MEDICAL AID

22.1 Medical Aid Posts

The Concessionaire shall have requisite first aid kits at each Station as well as the basic first aid training to the ropeway operators (similar to first aid kits and training of air hostesses in airlines).

The Concessionaire shall also provide a designated place at each Passenger Station to bring the accident victim to, from where he / she could be administered first aid and/or transported to the nearest hospital, if required.

ARTICLE 23: TRAFFIC CENSUS AND SAMPLING

23.1 Traffic census and operations

The Concessionaire shall install, maintain and operate an electronic/computerised fee collection system and a control system, the number of Users, distance travelled, frequency and capacity of the XXX Ropeway, travel time and Fee collected. A statement of such data shall be compiled and furnished forthwith by the Concessionaire to the Authority substantially in the Schedule-O.

23.2 Traffic sampling

23.2.1 For determining the actual traffic on the XXX Ropeway, the Authority shall be entitled to inspect the relevant records of the Concessionaire, and may, at its own cost, undertake traffic sampling substantially in the manner set forth in Schedule-O or in such manner as the Parties may agree upon. The Concessionaire shall provide such assistance as the Authorities may reasonably require for such User traffic sampling.

23.2.2 If the traffic sampling pursuant to this Clause 23.2 demonstrates that the actual traffic is more than the traffic reported by the Concessionaire, the traffic determined by the traffic sampling shall be deemed to be the traffic for purposes of this Agreement and in the eventof any Dispute relating to the traffic sampling, the Dispute Resolution Procedure shall apply. For the avoidance of doubt, Realisable Fee for any comparable period shall be calculated with reference to the traffic determined hereunder.

23.3 Computer systems and network

The Concessionaire shall install, operate and maintain a computer system with round-the-clock connections to the networks of the Authority and other related entities for exchangeof data and information useful or necessary for efficient and transparent regulation and management of traffic. For this purpose, it shall follow such protocol for Electronic Data Interchange (the "EDI") as the Authority may specify. For the avoidance of doubt, it is agreed that the form specified in Schedule-O may be modified by the Authority from time to time for conforming to the requirements and output of EDI.

ARTICLE 24: INDEPENDENT ENGINEER

24.1 Appointment of Independent Engineer

The Authority shall appoint a consulting engineering firm, from a panel of 10 (ten) firms or bodies corporate, constituted by the Authority substantially in accordance with the selection criteria set forth in Schedule-I, to be the independent consultant under this Agreement (the "**Independent Engineer**"). The appointment shall be made no later than 90 (ninety) days from the date of this Agreement and shall be for a period of 3 (three) years. On expiry or termination of the aforesaid period, the Authority may in its discretion renewthe appointment, or appoint another firm from a fresh panel constituted pursuant to Schedule-I to be the Independent Engineer for a term of 3 (three) years, and such procedure shall be repeated after expiry of each appointment.

24.2 Duties and functions

24.2.1 The Independent Engineer shall discharge its duties and functions substantially in accordance with the terms of reference set forth in Schedule-I. For the avoidance of doubt,the Parties expressly agree that the functions of the Independent Engineer under this Article24 shall not include Real Estate Development.

24.2.2 The Independent Engineer shall submit regular periodic reports (at least once every month)to the Authority in respect of its duties and functions set forth in Schedule-I.

24.2.3 True copy of all communications sent by the Authority to the Independent Engineer and by the Independent Engineer to the Authority, shall be sent forthwith by the Independent Engineer to the Concessionaire.

24.2.4 True copy of all communications sent by the Independent Engineer to the Concessionaire and by the Concessionaire to the Independent Engineer shall be sent forthwith by the Independent Engineer to the Authority.

24.2.5 Independent Engineer shall periodically submit data on the progress / status of Construction Works, financial progress and other requisite details at such interval, as mentioned in the TOR, which shall enable the Authority for updating the project specific website.

24.3 Remuneration

The remuneration, cost and expenses of the Independent Engineer shall be paid by the Authority. One-half of such remuneration, cost and expenses shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receiving a statement of expenditure from the Authority.

24.4 Termination of appointment

24.4.1 The Authority may, in its discretion, terminate the appointment of the IndependentEngineer at any time, but only after appointment of another Independent Engineer in accordance with Clause 24.1.

24.4.2 If the Concessionaire has reason to believe that the Independent Engineer is not dischargingits duties and functions in a fair, efficient and diligent manner, it may make a written representation to the Authority and seek termination of the appointment of the Independent

Engineer. Upon receipt of such representation, the Authority shall hold a tripartite meetingwith the Concessionaire and Independent Engineer for an amicable resolution of the Dispute, and if any difference or disagreement between the Authority and the Concessionaire remains unresolved, the Dispute shall be settled in accordance with the Dispute Resolution Procedure.

In the event that the appointment of the Independent Engineer is terminated hereunder, the Authority shall appoint forthwith another Independent Engineer in accordance with Clause 24.1.

24.5 Authorised signatories

The Authority shall require the Independent Engineer to designate and notify to the Authority and the Concessionaire up to 2 (two) persons employed in its firm to sign for and on behalf of the Independent Engineer, and any communication or document required to be signed by the Independent Engineer shall be valid and effective only if signed by any of the designated persons; provided that the Independent Engineer may, by notice in writing, substitute any of the designated persons by any of its employees.

24.6 Dispute resolution

If either Party disputes any advice, instruction, decision, direction or award of the Independent Engineer, or, as the case may be, the assertion or failure to assert jurisdiction, the Dispute shall be resolved in accordance with the Dispute Resolution Procedure.

PART IV: FINANCIAL COVENANTS

ARTICLE 25: FINANCIAL CLOSE

25.1 Financial Close

25.1.1 The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 180 (one hundred and eighty) days from the date of this Agreement and in the eventof delay, it shall be entitled to a further period not exceeding [120 (one hundred and twenty)] days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day of delay, and for a further period not exceeding [80 (eighty)] days, subject to payment of Damages at the rate specified in Clause 4.3; provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 180 (one hundred and eighty) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a resultof any default or delay by the Authority in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages,if any, due and payable under the provisions of Clause 4.3.

25.1.2 The Concessionaire shall, upon occurrence of Financial Close, notify the Authorityforthwith, and shall have provided to the Authority, at least 2 (two) days prior to FinancialClose, 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 Modelin MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

25.2 Termination due to failure to achieve Financial Close

25.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 35.6.1 , in the event that Financial Close does not occur, for any reason whatsoever,within the period set forth in Clause 25.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out ofthis 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 havebeen terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreedthat in the event the Parties hereto have, by mutual consent, determined the Appointed Dateto precede the Financial Close, the provisions of this Clause 25.2.1 shall not apply.

25.2.2 Upon Termination under Clause 25.2.1 1, the Authority shall be entitled to encash the Bid Security and appropriate the proceeds thereof as Damages; provided, however, that if Financial Close has not occurred solely as a result of the Authority being in default of anyof its obligations under Clause 4.2, it shall, upon Termination, return the Bid Security forthwith along with the Damages due and payable under Clause 4.2. For the avoidance ofdoubt, it is expressly agreed that if the Bid Security shall have been substituted by Performance Security, the Authority shall be entitled to encash therefrom an amount equalto Bid Security.

ARTICLE 26: VIABILITY GAP FUNDING (VGF)

Deleted

Article 27: CONCESSION FEE

27.1 Concession Fee

27.1.1 In consideration of the grant of Concession, the Concessionaire shall pay ……(Rupees ……only) to the Authority from the 8th year of commercial operations (after the end of moratorium period of 7 years) onwards as Annual Concessional fees (ACF) (the "Concession fee") and 1% yearly in absolute figures to be added over the previous year's ACF till the end of concession period.

27.2 Payment of Concession Fee

27.2.1 The Concession Fee payable under the provisions of this Article 27.1 shall be due and payable in half yearly instalments within 7 (seven) days of the close of each month.

ARTICLE 28: USER FEE

28.1 Collection and appropriation of Fee

28.1.1 On and from the COD till the Transfer Date, the Concessionaire shall have the sole and exclusive right to demand, collect and appropriate Fee from the Users, to provision under these articles. The concessionaire, however, at his sole discretion may charge a user fee as he deems fit to optimise his revenue.

28.1.2 The Concessionaire acknowledges and agrees that upon payment of Fee, any User shall be entitled to use the XXX Ropeway and the Concessionaire shall not place, or cause to be placed, any restriction on such use, except to the extent specified in any Applicable Law, Applicable Permit or the provisions of this Agreement.

28.1.3 Every User, upon payment of the fee shall be issued a ticket/token/smart card by the Concessionaire.

28.2 Revision of Fee

28.2.1 The Parties hereto acknowledge and agree that the Fee shall be revised as decided by the Concessionaire with the issue of an appropriate notification.

28.3 Fee Contractor

The Concessionaire may appoint a Fee Contractor or any other person to collect the Fee for and on behalf of the Concessionaire, provided that notwithstanding such appointment, the Concessionaire shall be and remain solely liable and responsible for the collection of Fee in accordance with this Agreement and its deposit into the Escrow Account and for compliance with the provisions of this Agreement.

28.4 Fee collection points

The Concessionaire shall be entitled to set up at its own risk and cost, its temporary or permanent Fee collection counters and gates, or impose such other restrictions on entry tothe XXX Ropeway, as may reasonably be necessary for preventing evasion of Fee. For theavoidance of doubt, the Concessionaire hereby acknowledges and agrees that it shall establish and operate a system of Fee collection in conformity with Good Industry Practice.

28.5 Additional charge for evasion of Fee

In the event that any person uses the XXX Ropeway without payment of Fee due, the Concessionaire shall, subject to Applicable Law and Applicable Permits, be entitled to determine and collect from such person the Fee due and thrice the amount thereof towardspredetermined liquidated damages for attempt to make unauthorised use of the XXX Ropeway; provided that the determination and collection of such Fee and liquidated damages shall be at the risk and cost of the Concessionaire and the Authority shall not in any manner be liable on account thereof.

28.6 Display of Fee Rates

28.6.1 The Concessionaire shall conspicuously display the Fee structure at each of the terminal Stations of the Project at least in English, Hindi and local language.

28.6.2 The Concessionaire shall, from time to time, inform the Authority of the applicable Fee. Such information shall be communicated at least seven days prior to the revision of Fee under and in accordance with this Agreement.

28.6.3 The Concessionaire shall not revise, display or collect any amounts in excess of the rates of Fee displayed. In the event any excess amount is collected by or on behalf of the Concessionaire, it shall, upon receiving a notice to this effect from the Authority, refund such excess amount to the Authority along with damages equal to twice the value of the ticket.

ARTICLE 29: EFFECT OF VARIATIONS IN TRAFFIC GROWTH

Deleted

ARTICLE 30: ESCROW ACCOUNT

30.1 Escrow Account

30.1.1 The Concessionaire shall, prior to the Appointed Date, open and establish an Escrow Account with a Bank (the "**Escrow Bank**") in accordance with this Agreement read with the Escrow Agreement.

30.1.2 The nature and scope of the Escrow Account are fully described in the agreement (the "**Escrow Agreement**") to be entered into amongst the Concessionaire, the Authority, the Escrow Bank and the Senior Lenders through the Lenders' Representative, which shall besubstantially in the form set forth in Schedule-R.

30.2 Deposits into Escrow Account

The Concessionaire shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account:

(a) all funds constituting the Financial Package;

(b) all Fee and any other revenues from or in respect of the XXX Ropeway, including the proceeds of any rentals, deposits, capital receipts or insurance claims; and

(c) all payments by the Authority, after deduction of any outstanding Concession Fee:

Provided that the Senior Lenders may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

30.3 Withdrawals during Concession Period

30.3.1 The Concessionaire shall, at the time of opening the Escrow Account, give irrevocable instructions, by way of an Escrow Agreement, to the Escrow Bank instructing, *inter alia*, that the deposits in the Escrow Account shall be appropriated in the following order everymonth, or at shorter intervals as necessary, and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out therefromin the month when due:

(a) all taxes due and payable by the Concessionaire for and in respect of the XXX Ropeway;

(b) all payments relating to construction of the XXX Ropeway, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;

(c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

(d) O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Authority as due and payable to it;

(e) Concession Fee due and payable to the Authority;

(f) monthly proportionate provision of Debt Service due in an Accounting Year;

(g) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire;

(h) Monthly proportionate provision of Debt Service payments due in an AccountingYear in respect of Subordinated Debt;

(i) any reserve requirements set forth in the Financing Agreements; and

(j) balance, if any, in accordance with the instructions of the Concessionaire.

30.3.2 The Concessionaire shall not in any manner modify the order of payment specified in Clause 30.3.1 except with the prior written approval of the Authority.

30.4 Withdrawals upon Termination

30.4.1 Notwithstanding anything to the contrary contained in this Agreement, all amounts standing to the credit of the Escrow Account shall, upon Termination, be appropriated in the following order:

(a) all taxes due and payable by the Concessionaire for and in respect of the XXXRopeway;

(b) 90% (ninety per cent) of Debt Due excluding Subordinated Debt if required to beas per the terms of this Agreement;

(c) outstanding Concession Fee;

(d) all payments and Damages certified by the Authority as due and payable to it bythe Concessionaire, including {Premium};

(e) retention and payments relating to the liability for defects and deficiencies set forthin Article 38;

(f) outstanding Debt Service including the balance of Debt Due;

(g) incurred or accrued O&M Expenses;

(h) any other payments required to be made under this Agreement; and

(i) balance, if any, in accordance with the instructions of the Concessionaire:

(j) outstanding Subordinated Debt;

30.4.2 The provisions of this Article 30 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 30.4.1 have been discharged.

ARTICLE 31: INSURANCE

31.1 Insurance during Concession Period

31.1.1 The Concessionaire shall effect and maintain at its own cost, during the Construction Period and the Operation Period, such 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 Concessionaire shall also effect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period. The Concessionaire shall procure that in each insurance policy, the Authority shall be a co-insured and that the insurer shall pay the proceeds of insurance into the Escrow Account. For the avoidance ofdoubt, the level of insurance to be maintained by the Concessionaire after repayment of Senior Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Senior Lenders' dues.

31.1.2 Without prejudice to the provisions contained in Clause 31.1.1, the Concessionaire shall, procure and maintain Insurance Cover including but not limited to the following:

31.1.2.1 Loss, damage or destruction of the Project Assets including assets handed over the Authority to the Concessionaire, at replacement value;

31.1.2.2 Machinery break-down insurance policy for insuring critical plant & equipment against any damage;

31.1.2.3 comprehensive third-party liability insurance including injury to or death of personnel of the Authority or others who may enter the Project;

31.1.2.4 the Concessionaire's general liability arising out of the Concession;

31.1.2.5 liability to third parties for goods or property damage;

31.1.2.6 workmen's compensation insurance, personal accident insurance and medical insurance;

31.1.2.7 passenger accident insurance for the passengers on-board the ropeway project having a valid ticket; and

31.1.2.8 any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items (a) to (f) above.

31.2 Notice to the Authority

No later than 45 (forty-five) days prior to commencement of the Construction Period or the Operation Period, as the case may be, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes toeffect and maintain in accordance with this Article 31. Within 30 (thirty) days of receipt ofsuch notice, the Authority may require the Concessionaire to effect and maintain such otherinsurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution Procedure shall apply.

31.3 Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 31 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarised true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45(forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Authority.

31.4 Remedy for failure to insure

If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force anysuch insurances, and pay such premia and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

31.5 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuantto this Article 31 shall include a waiver of any and all rights of subrogation or recovery ofthe insurers thereunder against, *inter alia*, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to 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 anysuch policy or in any way connected with any loss, liability or obligation covered by suchpolicies of insurance.

31.6 Concessionaire's waiver

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, *inter alia*, the Authority and its assigns, undertakings andtheir subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire 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 Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

31.7 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire by credit to the Escrow Account and it shall, notwithstanding anything to the contrary contained in Clause ….. apply such proceeds for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the XXX Ropeway, and the balance remaining, if any, shall be applied in accordance with theprovisions contained in this behalf in the Financing Agreements.

ARTICLE 32: ACCOUNTS AND AUDIT

32.1 Audited accounts

32.1.1 The Concessionaire shall maintain books of accounts recording all its receipts (including all Realisable Fee and other revenues derived/collected by it from or on account of the XXX Ropeway and/or its use), income, expenditure, payments (including payments from the Escrow Account), assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Concessionaire shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement. The Authority shall have the right to inspect the recordsof the Concessionaire during office hours and require copies of relevant extracts of booksof accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found,the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

32.1.2 The Concessionaire shall, within 30 (thirty) days of the close of each quarter of an Accounting Year, furnish to the Authority 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 the companies listed on a stock exchange.

32.1.3 On or before the 31st (thirty-first) day of May each Year, the Concessionaire shall provideto the Authority, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarised information on (a) the number of passengers using the XXX Ropeway and liable for payment of Fee therefor, (b) Fee charged and received, Realisable Fee and other revenues derived from the XXX Ropeway, and (c) such other information as the Authority may reasonably require.

32.2 Appointment of auditors

32.2.1 The Concessionaire shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm chosen by it from the mutually agreed list of 10 (ten) reputable firms of chartered accountants (the "**Panel of Chartered Accountants**"), such list to be prepared substantially in accordance with the criteria set forth in Schedule-T . All fees andexpenses of the Statutory Auditors shall be borne by the Concessionaire.

32.2.2 The Concessionaire may terminate the appointment of its Statutory Auditors after a noticeof 45 (forty-five) days to the Authority, subject to the replacement Statutory Auditors beingappointed from the Panel of Chartered Accountants.

32.2.3 Notwithstanding anything to the contrary contained in this Agreement, the Authority shallhave the right, but not the obligation, to appoint at its cost from time to time and at any time, another firm (the "**Additional Auditors**") from the Panel of Chartered Accountants to audit and verify all those matters, expenses, costs, realisations and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Agreement.

32.2.4 In the event that the Grant exceeds 20% (twenty per cent) of the Total Project Cost, the Authority shall have the right, but not the obligation, to appoint at its cost, for the durationof the Construction Period, another firm (the "**Concurrent Auditors**") from the Panel of Chartered Accountants to undertake concurrent audit of the Concessionaire's accounts.

32.3 Certification of claims by Statutory Auditors

Any claim or document provided by the Concessionaire to the Authority in connection withor relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter

incidental thereto shall be valid and effective only if certified by its Statutory Auditors. Forthe avoidance of doubt, such certification shall not be required for exchange of informationin the normal course of business including the submission of Monthly Fee Statements under Clause 19.6.

32.4 Set-off

In the event any amount is due and payable by the Authority to the Concessionaire, it mayset-off any sums payable to it by the Concessionaire and pay the balance remaining. Any exercise by the Authority of its rights under this Clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

32.5 Dispute resolution

In the event of there being any difference between the findings of the Additional Auditorsor the Concurrent Auditors, as the case may be, and the certification provided by the Statutory Auditors, such Auditors shall meet to resolve the differences and if they are unable to resolve the same, such Dispute shall be resolved by the Authority by recourse tothe Dispute Resolution Procedure.

PART V: FORCE MAJEURE AND TERMINATION

ARTICLE 33: FORCE MAJEURE

33.1 Force Majeure

As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Eventand Political Event, as defined in Clauses 33.2, 33.3, 33.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") ofits obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) hasMaterial Adverse Effect on the Affected Party.

33.2 Non-Political Event

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

(a) act of God, epidemic, pandemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contaminationor ionising radiation, fire or explosion (to the extent of contamination or radiationor fire or explosion originating from a source external to the Site);

(b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the XXX Ropeway for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth in Clause 35.3

(c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

(d) any judgement or order of any court of competent jurisdiction or statutory authoritymade against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

(e) the discovery of geological conditions, toxic contamination or archaeological remains on the Site that could not reasonably have been expected to be discoveredthrough a site inspection; or

(f) any event or circumstances of a nature analogous to any of the foregoing.

33.3 Indirect Political Event

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

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

(b) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty-four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

(c) any civil commotion, boycott or political agitation which prevents collection of Fee by the Concessionaire for an aggregate period exceeding 7 (seven) days in anAccounting Year;

(d) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

(e) any Indirect Political Event that causes a Non-Political Event; or

(f) any event or circumstances of a nature analogous to any of the foregoing.

33.4 Political Event

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

(a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 45 and its effect, in financial terms, exceeds the sum specified in Clause 42.1

(b) compulsory acquisition in national interest or expropriation of any Project Assetsor rights of the Concessionaire or of the Contractors;

(c) unlawful or unauthorised or without jurisdiction revocation of, or refusal to renewor grant without valid cause, any clearance, licence, permit, authorisation, no objection certificate, consent, approval or exemption required by the Concessionaire or any of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire'sor any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, licence, authorisation, no objection certificate, exemption, consent, approval or permit;

(d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or

(e) any event or circumstance of a nature analogous to any of the foregoing.

33.5 Duty to report Force Majeure Event

33.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

33.5.1.1 the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Article 35 with evidence in support thereof;

33.5.1.2 the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

33.5.1.3 the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and

33.5.1.4 any other information relevant to the Affected Party's claim.

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

33.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 35.5.1 and such other information asthe other

Party may reasonably request the Affected Party to provide.

33.6 Effect of Force Majeure Event on the Concession

33.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in Clause 4.1 for fulfilment of Conditions Precedent and in 25 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

33.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs:

33.6.2.1 before COD, the Concession Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the durationfor which such Force Majeure Event subsists; or

33.6.2.2 after COD, whereupon the Concessionaire is unable to collect Fee despite making best efforts or it is directed by the Authority to suspend the collection thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from collection of Fee on account thereof; providedthat in the event of partial collection of Fee where the daily collection is less than90% (ninety per cent) of the Average Daily Fee, the Authority shall extend the Concession Period in proportion to the loss of Fee on a daily basis. For the avoidance of doubt, loss of 25% (twenty-five per cent) in collection of Fee as compared to the Average Daily Fee for four days shall entitle the Concessionaire to extension of one day in the Concession Period.

33.7 Allocation of costs arising out of Force Majeure

33.7.1 Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any coststhereof.

33.7.2 Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "**Force Majeure Costs**") shall be allocated and paid as follows:

33.7.2.1 upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;

33.7.2.2 upon occurrence of an Indirect Political Event, all Force Majeure Costs attributableto such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and

33.7.2.3 upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event shall be reimbursed by the Authority to the Concessionaire. For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all other costs directly attributable to the Force Majeure Event but shall not include loss of Fee revenues or debt repayment obligations and for determining such costsinformation contained in the Financial Package may be relied upon to the extent that suchinformation is relevant.

33.7.3 Save and except as expressly provided in this Article 35, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

33.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the otherParty without being liable in any manner whatsoever, save as provided in this Article 35, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that beforeissuing such Termination Notice, the Party intending to issue the Termination Notice shallinform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not itis in receipt of such representation, in its sole discretion issue the Termination Notice.

33.9 Termination Payment for Force Majeure Event

If Termination is on account of a Non-Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

33.9.1 If Termination is on account of an Indirect Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to:

33.9.1.1 Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due; and

33.9.1.2 110% (one hundred and ten per cent) of the Adjusted Equity; and

33.9.1.3 an amount equivalent to the Additional Termination Payment less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in computation of the amount payable hereunder.

33.9.2 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount that would be payable under Clause 36.3.2 as if it were an Authority Default.

33.10 Dispute resolution

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

33.11 Excuse from performance of obligations

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

33.11.1 the Suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

33.11.2 the Affected Party shall make all reasonable efforts to mitigate or limit damage tothe other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

33.11.3 when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 34: COMPENSATION FOR BREACH OF AGREEMENT

34.1 Compensation for default by the Concessionaire

In the event of the Concessionaire being in material breach or default of this Agreement, itshall pay to the Authority by way of compensation, all direct costs suffered or incurred bythe Authority as a consequence of such material breach or default, within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no compensation shall be payable under this Clause 36.1 for any material breach or default inrespect of which Damages are expressly specified and payable under this Agreement or for any consequential losses incurred by the Authority.

34.2 Compensation for default by the Authority

In the event of the Authority being in material breach or default of this Agreement at any time after the Appointed Date, it shall pay to the Concessionaire by way of compensation, all direct costs suffered or incurred by the Concessionaire as a consequence of such material breach or default within 30 (thirty) days of receipt of the demand supported by necessary particulars thereof; provided that no such compensation shall be payable for anymaterial breach or default in respect of which Damages have been expressly specified in this Agreement. For the avoidance of doubt, compensation payable may include interest payments on debt, O&M Expenses, any increase in capital costs on account of inflation and all other costs directly attributable to such material breach or default but shall not include loss of Fee revenues, debt repayment obligations or other consequential losses, andfor determining such compensation, information contained in the Financial Package and the Financial Model may be relied upon to the extent it is relevant.

34.3 Extension of Concession Period

In the event that a material breach or default of this Agreement set forth in Clause 36.2 causes delay in achieving COD or leads to Suspension of or reduction in collection of Fee,as the case may be, the Authority shall, in addition to payment of compensation under Clause 36.2 extend the Concession Period, such extension being equal in duration to the period by which COD was delayed or the collection of Fee remained suspended on accountthereof, as the case may be; and in the event of reduction in collection of Fee where the daily collection is less than 90% (ninety per cent) of the Average Daily Fee, the Authority shall, in addition to payment of compensation under Clause 36.2 , extend the Concession Period in proportion to the loss of Fee on a daily basis. For the avoidance of doubt, loss of25% (twenty-five per cent) in collection of Fee as compared to the Average Daily Fee forfour days shall entitle the Concessionaire to extension of one day in the Concession Period.

ARTICLE 35: SUSPENSION OF CONCESSIONAIRE'S RIGHTS

35.1 Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to collect Fee, and other revenues pursuanthereto, and (ii) exercise such rights itself and perform the obligations hereunder orauthorise any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**"). Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders'Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

35.2 Authority to act on behalf of Concessionaire

35.2.1 During the period of Suspension, the Authority shall, on behalf of the Concessionaire, collect all Fee and revenues under and in accordance with this Agreement and deposit thesame in the Escrow Account. The Authority shall be entitled to make withdrawals from theEscrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses specified in Clause 30.3.

35.2.2 During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vesttherein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period. The Concessionaire hereby licences and sub-licences respectively, the Authority or any other person authorisedby it under Clause 37.1 to use during Suspension, all Intellectual Property belonging to orlicenced to the Concessionaire with respect to the XXX Ropeway and its design, engineering, construction, operation and maintenance, and which is used or created by theConcessionaire in performing its obligations under the Agreement.

35.3 Revocation of Suspension

35.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension hasbeen rectified or removed hereunder.

35.3.2 Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

35.4 Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 35.1 for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

35.5 Termination

35.5.1 At any time during the period of Suspension under this Article 35, the Concessionaire mayby notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordancewith the provisions of this Agreement and within the period specified in Clause 35.4, the Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 36.

35.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 35.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

ARTICLE 36: TERMINATION

36.1 Termination for Concessionaire Default

36.1.1 Save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Concessionaire shall be deemed to be in default of this Agreement (the "**Concessionaire Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. The defaults referred to herein shall include:

36.1.1.1 the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days;

36.1.1.2 subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Concessionaire fails to cure, within a Cure Period of 90 (ninety) days, the Concessionaire Default for which whole or part of the Performance Security was appropriated;

36.1.1.3 the Concessionaire abandons or manifests intention to abandon the construction or operation of the XXX Ropeway without the prior written consent of the Authority;

36.1.1.4 Project Completion Date does not occur within the period specified in Clause 12.3.3;

36.1.1.5 the Punch List items have not been completed within the period set forth in Clause 14.4.1;

36.1.1.6 the Concessionaire is in breach of the Maintenance Requirements or the Safety Requirements, as the case may be, or commits repeated default in conforming to the Key Performance Indicators;

36.1.1.7 the Concessionaire has failed to make any payment to the Authority within the period specified in this Agreement;

36.1.1.8 an Escrow Default has occurred, and the Concessionaire fails to cure the default within a Cure Period of 15 (fifteen) days;

36.1.1.9 upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the default within the Cure Period specified hereinabove;

36.1.1.10 a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;

36.1.1.11 the Concessionaire creates any Encumbrance in breach of this Agreement;

36.1.1.12 the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

36.1.1.13 a Change in Ownership has occurred in breach of the provisions of Clause 5.3;

36.1.1.14 there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect;

36.1.1.15 an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;

36.1.1.16 the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;

36.1.1.17 the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

36.1.1.18 occurrence of any Insolvency Event;

36.1.1.19 the Concessionaire has been, or is in the process of being amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; and provided that:

36.1.1.20 the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

36.1.1.21 the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and

36.1.1.22 each of the Project Agreements remains in full force and effect;

36.1.1.23 any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof;

36.1.1.24 the Concessionaire submits to the Authority any statement, notice or other document, in written or electronic form, which has a material effect on the Authority's rights, obligations or interests and which is false in material particulars;

36.1.1.25 the Concessionaire has failed to fulfil any obligation, for which failure Termination has been specified in this Agreement; or

36.1.1.26 the Concessionaire commits a default in complying with any other provision ofthis Agreement if such a default causes a Material Adverse Effect on the Authority.

36.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall by a notice informthe Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen)days to the Concessionaire to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 36.1.3.

36.1.3 The Authority shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 36.1.2 to inform the Lenders' Representative and grant

15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event the Authorityreceives such representation on behalf of Senior Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days fromthe date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Senior Lenders' right of substitution in accordance with the Substitution Agreement:

Provided that the Lenders' Representative may, instead of exercising the Senior Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Authority shall withdraw its notice referred to above and restore all the rights of the Concessionaire:

Provided further that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by such further period not exceeding 90 (ninety) days, as the Authority may deem appropriate.

36.2 Termination for Authority Default

36.2.1 In the event that any of the defaults specified below shall have occurred, and the Authorityfails to cure such default within a Cure Period of 90 (ninety) days or such longer period ashas been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. Thedefaults referred to herein shall include:

36.2.1.1 The Authority commits a material default in complying with any of the provisionsof this Agreement and such default has a Material Adverse Effect on the Concessionaire;

36.2.1.2 the Authority has failed to make any payment to the Concessionaire within the period specified in this Agreement; and

36.2.1.3 the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.

36.2.2 Without prejudice to any other right or remedy which the Concessionaire may have underthis Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement byissuing a Termination Notice to the Authority; provided that before issuing the TerminationNotice, the Concessionaire shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

36.3 Termination Payment

36.3.1 Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amountequal to:

36.3.1.1 90% (ninety per cent) of the Debt Due less Insurance Cover; and

36.3.1.2 70% (seventy per cent) of the amount representing the Additional Termination Payment:

Provided that if any insurance claims forming part of the Insurance Cover are not admittedand paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due.

36.3.2 Notwithstanding the provisions of Clause 38.3.1, upon Termination on account of Concessionaire Default during the Construction Period, the Authority shall pay Termination Payment corresponding to the Physical Progress of the Project made by the Concessionaire, calculated on the basis of the last achieved Project Milestone as follows:

Project Milestone	Termination Payment

For the avoidance of doubt, it is clarified that if Termination occurs between Project Milestones, the Termination Payment would be calculated on the basis of the last Project Milestone achieved by the Concessionaire.

36.3.3 Upon Termination on account of an Authority Default, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

(i) If Termination occurs prior to COD

(ii) Debt Due calculated as per the table below less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, 80%(eighty per cent) of such unpaid claims shall be included in the computation of Deb

Due and would be calculated as follows:

Project Milestone	Basis of calculation for Debt Due

For the avoidance of doubt, it is clarified that if Termination occurs between Project Milestones, the Termination Payment would be calculated on the basis of the last Project Milestone achieved by the Concessionaire; and

(a) 150% (one hundred and fifty per cent) of the Adjusted Equity.

(iii) If Termination occurs after COD:

(a) Debt Due;

(b) 150% (one hundred and fifty per cent) of the Adjusted Equity; and

(c) 115% (one hundred and fifteen per cent) of the amount representing the Additional Termination Payment .

36.3.4 Termination Payment shall become due and payable to the Concessionaire within 15 (fifteen) days of a demand being made by the Concessionaire to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at a rate equal to 3% (three per cent) above the Bank Rate on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

36.3.5 The Concessionaire expressly agrees that Termination Payment under this Article 36 shall constitute a full and final settlement of all claims of the Concessionaire on account of Termination

of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

36.4 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

(a) be deemed to have taken possession and control of the XXX Ropeway forthwith;

(b) take possession and control of all materials, stores, implements, construction plantsand equipment on or about the Site;

(c) be entitled to restrain the Concessionaire and any person claiming through or underthe Concessionaire from entering upon the Site or any part of the Project; require the Concessionaire to comply with the Divestment Requirements set forthin Clause 39.1; and

(d) succeed upon election by the Authority, without the necessity of any further actionby the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respectiveProject Agreements from and after the date the Authority elects to succeed to the interests of the Concessionaire. For the avoidance of doubt, the Concessionaire acknowledges and agrees that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to such date shall constitute debt between the Concessionaire and such Contractors, and the Authority shall not in any manner be liable for such sums. It is further agreed that in the event the Authority elects tocure any outstanding defaults under such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

36.5 Certain limitations on Termination Payment

36.5.1 Termination Payment, not being Additional Termination Payment, due and payable underthis Agreement shall be limited to the Debt Due and Adjusted Equity, as the case may be,which form part of the Total Project Cost in accordance with the provisions of this Agreement; provided that the amount payable in respect of any Debt Due expressed in foreign currency shall be computed at the Reference Exchange Rate for conversion into the relevant foreign currency as on the date of Termination Payment. For the avoidance ofdoubt, it is agreed that within a period of 60 (sixty) days from COD, the Concessionaire shall notify to the Authority, the Total Project Cost as on COD and its disaggregation between Debt Due and Equity, and only the amounts so conveyed shall form the basis of computing Termination Payment, and it is further agreed that in the event such disaggregation is not notified to the Authority, Equity shall be deemed to be the amount arrived at by subtracting Debt Due from Total Project Cost.

36.5.2 Additional Termination Payment due and payable in respect of Real Estate Development forming part of Specified Assets shall be limited to the lowest of:

36.5.2.1 Adjusted Depreciated Value thereof;

36.5.2.2 the replacement value thereof, as assessed by an Approved Valuer, who shall be selected and appointed by the Authority, within 15 (fifteen) days of Termination, for submitting his assessment within 30 (thirty) days of his appointment hereunder;and

36.5.2.3 40% (forty per cent)] of the sum of Total Project Cost and Equity Support, if any.

36.5.3 Additional Termination Payment due and payable in respect of Specified Assets, not beingassets

forming part of Real Estate Development [or System Augmentation, as the case maybe], which are constructed, acquired or installed after the 5th (fifth) anniversary of COD, but before the [10th (tenth)] anniversary thereof, shall be limited to the lowest of:

36.5.3.1 Adjusted Depreciated Value thereof;

36.5.3.2 the replacement value thereof, as assessed by an Approved Valuer, who shall be selected and appointed by the Authority, within 15 (fifteen) days of Termination, for submitting his assessment within 30 (thirty) days of his appointment hereunder; and

36.5.3.3 ……% (……..per cent)] of the sum of Total Project Cost and Equity Support, if any.

36.6 Survival of rights

Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 36.3, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 37: DIVESTMENT OF RIGHTS AND INTEREST

37.1 Divestment Requirements

37.1.1 Upon Termination, the Concessionaire shall comply with and conform to the following Divestment Requirements:

37.1.1.1 notify to the Authority forthwith the location and particulars of all Project Assets;

37.1.1.2 deliver forthwith the actual or constructive possession of the XXX Ropeway, freeand clear of all Encumbrances, save and except to the extent set forth in the Substitution Agreement;

37.1.1.3 cure all Project Assets, including the road, bridges, structures and equipment, of all defects and deficiencies so that the XXX Ropeway is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;

37.1.1.4 deliver and transfer relevant records, reports, Intellectual Property and otherlicences pertaining to the XXX Ropeway and its design, engineering, construction,operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings as on the Transfer Date. For the avoidance of doubt, the Concessionaire represents and warrants that the Intellectual Property delivered hereunder shall be adequate and complete for the design, engineering, construction, operation and maintenance of the XXX Ropeway and shall be assigned to the Authority free of any encumbrance;

37.1.1.5 transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;

37.1.1.6 execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Concessionaire in the XXX Ropeway, including manufacturers'warranties in respect of any plant or equipment and the right to receive outstandinginsurance claims to the extent due and payable to the Authority, absolutely unto the Authority or its nominee; and

37.1.1.7 comply with all other requirements as may be prescribed or required underApplicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the XXX Ropeway, free from all Encumbrances, absolutely unto the Authority or to its nominee.

37.1.2 Subject to the exercise by the Authority of its rights under this Agreement or under any ofthe Project Agreements to perform or procure the performance by a third party of any of the obligations of the Concessionaire, the Parties shall continue to perform their obligationsunder this Agreement, notwithstanding the giving of any Termination Notice, until the Termination of this Agreement becomes effective in accordance with its terms.

37.2 Inspection and cure

Not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to the effective date of such Termination, the Independent Engineer shall verify, aftergiving due notice to the Concessionaire of the time, date and venue of such verification, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire atits cost and the provisions of Article ….. shall apply, mutatis mutandis, in relation to curingof defects or deficiencies under

this Article 38.

37.3 Cooperation and assistance on transfer of Project

37.3.1 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the Users, other members of the public or the lawful occupiers of any part of the Site.

37.3.2 The Parties shall provide to each other, 9 (nine) months prior to the Transfer Date in the event of Termination by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the Authority, its concessionaire or agent may reasonably require for operation of the Project until the expiry of 6 (six) months after the Transfer Date.

37.3.3 The Authority shall have the option to purchase or hire from the Concessionaire at a fair market value and free from any encumbrance all or any part of the plant and machinery used in connection with the Project, but which does not form part of the assets specified inClause 39.1.1 and is reasonably required in connection with operation of the Project. For the avoidance of doubt, in the event of dispute or difference relating to fair market value, the Dispute Resolution Procedure shall apply.

37.4 Vesting Certificate

The divestment of all rights, title and interest in the XXX Ropeway shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in Schedule-N (the "**Vesting Certificate**"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the XXX Ropeway, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the XXX Ropeway on the footing that all Divestment Requirements have been complied with by the Concessionaire.

37.5 Additional Facilities

Notwithstanding anything to the contrary contained in this Agreement, all Additional Facilities shall continue to vest in the Concessionaire upon and after Termination.

37.6 Divestment costs etc.

37.6.1 The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, title and interest of the Concessionaire in the XXX Ropeway in favour of the Authority upon Termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such divestment shall be borne by the Authority.

37.6.2 In the event of any Dispute relating to matters covered by and under this Article 39, the Dispute Resolution Procedure shall apply.

ARTICLE 38: DEFECTS LIABILITY AFTER TERMINATION

38.1 Liability for defects after Termination

The Concessionaire shall be responsible for all defects and deficiencies in the XXX Ropeway for a period of 120 (One hundred and twenty) days after Termination, and it shallhave the obligation to repair or rectify, at its own cost, all defects and deficiencies observedby the Independent Engineer in the XXX Ropeway during the aforesaid period. In the eventthat the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Concessionaire's riskand cost so as to make the XXX Ropeway conform to the Maintenance Requirements. Allcosts incurred by the Authority hereunder shall be reimbursed by the Concessionaire to theAuthority within 15 (fifteen) days of receipt of demand thereof, and in the event of defaultin reimbursing such costs, the Authority shall be entitled to recover the same from the Escrow Account.

38.2 Retention in Escrow Account

38.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 34, a sum equal to 5% (five per cent) of the total Realisable Fee for the year immediately preceding the Transfer Date shall be retained in the Escrow Account for a period of 120 (one hundred and twenty) days after Termination for meetingthe liabilities, if any, arising out of or in connection with the provisions of Clause 38.1

38.2.2 Without prejudice to the provisions of Clause 38.2.1, the Independent Engineer shall carryout an inspection of the XXX Ropeway at any time between 210 (two hundred and ten) and 180 (one hundred and eighty) days prior to the Termination and if it recommends thatthe status of the XXX Ropeway is such that a sum larger than the amount stipulated in Clause 38.2. should be retained in the Escrow Account and for a period longer than the aforesaid 120 (one hundred and twenty) days, the amount recommended by the Independent Engineer shall be retained in the Escrow Account for the period specified byit.

38.2.3 The Concessionaire may, for the performance of its obligations under this Article 38, provide to the Authority a guarantee from a Bank for a sum equivalent to the amount determined under Clause 38.2.1 or 38.2.2 as the case may be, and for the period specifiedtherein, substantially in the form set forth in Schedule-F(the "**Performance Guarantee**"),to be modified, mutatis mutandis, for this purpose, and the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the required amounts from the Performance Guarantee for undertaking the repairs or rectification at the Concessionaire's risk and cost in accordance with the provisions of this Article 38. Upon furnishing of a Performance Guarantee under this Clause 38.2.3, the retention of funds in the Escrow Account in terms of Clause 38.2.1 or 38.2.2, as the case may be, shall be dispensed with.

PART VI: OTHER PROVISIONS

ARTICLE 39: ASSIGNMENT AND CHARGES

39.1 Restrictions on assignment and charges

39.1.1 Subject to Clauses 39.1 and 39.3 this Agreement shall not be assigned by the Concessionaire to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

39.1.2 Subject to the provisions of Clause 39.2 the Concessionaire shall not create nor permit tosubsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Concessionaire is aparty except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

39.2 Permitted assignment and charges

The restraints set forth in Clause 39.1 shall not apply to:

(a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the XXX Ropeway;

(b) mortgages/pledges/hypothecation of goods/assets other than Project Assets and their related documents of title, arising or created in the ordinary course of businessof the XXX Ropeway, and as security only for indebtedness to the Senior Lendersunder the Financing Agreements and/or for working capital arrangements for the XXX Ropeway;

(c) assignment of rights, interest and obligations of the Concessionaire to or in favourof the Lenders' Representative as nominee and for the benefit of the Senior Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and

(d) liens or encumbrances required by any Applicable Law.

39.3 Substitution Agreement

39.3.1 The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Concessionaire pursuant to the agreement for substitution of the Concessionaire (the "**Substitution Agreement**") to be entered into amongst the Concessionaire, the Authority and the Lenders' Representative, on behalf of Senior Lenders, substantially in the form set forth in Schedule-P.

39.3.2 Upon substitution of the Concessionaire under and in accordance with the Substitution Agreement, the Nominated Company substituting the Concessionaire shall be deemed to be the Concessionaire under this Agreement and shall enjoy all rights and be responsible for all obligations of the Concessionaire under this Agreement as if it were the Concessionaire; provided that where the Concessionaire is in breach of this Agreement onthe date of such substitution, the Authority shall by notice grant a Cure Period of 120 (onehundred and twenty) days to the Concessionaire for curing such breach.

39.4 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Concessionaire, assign and/ or transfer any of itsrights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the Authority's then outstanding obligations under this Agreement.

ARTICLE 40: CHANGE IN LAW

40.1 Increase in costs

If as a result of Change in Law, the Concessionaire suffers an increase in costs or reductionin net after-tax return or other financial burden, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore)[5]and 0.5% (zero point five percent) of the Realisable Fee in any Accounting Year, the Concessionaire may so notify the Authority and propose amendments to this Agreement so as to place the Concessionaire inthe same financial position as it would have enjoyed had there been no such Change in Law resulting in the cost increase, reduction in return or other financial burden as aforesaid.Upon notice by the Concessionaire, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and either agree on amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Concessionaire may by notice require the Authority to pay an amount that would placethe Concessionaire in the same financial position that it would have enjoyed had there beenno such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Authority shall pay the amount specified therein; provided that if the Authority shall dispute such claim of the Concessionaire, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreedthat this Clause 40.1 shall be restricted to changes in law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.

40.2 Reduction in costs

If as a result of Change in Law, the Concessionaire benefits from a reduction in costs or increase in net after-tax return or other financial gains, the aggregate financial effect of which exceeds the higher of Rs. 1 crore (Rupees one crore) and 0.5% (zero point five percent) of the Realisable Fee in any Accounting Year, the Authority may so notify the Concessionaire and propose amendments to this Agreement so as to place the Concessionaire in the same financial position as it would have enjoyed had there been no such Change in Law resulting in the decreased costs, increase in return or other financial gains as aforesaid. Upon notice by the Authority, the Parties shall meet, as soon as reasonably practicable but no later than 30 (thirty) days from the date of notice, and eitheragree on such amendments to this Agreement or on any other mutually agreed arrangement:

Provided that if no agreement is reached within 90 (ninety) days of the aforesaid notice, the Authority may by notice require the Concessionaire to pay an amount that would placethe Concessionaire in the same financial position that it would have enjoyed had there beenno such Change in Law, and within 15 (fifteen) days of receipt of such notice, along with particulars thereof, the Concessionaire shall pay the amount specified therein to the Authority; provided that if the Concessionaire shall dispute such claim of the Authority, the same shall be settled in accordance with the Dispute Resolution Procedure. For the avoidance of doubt, it is agreed that this Clause 42.2 shall be restricted to changes in law directly affecting the Concessionaire's costs of performing its obligations under this Agreement.

40.3 Protection of NPV

Pursuant to the provisions of Clauses 40.1 and 40.2 and for the purposes of placing the

Concessionaire in the same financial position as it would have enjoyed had there been no Change in Law affecting the costs, returns or other financial burden or gains, the Parties shall rely on the Financial Model to establish a net present value (the "**NPV**") of the net cash flow

[5] This amount may, in the discretion of the Authority, be suitably increased, but in no case exceeding a ratio of Rs. 1 cr. for every Rs. 500 cr. of Total Project Cost.

and make necessary adjustments in costs, revenues, compensation or other relevant parameters, as the case may be, to procure that the NPV of the net cash flow is thesame as it would have been if no Change in Law had occurred.

40.4 Restriction on cash compensation

The Parties acknowledge and agree that the demand for cash compensation under this Article 40 shall be restricted to the effect of Change in Law during the respective Accounting Year and shall be made at any time after commencement of such year, but nolater than one year from the close of such Accounting Year. Any demand for cash compensation payable for and in respect of any subsequent Accounting Year shall be made after the commencement of the Accounting Year to which the demand pertains, but no laterthan 2 (two) years from the close of such Accounting Year.

40.5 No claim in the event of recovery from Users

Notwithstanding anything to the contrary contained in this Agreement, the Authority shallnot in any manner be liable to reimburse to the Concessionaire any sums on account of a Change in Law if the same are recoverable from the Users.

ARTICLE 41: LIABILITY AND INDEMNITY

41.1 General indemnity

41.1.1 The Concessionaire will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the "**Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire to any User or from any negligence of the Concessionaire under contract or tort or on anyother ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or defaultof this Agreement on the part of the Authority Indemnified Persons.

41.1.2 The Authority will indemnify, defend, save and hold harmless the Concessionaire againstany and all suits, proceedings, actions, demands and claims from third parties for any loss,damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Authority in the land comprised in the Site, and/or (ii) breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of itsobligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

41.2 Indemnity by the Concessionaire

41.2.1 Without limiting the generality of Clause 41.1 the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

41.2.1.1 failure of the Concessionaire to comply with Applicable Laws and ApplicablePermits;

41.2.1.2 payment of taxes required to be made by the Concessionaire in respect of theincome or other taxes of the Concessionaire's contractors, suppliers and representatives; or

41.2.1.3 non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaireor any of its contractors.

41.2.2 Without limiting the generality of the provisions of this Article 41, the Concessionaire shallfully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any materials, information, design or process used bythe Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the XXX Ropeway, or anypart thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Authority a licence, at no cost to the Authority, authorising continued use ofthe infringing

work. If the Concessionaire is unable to secure such licence within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the Specifications and Standards, either replace the affected work, or part, or process thereof with non-infringing work or part or process or modify the same so that it becomes non- infringing.

41.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 41 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) daysof receipt of the claim or demand and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld ordelayed. In the event that the Indemnifying Party wishes to contest or dispute the claim ordemand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

41.4 Defence of claims

41.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which itis entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall beindemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writingits obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article 41, the Indemnifying Party shall be entitled, at its option, to assumeand control the defence of such claim, action, suit or proceeding, liabilities, payments andobligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defence. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

41.4.2 If the Indemnifying Party has exercised its rights under Clause 41.3 the Indemnified Partyshall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

41.4.3 If the Indemnifying Party exercises its rights under Clause 41.3 the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate insuch action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

41.4.3.1 the employment of counsel by such party has been authorised in writing by theIndemnifying Party; or

41.4.3.2 the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party inthe conduct of the defence of such action; or

41.4.3.3 the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defence of such action and shall have been so notified by the Indemnified Party; or

41.4.3.4 the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

41.4.3.4.1 that there may be specific defences available to it which are

different fromor additional to those available to the Indemnifying Party; or

41.4.3.4.2 that such claim, action, suit or proceeding involves or could have amaterial adverse effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of this Clause 41.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defence of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonablefees and disbursements of such counsel shall constitute legal or other expenses hereunder.

41.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article 43, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

41.6 Survival on Termination

The provisions of this Article 43 shall survive Termination.

ARTICLE 42: RIGHTS AND TITLE OVER THE SITE

42.1 Licensee rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Site as sole licensee subject to and in accordance with this Agreement, and to this end, it may regulate the entry and use of the XXX Ropeway by third parties in accordance with and subject to the provisions of this Agreement.V

42.2 Access rights of the Authority and others

42.2.1 The Concessionaire shall allow free access to the Site at all times for the authorised representatives and vehicles of the Authority, Senior Lenders, and the Independent Engineer, and for the persons and vehicles duly authorised by any Government Instrumentality to inspect the XXX Ropeway or to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

42.3 Property taxes

All property taxes on the Site shall be payable by the Authority as owner of the Site; provided, however, that any such taxes payable by the Concessionaire under Applicable Laws for use of the Site shall not be reimbursed or payable by the Authority.

42.4 Restriction on sub-letting

The Concessionaire shall not sublicense or sublet the whole or any part of the Site, save and except as may be expressly set forth in this Agreement; provided that nothing containedherein shall be construed or interpreted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the XXX Ropeway.

ARTICLE 43: DISPUTE RESOLUTION

43.1 Dispute resolution

43.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or outof or in relation to this Agreement (including its interpretation) between the Parties, and sonotified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 43.2.

43.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non- privileged records, information and data pertaining to any Dispute.

43.2 Conciliation

In the event of any Dispute between the Parties, either Party may call upon the Independent Engineer to mediate and assist the Parties in arriving at an amicable settlement thereof. Failing mediation by the Independent Engineer or without the intervention of the Independent Engineer, either Party may require such Dispute to be referred to the Chairmanof the Authority and the Chairman of the Board of Directors of the Concessionaire for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) day period or the Disputeis not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolvedas evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 43.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 43.3.

43.3 Arbitration

43.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Article 43.2, the parties shall submit such dispute for arbitration by Principal Secretary, Department of Transport, Government of Himachal Pradesh as the Sole Arbitrator. The proceeding shall be conducted as per the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Shimla, and the language of arbitration proceedings shall be English.

43.3.2 The Sole Arbitrator shall make a reasoned award **(the "Award").** Any Award made in any arbitration held pursuant to this Article 43 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Concessioning Authority agree and undertake to carry out such Award without delay.

43.3.3 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

43.3.4 This Agreement and the rights and obligations of the Parties shall remain in full force andeffect, pending the Award in any arbitration proceedings hereunder.

43.4 Adjudication by Regulatory Authority or Commission

In the event of constitution of a statutory Regulatory Authority or Commission with powersto adjudicate upon disputes between the Concessionaire and the Authority, all Disputes arising after such constitution shall, instead of reference to arbitration under Clause 43.3, be adjudicated upon by such Regulatory Authority or Commission in accordance with theApplicable

Law and all references to Dispute Resolution Procedure shall be construed accordingly. For the avoidance of doubt, the Parties hereto agree that the adjudication hereunder shall not be final and binding until an appeal against such adjudication has beendecided by an appellate tribunal or High Court, as the case may be, or no such appeal has been preferred within the time specified in the Applicable Law.

ARTICLE 44: DISCLOSURE

44.1 Disclosure of Specified Documents

The Concessionaire shall make available for inspection by any person, copies of this Concession Agreement, the Maintenance Manual, the Maintenance Programme and the Maintenance Requirements (hereinafter collectively referred to as the "**Specified Documents**"), free of charge, during normal business hours on all working days at the Concessionaire's Registered Office. The Concessionaire shall provide copies of the same to any person upon payment of copying charges on a 'no profit no loss' basis.

44.2 Disclosure of Documents relating to safety

The Concessionaire shall make available for inspection by any person copies of all Documents and data relating to safety of the XXX Ropeway, free of charge, during normalbusiness hours on all working days, at the Concessionaire's Registered Office. The Concessionaire shall make copies of the same available to any person upon payment of copying charges on a 'no profit no loss' basis.

Notwithstanding the provisions of Clauses 44.1 and 44.2, the Authority shall be entitled todirect the Concessionaire, from time to time, to withhold the disclosure of Protected Documents (as defined hereinbelow) to any person in pursuance of the aforesaid Clauses.

Explanation:

The expression Protected Documents shall mean such of the Specified Documents or documents referred to in Clauses 44.1 and 44.2, or portions thereof, the disclosure of whichthe Authority is entitled to withhold under the provisions of the Right to Information Act,2005.

ARTICLE 45: REDRESSAL OF PUBLIC GRIEVANCES

45.1 Complaints Register

45.1.1 The Concessionaire shall maintain a public relations office at each of the terminals whereit shall keep a register (the "**Complaint Register**") open to public access at all times for recording of complaints by any person (the "**Complainant**"). Information relating to the availability of and access to the Complaint Register shall be prominently displayed by theConcessionaire at each terminal so as to bring it to the attention of all Users.

45.1.2 The Complaint Register shall be securely bound, and each page thereof shall be duly numbered. It shall have appropriate columns including the complaint number, date, name and address of the Complainant, substance of the complaint and the action taken by the Concessionaire. Immediately after a complaint is registered, the Concessionaire shall give a receipt to the Complainant stating the date and complaint number.

45.1.3 Without prejudice to the provisions of Clauses 45.1.1 and 45.1.2, the Authority may, in consultation with the Concessionaire, specify the procedure for making complaints in electronic form and for responses thereto.

45.2 Redressal of complaints

45.2.1 The Concessionaire shall inspect the Complaint Register every day and take prompt and reasonable action for redressal of each complaint. The action taken shall be briefly noted in the Complaint Register and a reply stating the particulars thereof shall be sent by the Concessionaire to the Complainant under a certificate of posting.

45.2.2 Within 7 (seven) days of the close of each month, the Concessionaire shall send to the Authority and to the Independent Engineer a true photocopy each of all the pages of the Complaint Register on which any entry has been recorded during the course of such month,and upon perusal thereof, the Authority may, in its discretion, advise the Concessionaire totake such further action as the Authority may deem appropriate for a fair and just redressalof any grievance. The Concessionaire shall consider such advice and inform the Authorityof its decision thereon, and if the Authority is of the opinion that the Complainant is entitledto further relief, it may refer the matter to the competent forum for its disposal under the Consumer Protection Act, 1986, and advise the Complainant to pursue the complaint at hisown risk and cost.

ARTICLE 46: MISCELLANEOUS

46.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts at Shimla shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

46.2 Waiver of immunity

Each Party unconditionally and irrevocably:

a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereigntyor otherwise) from such proceedings shall be claimed by or on behalf of the Partywith respect to its assets;

c) waives any right of immunity which it or its assets, property or revenues now has,may acquire in the future or which may be attributed to it in any jurisdiction; and

d) consents generally in respect of the enforcement of any judgement or award againstit in any such proceedings to the giving of any relief or the issue of any process inany jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement thatmay be made or given in connection therewith).

46.3 Depreciation and Interest

46.3.1 For the purposes of depreciation under the Applicable Laws, the property representing thecapital investment made by the Concessionaire in the Project shall be deemed to be acquired and owned by the Concessionaire. For the avoidance of doubt, the Authority shallnot in any manner be liable in respect of any claims for depreciation to be made by the Concessionaire under the Applicable Laws.

46.3.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

46.4 Delayed payments

The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 5% (five per cent) above the Bank Rate, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

46.5 Waiver

46.5.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement: -

46.5.1.1 shall not operate or be construed as a waiver of any other or subsequent default

hereof or of other provisions of or obligations under this Agreement;

46.5.1.2 shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

46.5.1.3 shall not affect the validity or enforceability of this Agreement in any manner.

46.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

46.6 Liability for review of Documents and Drawings

Except to the extent expressly provided in this Agreement:

a) no review, comment or approval by the Authority or the Independent Engineer of any Project Agreement, Document or Drawing submitted by the Concessionaire nor any observation or inspection of the construction, operation or maintenance of the XXX Ropeway nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, the Applicable Laws and Applicable Permits; and

b) the Authority shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in Sub-clause (a) above.

46.7 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties.

46.8 Survival

46.8.1 Termination shall:

46.8.1.1 not relieve the Concessionaire or the Authority, as the case may be, of any obligations hereunder which expressly or by implication survive Termination hereof; and

46.8.1.2 except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such Termination or arising out of such Termination.

46.8.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

46.9 Entire Agreement

This Agreement and the Schedules together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Concessionaire arising from the Request for Qualification or Request for Proposals, as the case may be, shall be deemed to form part of this Agreement and treated as such.

46.10 Severability

If for any reason whatever, any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality orenforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to the Dispute Resolution Procedure set forth under this Agreement or otherwise.

46.11 No partnership

This Agreement shall not be interpreted or construed to create an association, joint ventureor partnership between the Parties, or to impose any partnership obligation or liability uponeither Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

46.12 Third parties

This Agreement is intended solely for the benefit of the Parties, and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a Party to this Agreement.

46.13 Successors and assigns

This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

46.14 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

a) in the case of the Concessionaire, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set outbelow or to such other person as the Concessionaire may from time to time designateby notice to the Authority; provided that notices or other communications to be given to an address mentioned below, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Concessionaire may from time to timedesignate by notice to the Authority;

Attention:

Designation:

Address:

Fax No:

Email:

b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by

hand at the address given below and be addressed to the Chairman of the Authority with a copy delivered to the Authority Representative or such other personas the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in Shimla, it may send suchnotice by facsimile or e-mail and by registered acknowledgement due, air mail or bycourier;

Address:

Fax No:

Email:

c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of postit ought to have been delivered and in all other cases, it shall be deemed to have beendelivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

46.15 Language

All notices required to be given by one Party to the other Party and all other communications, Documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

46.16 Counterparts

This Agreement may be executed in two counterparts, each of which, when executed and delivered, shall constitute an original of this Agreement.

ARTICLE 47: DEFINITIONS

47.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"**Accounting Year**" means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;

"**Additional Auditors"** shall have the meaning set forth in Clause 32.2.3

"**Additional Facilities**" means the facilities such as service stations, motels, restaurants, shopping areas and amusement parks which the Concessionaire may, in its discretion and subject to Applicable Laws, provide or procure for the benefit of the Users, and which are in addition to the Project Facilities, and not situated on the Site;

"**Additional Termination Payment**" means the amount, if any, payable upon Termination, on account of the Adjusted Depreciated Value of Specified Assets, as further limited by the provisions of Clauses 36.5.2, 36.5.3 and 36.5.4, (36.5.2 (a), (b) & (c) as the case may be;

"**Adjusted Depreciated Value**" means the amount arrived at after adjusting the depreciated book value of an asset (as stated in the books of account of the Concessionaire, save and except, in the case of buildings and permanent structures where the depreciated book value shall be determined by applying an annual depreciation rate of 3% based on the written down value method) to reflect the variation occurring in WPI between the date of purchase thereof and the Transfer Date;

"**Adjusted Equity**" means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the "**Reference Date**"), in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:

(a) on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;

(b) from COD and until the 4th (fourth) anniversary thereof, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "**Base Adjusted Equity**") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each month following COD to the extent of variation in WPI occurring between COD and the Reference Date;

(c) after the 4th (fourth) anniversary of COD, the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, reduced by 0.42% (zero point four two per cent)[6] thereof at the commencement of each month following the 4th (fourth) anniversary of COD and the amount so arrived at shall be revised to the extent of variation in WPI occurring between COD and the Reference Date;

"**Affected Party**" shall have the meaning set forth in Clause 33.1

"**Agreement**" or "**Concession Agreement**" means this Agreement, its Recitals, the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this

[6] This number shall be substituted in each case by the figure arrived at upon dividing 100 by the number of months comprising the Concession Period. For example, the figure for a 20 year Concession Period shall be 100/ 240 = 0.416 rounded off to two decimal points i.e. 0.42.

Agreement;

"**Appendix**" shall have the meaning set forth in Clause 10.3.1;

"**Applicable Laws**" means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgements, decrees, injunctions, writs and orders of any court of record, applicable to thisAgreement and the exercise, performance and discharge of the respective rights and obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

"**Applicable Permits**" means all clearances, licences, permits, authorisations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance ofthe XXX Ropeway during the subsistence of this Agreement;

"**Appointed Date**" means the date on which Financial Close is achieved or an earlier datethat the Parties may by mutual consent determine and shall be deemed to be the date of commencement of the Concession Period. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the eventall Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be;

"**Approved Valuer**" means a firm of valuers recognized as such by the Income Tax Department and having experience of valuing at least 5 (five) properties exceeding Rs. 100cr. (Rupees one hundred crore) each in value;

"**Arbitration Act**" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"**Associate**" or "**Affiliate**" means, in relation to either Party {and/or Consortium Members}, a person who controls, is controlled by, or is under the common control with such Party {or Consortium Member} (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directlyor indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person, whether by operation of law or by contract or otherwise);

"**Authority**" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"**Authority Default**" shall have the meaning set forth in Clause 36.2.1

"**Authority Indemnified Persons**" shall have the meaning set forth in Clause 41.1.1
"**Authority Representative**" means such person or persons as may be authorised inwriting by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfil any obligations of the Authority under this Agreement;

"**Average Daily Fee** " means the amount arrived at after dividing the total revenues of the immediately preceding Accounting Year by 365 (three hundred and sixty-five), andincreasing the result thereof by 5% (five per cent); provided that the Average Daily Fee for any period prior to completion of the first Accounting Year following COD shall be a simple average of the Fee collected every dayduring the period between COD and the last day of the month preceding the date on whichthe event requiring calculation hereof occurred;

"**Bank**" means a bank incorporated in India and having a minimum net worth of Rs. 1,000crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior Lender has an interest;

"**Bank Rate**" means the rate of interest specified by the Reserve Bank of India from time to time in pursuance of section 49 of the Reserve Bank of India Act, 1934 or any replacement of such Bank Rate for the time being in effect;

"**Bid**" means the documents in their entirety comprised in the bid submitted by the

{selected bidder/Consortium} in response to the Request for Proposal in accordance with the provisions thereof;

"**Bid Date**" means the last date on which the Bid may have been submitted in accordancewith the provisions of the Request for Proposals;

"**Bid Security**" means the security provided by the Concessionaire to the Authority alongwith the Bid in a sum of Rs. ***** crore (Rupees ***** crore)[7]. in accordance with the Request for Proposal, and which is to remain in force until substituted by the PerformanceSecurity;

"**Change in Law**" means the occurrence of any of the following after the date of Bid:

(a) the enactment of any new Indian law;

(b) the repeal, modification or re-enactment of any existing Indian law;

(c) the commencement of any Indian law which has not entered into effect until the date of Bid;

(d) a change in the interpretation or application of any Indian law by a judgement of acourt of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the date of Bid; or

(e) any change in the rates of any of the Taxes that have a direct effect on the Project;

"**Change in Ownership**" means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the {selected bidder/Consortium Members}, together with {its/their} Associates, in the total Equity to decline below (i) 51% (fifty one per cent) thereof duringConstruction Period, (ii) 33% (thirty three per cent) thereof during a period of 3 (three) years following COD, and (iii) 26% (twenty six per cent) thereof, or such lower proportionas may be permitted by the Authority during the remaining Concession Period; provided that any material variation (as compared to the representations made by the Concessionaireduring the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or Bid, as the case may be,) in the proportionof the equity holding of {the selected bidder/any Consortium Member} to the total Equity,if it occurs prior to COD, shall constitute Change in Ownership;

"**Change of Scope**" shall have the meaning set forth in Clause 16.1;

"**Change of Scope Note**" shall have the meaning set forth in Clause 16.2.1;

"**Change in Scope Order**" shall have the meaning set forth in Clause 16.2.3

"**Company**" means the company acting as the Concessionaire under this Agreement;

"**Completion Certificate**" shall have the meaning set forth in Clause 14.2;

[7] Calculated @1% (one per cent) of the amount specified in the definition of Total Project Cost.The Authority may, if deemed necessary, prescribe a higher Bid Security not exceeding 2% of the Total Project Cost. In the case of a project having a Total Project Cost of Rs. 2,000 cr. or above, the Authority may reduce the Bid Security, but not less than 0.5% of the Total Project Cost in any case.

"**Concession**" shall have the meaning set forth in Clause 3.1.1;

"**Concessionaire**" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"**Concession Fee**" shall have the meaning set forth in Clause 27.1

"**Concession Period**" means the period starting on and from the Appointed Date and ending on the Transfer Date;

"**Concessionaire Default**" shall have the meaning set forth in Clause 36.1.1;

"**COD**" or "**Commercial Operation Date**" shall have the meaning set forth in Clause 15.1;
"**Complainant**" shall have the meaning set forth in Clause 45.1.1;

"**Complaint Register**" shall have the meaning set forth in Clause 45.1.1;
"**Concurrent Auditors**" shall have the meaning set forth in Clause 32.2.4
"**Conditions Precedent**" shall have the meaning set forth in Clause 4.1.1;

{"**Consortium**" shall have the meaning set forth in Recital (B);}

{"**Consortium Member**" means a company specified in Recital (_B) as a member of the Consortium;}

"**Construction Period**" means the period beginning from the Appointed Date and endingon the COD;

"**Construction Works**" means all works and things necessary to complete the XXXRopeway in accordance with this Agreement;

"**Contractor**" means the person or persons, as the case may be, with whom the Concessionaire has entered into any of the EPC Contract, the O&M Contract or any othermaterial agreement or contract for construction, operation and/or maintenance of the XXXRopeway or matters incidental thereto, but does not include a person who has entered intoan agreement for providing financial assistance to the Concessionaire;

"**Covenant**" shall have the meaning set forth in Clause 5.2.6;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:

(a) commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;

(b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

(c) not in any way be extended by any period of Suspension under this Agreement; provided that if the cure of any breach by the Concessionaire requires anyreasonable action by the Concessionaire that must be approved by the Authority or the Independent Engineer hereunder, the applicable Cure Period shall beextended by the period taken by the Authority or the Independent Engineer to accord their approval;

"**DBFOT**" or "**Design, Build, Finance, Operate and Transfer**" shall have the meaning set forth in Recital (B);

"**Damages**" shall have the meaning set forth in Sub-clause (w) of Clause 1.2.1;

"**Debt Due**" means the aggregate of the following sums expressed in Indian Rupees

outstanding on the Transfer Date:

(a) the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment two years prior to the Transfer Date;

(b) all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default; and

(c) any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost;

Provided that if all or any part of the Debt Due is convertible into Equity at the option of the Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Debt Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

"**Debt Service**" means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders under the Financing Agreements;

"**Development Period**" means the period from the date of this Agreement until the Appointed Date;

"**Dispute**" shall have the meaning set forth in Clause 43.1.1

"**Dispute Resolution Procedure**" means the procedure for resolution of Disputes set forth in Article 45;

"**Divestment Requirements**" means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 39.1

"**Document**" or "**Documentation**" means documentation in printed or written form, or in tapes, discs, drawings, computer programmes, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;

"**Drawings**" means all of the drawings, calculations and documents pertaining to the XXX Ropeway as set forth in Schedule-H, and shall include 'as built' drawings of the XXX Ropeway;

"**EPC Contract**" means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the XXX Ropeway in accordance with the provisions of this Agreement;

"**EPC Contractor**" means the person with whom the Concessionaire has entered into an EPC Contract;

"**Emergency**" means a condition or situation that is likely to endanger the security of the individuals on or about the XXX Ropeway, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

"**Encumbrances**" means, in relation to the XXX Ropeway and Real Estate Development, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss payees or beneficiaries or any similar

arrangement under any insurance policy pertaining to the XXX Ropeway, where applicableherein but excluding utilities referred to in Clause 11.1;

"**Equity**" means the sum expressed in Indian Rupees representing the paid up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and shall for the purposes of this Agreement include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component, but does not include Equity Support;

"**Equity Support**" shall have the meaning set forth in Clause 26.2.1;

"**Escrow Account**" means an Account which the Concessionaire shall open and maintainwith a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement, and includes the Sub-Accounts of such Escrow Account;

"**Escrow Agreement**" shall have the meaning set forth in Clause 30.1.2
"**Escrow Bank**" shall have the meaning set forth in Clause 30.1.1;
"**Escrow Default**" shall have the meaning set forth in Schedule-S;

"**Fee**" means the charge levied on and payable for using the XXX Ropeway or a partthereof, in accordance with this Agreement;

"**Financial Close**" means the fulfilment of all conditions precedent to the initial availabilityof funds under the Financing Agreements;

"**Financial Default**" shall have the meaning set forth in Schedule P;

"**Financial Model**" means the financial model adopted by Senior Lenders, setting forth thecapital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;

"**Financial Package**" means the financing package indicating the total capital cost of XXXRopeway and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements, Subordinated Debt and Equity Support, if any;

"**Financing Agreements**" means the agreements executed by the Concessionaire in respectof financial assistance to be provided by the Senior 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 the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.2;

"**Force Majeure**" or "**Force Majeure Event**" shall have the meaning ascribed to it inClause 35.1

"**Force Majeure Costs**" shall have the meaning set forth in Clause 33.7.2;
"**Funded Works**" shall have the meaning as set forth in Clause 12.4.1;
"**GOI**" or "**Government**" means the Government of India;

"**Good Industry Practice**" means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Concessionaire in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner;

"**Government Instrumentality**" means any department, division or sub-division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body including Panchayat underthe control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the XXX Ropeway or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;

"**Grant**" shall have the meaning set forth in Clause 26.1.1

"**Indemnified Party**" means the Party entitled to the benefit of an indemnity pursuant toArticle 46;

"**Indemnifying Party**" means the Party obligated to indemnify the other Party pursuant toArticle 46;

"**Independent Engineer"** shall have the meaning set forth in Article 24;
"**Indirect Political Event**" shall have the meaning set forth in Clause 33.3;
"**Insolvency Event**" in respect of a Party means:

(a) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) enters into a compromise arrangement with its creditors ; (D)an attachment or restraint has been levied on the assets of such entity Party which materially affects such Party's ability to perform its obligations under this Agreement; (E)commenced proceedings under the (Indian) Insolvency and Bankruptcy Code, 2016 ("**Code**"); (F) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or

(b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of an insolvency resolution professional, a trustee, receiver, custodian, administrator, liquidator or the like of such Party under the Code and an order admitting the insolvency petition has been passed in such proceeding and such order has not been stayed or dismissed within a period of [90 (ninety)] days or (C) directions with the same or similar effect happen under the provisions of the Companies Act, 1965 or the CompaniesAct, 2013 or the Code in relation to the winding up of the company;

"**Inspection Report**" shall have the meaning set forth in Clause 13.2;

"**Insurance Cover**" means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 36, and includes all insurances required to be taken out by the Concessionaire under Clause 33.1 but not actually taken, and when used in the context of any act or event, it shall mean the aggregateof the maximum sums insured and payable or deemed to be insured and payable in relationto such act or event;

"**Intellectual Property**" means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programmes and manuals, drawings, copyright (including rights in computer software), database rights, semi- conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applicationsfor registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

"**Key Performance Indicators**" shall have the meaning set forth in Clause 21 Clause 21.1
"**LOA**" or "**Letter of Award**" means the letter of award referred to in Recital (D);

"**Lead Member**" shall have the meaning set forth in Recital (B);

"**Lenders' Representative**" means the person duly authorised by the Senior Lenders to act for and on behalf of the Senior Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"**Licensed Premises** shall have the meaning set forth in Clause 10.2.2;

"**Local User**" means a person living in the geographical area comprising the districts of XXX, YYY and ZZZ;

"**Maintenance Manual**" shall have the meaning ascribed to it in Clause 17.3;
"**Maintenance Programme**" shall have the meaning ascribed to it in Clause 17.4.1;
"**Maintenance Requirements**" shall have the meaning set forth in Clause 17.2;

"**Material Adverse Effect**" means a material adverse effect of any act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden orloss to either Party;

"**Medical Aid Post** shall have the meaning set forth in Clause 21.1; "**Monthly Fee Statement**" shall have the meaning set forth in Clause 19.5;

"**Nominated Company**" means a company selected by the Lenders' Representative and proposed to the Authority for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;

"**Non-Political Event**" shall have the meaning set forth in Clause 33.2;
"**NPV**" shall have the meaning set forth in Clause 40.3;

"**O&M**" means the operation and maintenance of the XXX Ropeway and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities, and collection of Fee in accordance with the provisions of this Agreement;

"**O&M Contract**" means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of theO&M obligations;

"**O&M Contractor**" means the person, if any, with whom the Concessionaire has enteredinto an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;

"**O&M Expenses**" means expenses incurred by or on behalf of the Concessionaire or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees, (b) cost of materials, supplies, utilities and other services, (c) premia for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f)payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

"**O&M Inspection Report**" shall have the meaning set forth in Clause 19.2;

"**Operation Period**" means the period commencing from COD and ending on the TransferDate;

"PHPDT" means "Peak Hour Peak Direction Traffic";

"**Panel of Chartered Accountants**" shall have the meaning set forth in Clause 32.2.1;

"**Parties**" means the parties to this Agreement collectively and "Party" shall mean any ofthe parties to this Agreement individually;

"**Passenger Charter**" shall have the meaning set forth in Clause 20.7;

"**Performance Security**" shall have the meaning set forth in Clause 9.1;
"**Performance Guarantee** shall have the meaning set forth in Clause 38.2.3;
"**Political Event**" shall have the meaning set forth in Clause 33.4

"**Physical Progress**" shall mean the physical construction of the Project completed by the Concessionaire and shall be measured as per the assessment done by the Independent Engineer based on the relevant guidances/ guidelines issued by [Indian Road Congress] from time to time;

"**Premium**" shall have the meaning set forth in Clause 26.3

"**Preservation Costs**" shall have the meaning set forth in Clause 13.5.3;

"**Project**" means the construction, operation and maintenance of the XXX Ropeway in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project;

"**Project Agreements**" means this Agreement, the Financing Agreements, EPC Contract,O&M Contract, all agreements relating to Real Estate Development and any other materialagreements or contracts that may be entered into by the Concessionaire with any person inconnection with matters relating to, arising out of or incidental to the Project, but does notinclude the Escrow Agreement, Substitution Agreement, or any agreement for procurementof goods and services involving a consideration of upto Rs.[5(five)] crore;

"**Project Assets**" means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of licence, Right of Way or otherwise; (b) tangible assets such as civil works and equipment; (c) Project Facilities situated on the Site; (d) all rights of the Concessionaire under the Project Agreements; (e)financial assets,such as receivables, security deposits etc.; (f) insurance proceeds; and (g) Applicable Permits and authorisations relating to or in respect of the XXX Ropeway, but does not include Additional Facilities;

"**Project Completion Date**" means the date on which the Completion Certificate or the Provisional Certificate, as the case may be, is issued under the provisions of Article 14;

"**Project Completion Schedule**" means the schedule set forth in Schedule-G for completion of the XXX Ropeway on or before the Scheduled Date;

"**Project Facilities**" means all the amenities and facilities situated on the Site, as describedin Schedule-C;

"**XXX Ropeway**" means the [****] system built, or to be built, and operated on the Site and includes civil, mechanical and electrical works, signalling and telecommunication equipment, and all Project Assets, necessary for and associated with operation of ropewayson the Site, and shall include Real Estate Development;

"**Provisional Certificate**" shall have the meaning set forth in Clause 14.3;
"**Punch List**" shall have the meaning ascribed to it in Clause 14.3.1;

"**RBI**" means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;

"**Re.**", "**Rs.**" or "**Rupees**" or "**Indian Rupees**" means the lawful currency of the Republicof India;

"**Real Estate Development**" shall have the meaning set forth in Clause 3.1.3;

"**Realisable Fee**" means all the Fee due and realisable under this Agreement but does not include Fee that the Concessionaire has not been able to realise after due diligence and best efforts. For the avoidance of doubt, Realisable Fee shall, save as provided in Clause 26.4,be the

amount so declared by the Concessionaire on the basis of its provisional accounts orthe audited accounts, as the case may be, and in the event of a dispute thereto, the DisputeResolution Procedure shall apply;

"**Reference Exchange Rate**" means, in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the relevant date quoted in Delhi by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Delhi by the Bank of India and the Bank of Baroda;

"Maat Authority" shall have the meaning set forth in Clause 45.4; "**Request for Proposals**" or "**RFP**" shall have the meaning set forth in Recital (C);

"**Request for Qualification**" or "**RFQ**" shall have the meaning set forth in Recital (B);

"**Right of Way**" means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the XXX Ropeway and RealEstate Development in accordance with this Agreement;

"**Rules**" shall have the meaning set forth in Clause 43.3.1;

"**Safety Consultant**" shall have the meaning set forth in Clause 18.1.2; "**Safety Requirements**" shall have the meaning set forth in Clause 18.1.1;"**Safety Fund**" shall have the meaning set forth in Clause 18.2;

"**Scheduled Date**" shall have the meaning set forth in Clause12.3.1; "**Scope of the Project**" shall have the meaning set forth in Clause 2.1;

"**Senior Lenders**" means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost andwho hold pari passu charge on the assets, rights, title and interests of the Concessionaire;

"**Site**" shall have the meaning set forth in Clause 10.1;

"**Specifications and Standards**" means the specifications and standards relating to the quality, quantity, capacity and other requirements for the XXX Ropeway, as set forth in Schedule-D, and any modifications thereof, or additions thereto, as included in the designand engineering for the XXX Ropeway submitted by the Concessionaire to, and expresslyapproved by, the Authority;

"**Specified Assets**" means and includes all buildings and immovable fixtures or structures forming part of Real Estate Development, but shall in no case include land;

"**Specified Documents**" shall have the meaning set forth in Clause 44.1;

"**State**" means the State of ***** and "State Government" means the government of that State;

"**Station**" means a place in the XXX Ropeway where carriers stop for the purposes of transporting Users or goods;

"**Statutory Auditors**" means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act, 1956including any statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 34.2.1

"**Subordinated Debt**" means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Transfer Date:

(a) the principal amount of debt provided by lenders or the Concessionaire's shareholders for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and

(b) all accrued interest on the debt referred to in Sub-clause (a) above but restricted tothe lesser of actual interest rate and a rate equal to [5% (five per cent)] above the Bank Rate in case of loans expressed in Indian Rupees and lesser of the actual interest rate and [6 (six) month] LIBOR (London Inter-Bank Offer Rate) plus [2%(two per cent)] in case of loans expressed in foreign currency, but does not includeany interest that had fallen due [1 (one) year] prior to the Transfer Date;

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders and/or the Concessionaire's shareholders, it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken.

"**Subsistence Revenue**" means the total amount of Fee revenue that is required by the Concessionaire in an Accounting Year to meet the sum of (a) O&M Expenses, subject to an annual ceiling of 3% (three per cent) of the Total Project Cost, {plus Grant, if any} during the first Accounting Year after COD, to be revised for each subsequent year to reflect the variations in WPI occurring between COD and commencement of such Accounting Year, and (b) Debt Service in such Accounting Year, but excluding any interestpaid by the Government under Clause 31.7.2 or 32.2;

"**Substitution Agreement**" shall have the meaning set forth in Clause 39.3
"**Suspension**" shall have the meaning set forth in Clause 35.1;

"**System Augmentation**" means the construction and completion of all works included inor constituting a System Augmentation XXX Ropeway as specified in Article 2, read withSchedule B and Schedule C. For the avoidance of doubt, a System Augmentation means aXXX Ropeway;

"**Taxes**" means any Indian taxes including excise duties, customs duties, value added tax,sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and formingpart of the XXX Ropeway charged, levied or imposed by any Government Instrumentality,but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporateincome;

"**Termination**" means the expiry or termination of this Agreement and the Concession hereunder;

"**Termination Notice**" means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;

"**Termination Payment**" means the amount payable, under and in accordance with this Agreement, by the Authority to the Concessionaire upon Termination, and includesAdditional Termination Payment. For the avoidance of doubt, it is expressly agreed that the amount payable shall be subject to the limitations specified in Clause 32.3.

"**Tests**" means the tests set forth in Schedule-J to determine the completion of XXX Ropeway in accordance with the provisions of this Agreement [and shall, *mutatis mutandis*, include similar Tests to determine completion of System Augmentation];

"**Total Project Cost**" means the capital cost incurred on construction and financing of the Project, excluding Real Estate Development, and shall be limited to lowest of:

(a) the capital cost of the Project, {less Equity Support} as set forth in the Financial Package;

(b) the actual capital cost of the Project upon completion of the XXX Ropeway {less Equity Support}; and

(c) a sum of Rs. ***** crore (Rupees ***** crore), less Equity Support[8];

Provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI or Reference Exchange Rate occurring in respectof Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement; provided further that in the event WPI increases, on an average, by more than 6% (six per cent) per annum for the period between the date hereof and COD, the Parties shall meet, as soon as reasonably practicable, and agree upon revision of the amount hereinbefore specified such that the effect of increase in WPI, in excess of such 6% (six per cent), is reflected in the Total Project Cost;

"**Transfer Date**" means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;

"**User**" means a person who travels or intends to travel on the XXX Ropeway on paymentof Fee or in accordance with the provisions of this Agreement and Applicable Laws;

"**Vesting Certificate**" shall have the meaning set forth in Clause 37.4 and

"**WPI**" means the Wholesale Price Index for all commodities as published by the Ministryof Industry, GOI and shall include any index which substitutes the WPI, and any referenceto WPI shall, unless the context otherwise requires, be construed as a reference to the WPIpublished for the period ending with the preceding month, save and except that for the purposes of annual revision of Fee in accordance with the provisions of Clause 28.2.1, therevision due on April 1 of any year shall be computed with reference to WPI as on January 31 of that year.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THISAGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN

[8] This amount may be indicated on the basis of project-specific cost estimates, including financing charges; and this amount shall, after bidding, be reduced by a sum equivalent to the Equity Support. In determining this amount, the estimated cost of construction shall be increased by 25% thereof to account for contingencies, risk premia and financing costs. These costs should be reviewed and firmed up during pre-bid consultations.

SIGNED, SEALED ANDDELIVERED For and on behalf of THE AUTHORITY by: (Signature) (Name) (Designation) In the presence of: 1.	THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the …… day of 20…… hereunto affixed in the presence of ……, Director, who has signed these presents in token thereof and ……, Company Secretary / Authorised Officer who has countersigned the same in token thereof [9]: 2.

[9] To be affixed in accordance with the articles of association of the Concessionaire.

Schedule

SCHEDULE – A

(See Clause 10.1)

SITE OF THE PROJECT

1 The Site

1.1 Site of the XXX Ropeway shall include the land, buildings, structures and road works as described in Annex-I of this Schedule-A

1.2 An inventory of the Site including the land, buildings, structures, road works, trees and anyother immovable property on, or attached to, the Site shall be prepared jointly by the Authority Representative and the Concessionaire, and such inventory shall form part of the memorandum referred to in Clause 10.3.1 of the Agreement.

1.3 Additional land required for storage, transit or any other purpose shall be acquired by the concessionaire in accordance with the extant rules and regulations of the Authority and shall form part of the site and vest in the Authority.

2 Real Estate Development

The land earmarked for Real Estate Development has been described in Annex-II of this Schedule-A, and such land shall form part of the Site.

[Note]: Through suitable drawings and description in words, the land, buildings, structures and roadworks comprising the Site shall be specified briefly but precisely.

Annex - I

(Schedule-A)

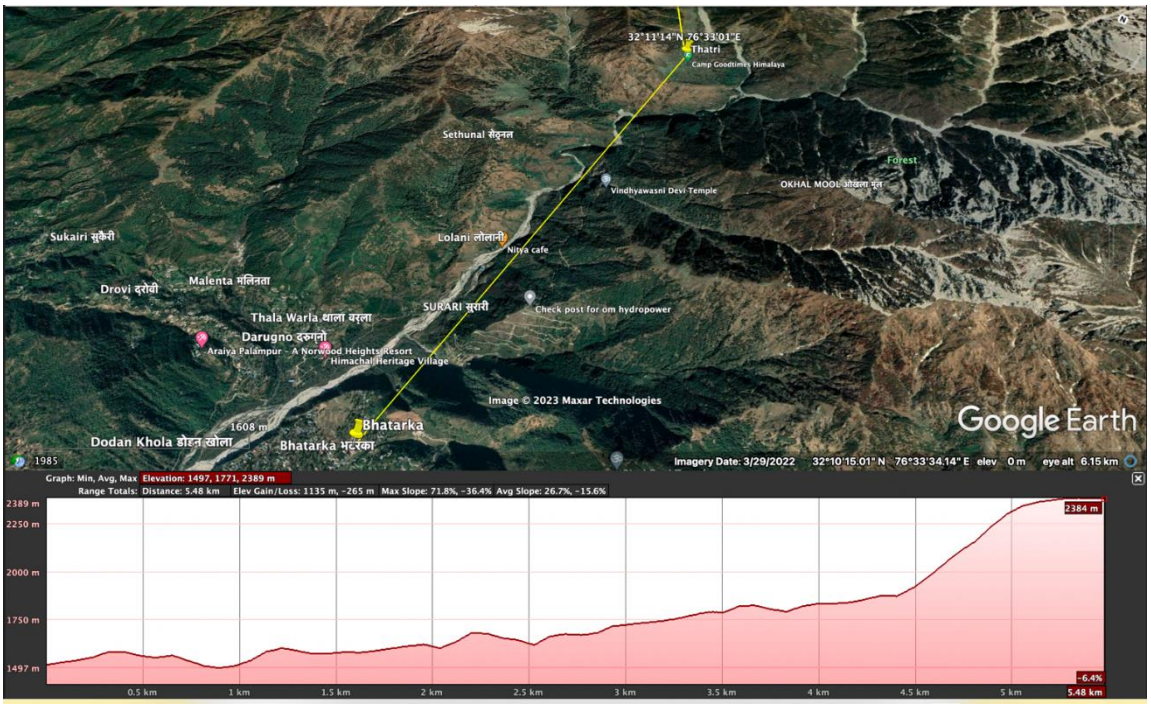
Site for the Ropeway

Note: Through suitable drawings and description in words, the land, buildings, structures and roadworks comprising the Site shall be specified briefly but precisely in this Annex-I.

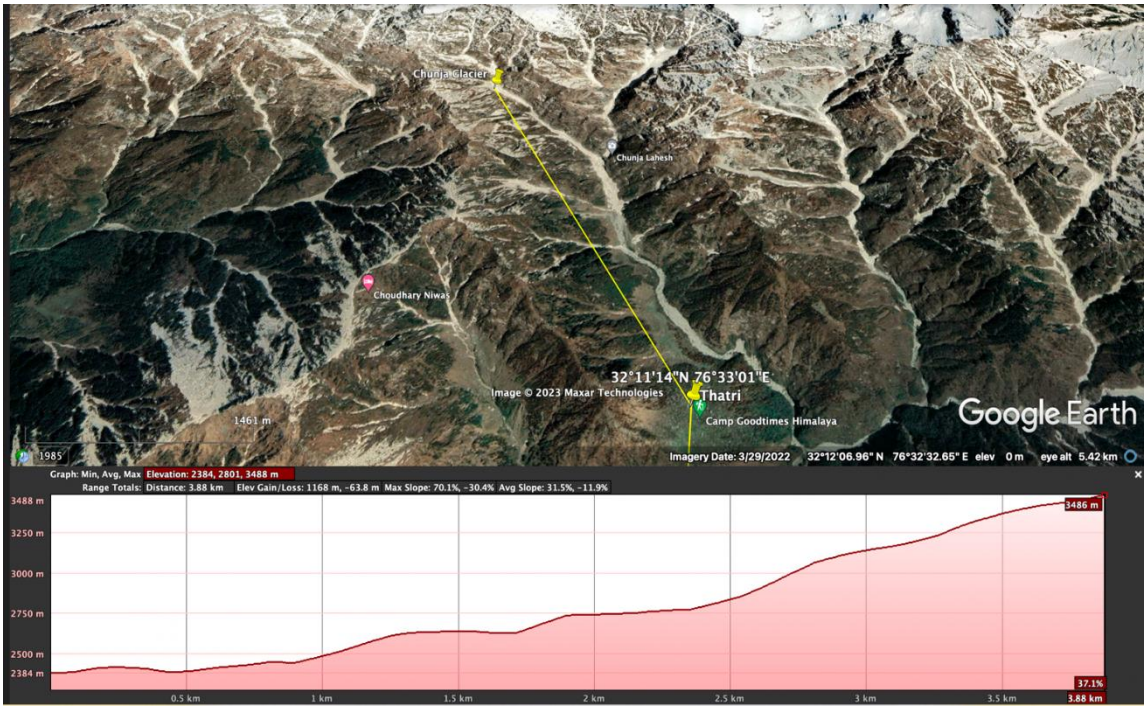
The project is proposed from Bhatarka to Thathri to Chunja Glacier in Kangra, total 8.73 km length. Total estimated cost of the project is Rs. 585.27 Crores.

Proposed Alignment - The proposed alignment from Bhatarka to Thathri to Chunja Glacier in Kangra, is 8.73 Km, with 3 stations under two phases. Phase I include construction of Ropeway between Bhatarka to Thathri of approx. 5156 m and Phase II include construction of Ropeway between Thathri to Chunja Glacier of approx. 3573 m.

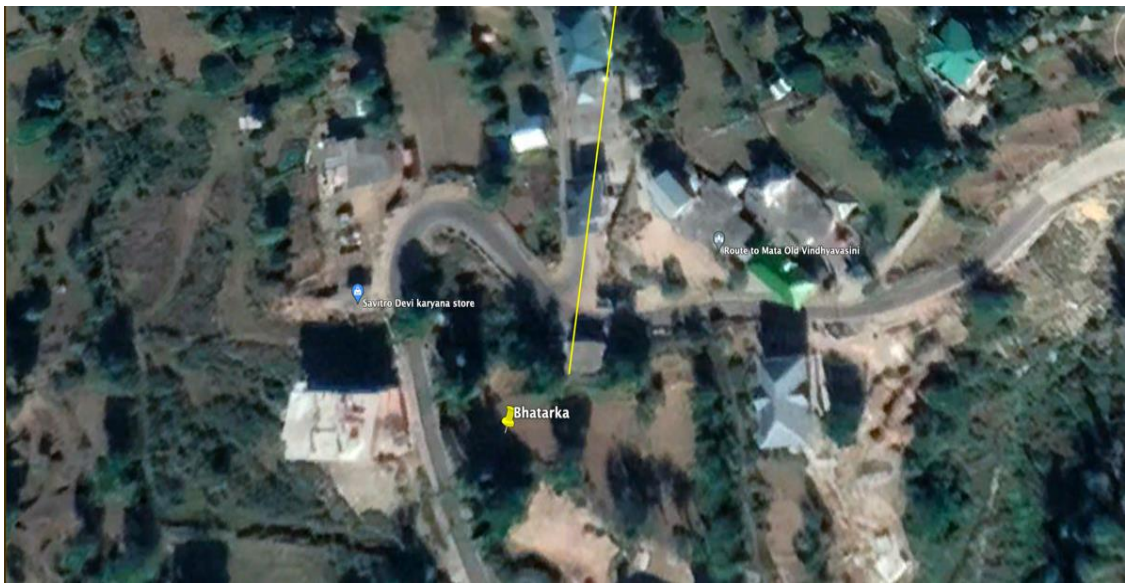
Phase – I: include construction of Ropeway between Bhatarka to Thathri of approx. 5156 m



Phase – II: include construction of Ropeway between Thathri to Chunja Glacier of approx. 3573 m.



Proposed LTP – At Bhatarka



Coordinates:
Latitude - 32°08'28"N
Longitude - 76°32'36"E

Proposed ITP – At Thathri

Coordinates:
Latitude - 32° 11‘14“N
Longitude - 76°33'01“E

Proposed UTP – At Chunja Glacier

Coordinates:
Latitude - 32°12‘59“N
Longitude - 76°32‘04“ E

Annex-II

(Schedule-A)
(See Clause 3.1.3)

Site for Real Estate Development

The Concessioning Authority shall allocate land of 30,000 sqm at LTP (Bhatarka) for the construction of Hotel, commercial property and for recreational activities; and 20,000 sqm at ITP (Thathri) for the development of recreational activities. The Concessionaire will have the liberty to decide details of Hotel, commercial and recreational activities at LTP and ITP, however, he will be required to submit the proposal for the same to the Concessioning Authority for approval.

SCHEDULE – B

(See Clause 2.1)

DEVELOPMENT OF THE ROPEWAY

1. Development of the Ropeway

Development of the ropeway shall include construction of the XXX Ropeways as describedin this Schedule-B and in Schedule-C.

2. Ropeway

2.1 Ropeway shall include construction of the XXX Ropeway as described in Annex-I of this Schedule-B and Schedule-C.

2.2 Ropeway shall be completed by the Concessionaire in conformity with the Specificationsand Standards set forth in Annex-I of Schedule-D.

3. Real Estate Development

3.1 Real Estate Development shall be undertaken in accordance with and subject to the termsand conditions specified in Annex-II of this Schedule-B.

3.2 Real Estate Development shall be undertaken and completed by the Concessionaire in conformity with the Specifications and Standards set forth in Schedule-D.

Annex - I

(Schedule-B)

Description of Ropeways

1. Length of the Ropeways

1.1 The XXX Ropeway shall be 8.73 Km in length.

1.2 The XXX Ropeway shall be designed to a capacity of 1200 PPHPD.

1.3 The XXX Ropeway shall be constructed as briefly described below:

Following are the basic assumptions for the project as envisaged by the Authority.

Particular	**Phase – I - MGD**	**Phase II – 3 S System**
Number of towers:	28	8
Elevation Difference	887 m	1100 m
Cabin distance on line	168 m	588 m
Station speed	0.2 m/s	0.2 m/s
Average Line speed	7 m/s	7 m/s
No. of cabins	69 (8-seater)	15 (28-seater)
Cabin capacity	8	28
Total Trip Time	12.3 min	8.5 min
Working period for ropeway	350 days	350 days
Hourly Capacity	1200 PPHPD	1200 PPHPD

2. Project Facilities

Project Facilities shall be constructed in conformity with Schedule-C.

3. Specifications and Standards

The XXX Ropeway shall be constructed in conformity with the Specifications andStandards specified in Annex-I of Schedule-D.

Annex - II

(Schedule-B)

Description of Real Estate Development

The Concessioning Authority shall allocate land of 30,000 sqm at LTP (Bhatarka) for the construction of Hotel, commercial property and for recreational activities; and 20,000 sqm at ITP (Thathri) for the development of recreational activities. The Concessionaire will have the liberty to decide details of Hotel, commercial and recreational activities at LTP and ITP, however, he will be required to submit the proposal for the same to the Concessioning Authority for approval.

[Note 1: The terms and conditions of Real Estate Development will be decided upon submission of the proposal by the Concessionaire.]

SCHEDULE – C

(See Clause 2.1)

PROJECT FACILITIES

1 Project Facilities

The Concessionaire shall construct the Project Facilities in accordance with the provisions of this Agreement.

2 Project Facilities for XXX Ropeway

Project Facilities forming part of the XXX Ropeway and to be completed on or before the Project Completion Date have been described in Annex-I of this Schedule-C.

Annex - I

(Schedule-C)

Project Facilities for XXX Ropeway

1 Project Facilities

The Concessionaire shall construct the Project Facilities described in this Annex-I to formpart of the XXX Ropeway. The Project Facilities shall include:

(a) Ticketing counters/booths;

(b) ticket vending machines;

(c) pedestrian facilities;

(d) toilets;

(e) tree plantation;

(f) facilities for disabled;

(g) lifts at Stations;

(h) public address system at Stations;

(i) public information systems at Stations;

(j) refreshment facilities at Stations;

(k) public access telephones; and

(l) others (to be specified)].

2 Description of Project Facilities

Each of the Project Facilities is briefly described below:

(a) Ticketing Counters/Booths

Adequate number of Ticketing Counters/Booths/Ticket vending machines shall be provided at all Stations in accordance with Good Industry Practice, so that waiting for commuters does not exceed 2 (two) minutes.

(b) Toilets

Toilets shall be provided separate for male and female and differently abled passengers.

(c) Passenger Lifts at stations

Passengers Lifts shall be provided at stations for the use of passengers including the Differently abled person. These shall be located at prominent locations for easy identification and duly marked.

(d) Public address system (PAS) at stations

Public Address system shall be provided at all terminals for making all public announcements for information and guidance of passengers /public.

(e) Public Information System at stations

Public Information System shall be provided at terminals at prominent location(s) for guidance of the commuters.

(f) Public Access Telephone

Public access telephones shall be provided at all stations

(g) Staircases at stations

Staircases shall be provided at all stations for the use of passengers/commuters. The staircases shall be located at prominent places and with easy accessibility.

(h) Advanced Safety equipment for safety of commuters

Following advanced equipment for safety of commuters shall be provided at each station and other key installations:

(i) Baggage screening devices employing multiple technologies in a single unit and operating with multiple energy levels, capable to identify organic, explosives and metallic threats on independent screens, respectively;

(ii) Highly sensitive hand-held devises capable of explosive detection and material identification.

(i) **The Pedestrian facility**

For the convenience of the pedestrians signages should be installed at prominent location. The pathway for pedestrians should be kept obstacle free and free from any hindrance. Ramps should be created for the free movement of wheel chairs etc. for differently abled persons. The refreshment facility should be planned & created in such a manner that it does not obstruct the operation and maintenance of the Ropeway system important services and facilities and the movement of the passengers.

SCHEDULE – D

(See Clause 2.1)

SPECIFICATIONS AND STANDARDS

1 Ropeways

The Concessionaire shall comply with the Specifications and Standards set forth in Annex-I of this Schedule-D for construction of the XXX Ropeways.

2. Real Estate Development shall be undertaken in accordance with Applicable Laws, GoodIndustry Practice and the provisions of building construction codes widely followed in India.

[**Note 1**: The Authority shall prepare a "**Manual of Specifications and Standards for the XXX Ropeway**". Only the basic/fundamental requirements of design and construction shall be laid down in the manual, and greater emphasis shall be placed on prescribing the output specifications that have a direct bearing on the level and quality of service for Users.The manual shall be published and applied to the ropeway by reference hereunder. This would remove the element of uncertainty in project design and help in laying down cost- effective specifications and standards across the country.]

Annex - I

(Schedule-D)

Specifications and Standards for the Ropeway

1 Manual of Specifications and Standards to apply

Subject to the provisions of Paragraph 2 of this Annex-I, the ropeway shall conform to theManual of Specifications and Standards for the XXX Ropeway published by [the Authority] (An authenticated copy of the manual has been provided to the Concessionaireas part of the Bid Documents.

2 Deviations from the Manual

Notwithstanding anything to the contrary contained in the aforesaid manual, the following Specifications and Standards shall apply to the ropeway, and for purposes of this Agreement, the aforesaid manual shall be deemed to be amended to the extent set forth below:]

[**Note 1**: Deviations from the aforesaid manual shall be listed out here. Such deviations shall be specified only if they are considered essential in view of project-specific requirements.]

SCHEDULE –E

(See Clause 4.1.3)

APPLICABLE PERMITS

1 Applicable Permits

1.1 The Concessionaire shall obtain, as required under the Applicable Laws, the following Applicable Permits on or before the Appointed Date, save and except to the extent of a waiver granted by the Authority in accordance with Clause 4.1.3 of the Agreement.

Unless otherwise specified in this Agreement, Applicable Permits, if any, relating to environmental protection and forest conservation clearance with respect to XXX Ropeways, excluding theReal Estate Development, shall have been procured by the Authority as a Condition Precedent.

Sr.No.	Description
	Approvals Required
1.	No Objection Certificate from the State Government.
2.	Consent to Establish and Consent to Operate under the Air (Prevention and Control of Pollution) Act, 1981 and Water (Prevention and Control of Pollution) Act, 1974 from State Pollution Control Board (State and Centre).
3.	Compliance under the Building and Other Construction Workers (Regulationof Employment and Conditions of Service) Act, 1996.
4.	Forest and Environment clearance from Ministry of Environment and Forest.
5.	No-Objection certificate from relevant panchayat in whose territorial limitsthe project is located, if applicable.
6.	Clearance of fire safety standards and protection apparatus and system underthe Factories Act, 1948, and standards mandated by the local fire department,if applicable from Chief Inspector of Factories or any other designatedauthority appointed.
7.	Compliance under Maternity Benefit Act, 1961.
8.	License for usage and storage of fuel oil storage tank, pressurized vessels, explosive and inflammable liquids, gases and chemicals under (a) ExplosivesAct, 1884 read with Explosives Rules, 2008 and Gas Cylinder Rules, 2004; and (b) Petroleum Act, 1934 read with Petroleum Rules, 2002, if applicable from Chief Controller of Explosives, GoI, if applicable.
9.	Approval under the Electricity Act 2003 for electrical installations and worksform Chief Electrical Inspector.
10.	Other facilitation that could be obtained from the nodal agency is statutory clearances from Govt. Departments/Agencies, Evacuation approval from State Transmission Utility (STU), Connectivity to the substation of STU, clearances from State Pollution Control Board (SPCB), whenever feasible.
11.	Certificate of Registration from the labour department issued under the Inter-State Migrant Workmen (Regulations of Employment and Conditions of Services) Act, 1979 in relation to employment of migrant workmen.
12.	Registration under Section 7 of Contract Labour (Regulation and Abolition)Act, 1970.
13.	Registration under Employees Provident Fund and Miscellaneous ProvisionsAct, 1952.
14.	Authorization for management and handling of hazardous waste underHazardous

Sr.No.	Description
	Waste (Management, Handling & Transboundary Movement) Rules, 2016.
15.	Registration under Employee State Insurance Act, 1948.
16.	NOC for height clearance from directorate of air traffic management, Airport Authority of India when project lies within 20Kms radius of air strips/funnel.
17.	Approval under Ancient Monuments and Archaeological Sites and Remains Act, 1958 with subsequent amendments

1.2 Applicable Permits, if any, relating to environmental protection and conservation during the development of the XXX Ropeway, excluding the Real Estate Development, shall have been procured by the Authority [as a Condition Precedent].

SCHEDULE –F

(See Clause 9.1)

PERFORMANCE SECURITY

The Chairman,
Authority

WHEREAS:

(A) …….. (the "Concessionaire") and The Department of Tourism/Ministry of Tourism including Agencies Urban Transport/Urban Local Body, XXX State (the "**Authority**") have entered into a Concession Agreement dated.....(the

"**Agreement**") whereby the Authority has agreed to the Concessionaire undertaking XXX Ropeway on design, build, finance, operate and transfer (the "**DBFOT**") basis, subject to and in accordance with the provisions of the Agreement.

(B) The Agreement requires the Concessionaire to furnish a Performance Security to the Authority in a sum of Rs. ***** cr. (Rupees ***** crore) (the "Guarantee Amount") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).

(C) We, ……... through our Branch at ……. (the "**Bank**") have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirmsas follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Concessionaire's obligations during the Construction Period, under andin accordance with the Agreement, and agrees and undertakes to pay to the Authority, uponits mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authoritybeing required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.

2. A letter from the Authority, under the hand of an Officer not below the rank of Deputy Secretary, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due andfaithful performance of its obligations during the Construction Period under the Agreementand its decision that the Concessionaire is in default shall be final, and binding on the Bank,notwithstanding any differences between the Authority and the Concessionaire, or any Dispute between them pending before any court, tribunal, arbitrators or any other authorityor body, or by the discharge of the Concessionaire for any reason whatsoever.

3. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bankwere the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.

4. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.

5. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreementor to extend the time or period for the compliance with, fulfilment and/ or performance ofall or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable bythe Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities availableto the Authority, and the Bank shall not be released from its liability and obligation underthese presents by any exercise by the Authority of the liberty with reference to the mattersaforesaid or by reason of time being given to the Concessionaire or any other forbearance,indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.

6. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Concessionaire under the Agreement.

7. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the earlier of the 1st (first) anniversary of the Appointed Date or compliance of the conditions specified in paragraph 8 below and unless a demand or claim in writing is madeby the Authority on the Bank under this Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

8. The Performance Security shall cease to be in force and effect when the Concessionaire shall have expended on Project construction an aggregate sum not less than 20% (twenty per cent) of the Total Project Cost which is deemed to be Rs.*** cr. (Rupees ***** crore)for the purposes of this Guarantee, and provided the Concessionaire is not in breach of thisAgreement. Upon request made by the Concessionaire for release of the Performance Security along with the particulars required hereunder, duly certified by a statutory auditorof the Concessionaire, the Authority shall release the Performance Security forthwith.

9. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sentby post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall besufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.

10. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of one year and six months from the date hereof or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

Signed and sealed this _____ day of _____, 20_____at _____

SIGNED, SEALED AND DELIVERED

For and on behalf ofthe BANK by:

(Signature)
(Name)
(Designation)
(Code Number)
(Address)

NOTES:

(i) The bank guarantee should contain the name, designation and code number of the officer(s)signing the guarantee.

The address, telephone number and other details of the Head Office of the Bank as well as of issuingBranch should be mentioned on the covering letter of issuing Branch.

SCHEDULE –G

(See Clause 12.1)

PROJECT COMPLETION SCHEDULE

1. Scheduled Date

1.1 The Scheduled Date shall occur on the completion of three years from the Appointed Date. On or before the Scheduled Date, the Concessionaire shall have completed the XXX Ropeway in accordance with this Agreement.

2. Extension of period

Upon extension of the Scheduled Date, as the case may be, under and in accordance with the provisions of this Agreement, the ProjectCompletion Schedule shall be deemed to have been amended accordingly.

SCHEDULE –H

(See Clause 12.2)

DRAWINGS

1. Drawings

In compliance of the obligations set forth in Clause 12.2 of this Agreement, the Concessionaire shall furnish to the Independent Engineer, free of cost, all Drawings listedin Annex-I of this Schedule-H.

2. Additional drawings

If the Independent Engineer determines that for discharging its duties and functions underthis Agreement, it requires any drawings other than those listed in Annex-I, it may by noticerequire the Concessionaire to prepare and furnish such drawings forthwith. Upon receivinga requisition to this effect, the Concessionaire shall promptly prepare and furnish such drawings to the Independent Engineer, as if such drawings formed part of Annex-I of thisSchedule.

Annex - I

(Schedule-H)

List of Drawings

[Note: The Authority shall describe in this Annex-I, all the Drawings that the Concessionaire isrequired to furnish under Clause 12.2.]

[The list shall be in two parts, namely, Part A specifying the Drawings for the XXX Ropeway andPart B specifying the Drawings for System Augmentation.]

SCHEDULE – I

SELECTION OF INDEPENDENT ENGINEER

(See Clauses 24.1 and 24.2)

1. Selection of Independent Engineer

1.1 The provisions of Part II of the Standard Bidding Documents for Consulting Assignments. Time Based (Volume V) issued by the Ministry of Finance, GOI in July, 1997 or any substitute thereof shall apply, *mutatis mutandis,* for invitation of bids and evaluation thereof save as otherwise provided herein.

1.2 The Authority shall invite expressions of interest from consulting engineering firms or bodies corporate to undertake and perform the duties and functions set forth in Schedule -R and thereupon shortlist technically qualified firms in accordance with pre-determined criteria. The Authority shall convey the aforesaid list of firms to the Concessionaire for scrutiny and comments, if any. The Concessionaire shall be entitled to scrutinise the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 15 (fifteen) days of receiving the aforesaid list of firms. Upon receipt of such comments, if any, the Authority shall, after considering all relevant factors, finalise and constitute a panel of 6 (six) firms (the "**Panel of Firms**") and convey its decision to the Concessionaire.

1.3 The Authority shall invite the aforesaid firms in the Panel of Firms to submit their respective technical and financial offers, each in a separate sealed cover. All the technical bids so received shall be opened and pursuant to the evaluation thereof, the Authority shall shortlist 3 (three) eligible firms on the basis of their technical scores. The financial bids in respect of such 3 (three) firms shall be opened and the order of priority as among these firms shall be determined on the basis of a weighted evaluation where technical and financial scores shall be assigned respective weights of 80:20.

1.4 In the event that the Authority shall follow the selection process specified in the Model RFP for selection of Technical Consultant, as published by the Ministry of Finance, the selection process specified in this Schedule – I shall be deemed to be substituted by the provisions of the said Model RFP and the Concessionaire shall be entitled to scrutinize the relevant records forming part of such selection process.

2. Fee and expenses

2.1 In determining the nature and quantum of duties and services to be performed by the Independent Engineer during the Development Period and Construction Period, the Authority shall endeavour that payments to the Independent Engineer on account of fee and expenses do not exceed [1% (one per cent)] of the Total Project Cost, including Equity Support, if any. Payments not exceeding such [1% (one per cent)] shall be borne equally by the Authority and the Concessionaire in accordance with the provisions of this Agreement and any payments in excess thereof shall be borne entirely by the Authority.

2.2 The nature and quantum of duties and services to be performed by the Independent Engineer during the Operation Period shall be determined by the Authority in conformity with the provisions of this Agreement and with due regard for economy in expenditure. All payments made to the Independent Engineer on account of fee and expenses during the

Operation Period, including the construction of system augmentation, shall be borne equally by the Authority and the Concessionaire.

3. Selection every three years

3.1 No later than 3 (three) years from the date of appointment of the Independent Engineer, in accordance with the provisions of Paragraph 1 of this Schedule-I, the Authority shall engage another firm in accordance with the criteria set forth in this Schedule-I.

4. Appointment of government entity as Independent Engineer

4.1 [Notwithstanding anything to the contrary contained in this Schedule - I, the Authority mayin its discretion appoint a government-owned entity as the Independent Engineer; providedthat such entity shall be a body corporate having as one of its primary function the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government-owned entity which is owned or controlled by the Authority shall not be eligible for appointment as an Independent Engineer.]

(Annex-1)

I. TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1. Scope

1.1 These Terms of Reference for the Independent Engineer (the "**TOR**") are being specified in accordance with the Concession Agreement dated ..... (the "**Agreement**"), which

has been entered into between the Authority and.....(the "**Concessionaire**")

for XXX Ropeway at ..... corridor in city of..... on design, build, finance, operate and transfer (the "**DBFOT**") basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

1.2 This TOR shall apply to construction, operation and maintenance of the XXX Ropeway, and shall apply, *mutatis mutandis*, to system augmentation thereof.

The TOR for the appointment of the Independent Engineer will be as follows:

2. Definitions and Interpretation

2.1 The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.

2.2 References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.

The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, mutatis mutandis, to this TOR.

3. Role and functions of the Independent Engineer

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

(i) review of the Drawings and Documents as set forth in Paragraph 4;

(ii) review, inspection and monitoring of Construction Works as set forth in Paragraph5;

(iii) review, inspection and testing of rolling stock as set forth in Paragraph 5;

(iv) conducting Tests on completion of construction and issuing Completion/ Provisional Certificate as set forth in Paragraph 5;

(v) review, inspection and monitoring of O&M as set forth in Paragraph 6;

(vi) review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;

(vii) determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;

(viii) determining, as required under the Agreement, the period or any extension thereof,for performing any duty or obligation;

(ix) assisting the Parties in resolution of disputes as set forth in Paragraph 9; and

(x) undertaking all other duties and functions in accordance with the Agreement.

3.2 The role and functions of the Independent Engineer shall not include construction works comprising the Real Estate Development.

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

4 Development Period

4.1 During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data, including the geo-technical and hydrological investigations, characteristics of materials, topographical surveys and traffic surveys. The Independent Engineer shall complete such review and send its comments/observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.

4.2 The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.

4.3 The Independent Engineer shall review the Drawings sent to it by the Safety Consultant in accordance with Schedule-M and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.

4.4 The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.

4.5 The Independent Engineer shall review the detailed design, manufacturing, installation, testing and commissioning plans for the XXX Ropeway sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.

4.6 Upon reference by the Authority, the Independent Engineer shall review and comment on the EPC contract or any other contract for construction, operation and maintenance of the XXX Ropeway and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

5. Construction Period

5.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.

5.2 The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.

5.3 The Independent Engineer shall inspect the Construction Works and electromechanical equipment (if any) once every month, preferably after receipt of the monthly progress report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "**Inspection Report**") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works and

electromechanical with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the XXX Ropeway or the deficiencies in the electromechanical equipment.The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

5.4 The Independent Engineer may inspect the XXX Ropeway more than once in a month if any lapses, defects or deficiencies require such inspections.

5.5 For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. For purposes of this Paragraph 5.5, thetests specified in the IRC Special Publication-47 {Guidelines on Quality systems for Road Bridge (Plain, Reinforced, Pre-stressed and Composite Concrete)} and other relevant Manuals specified by the Authority in relation to structures, buildings, track, equipment and rolling stock (the "**Quality Control Manuals**") or any modification/substitution thereof shall be deemed to be tests conforming to Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionairefor ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.

5.6 The sample size of the tests, to be specified by the Independent Engineer under Paragraph5.5, shall comprise 10% (ten per cent) of the quantity or number of tests prescribed for each category or type of tests in the Quality Control Manuals; provided that the Independent Engineer may, for reasons to be recorded in writing, increase the aforesaid sample size by up to 10% (ten per cent) for certain categories or types of tests.

5.7 The timing of tests referred to in Paragraph 5.5, and the criteria for acceptance/ rejection of their results shall be determined by the Independent Engineer in accordance with the Quality Control Manuals. The tests shall be undertaken on a random sample basis and shallbe in addition to, and independent of, the tests that may be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice

5.8 In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the XXX Ropeway is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which COD shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.

5.9 If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.

5.10 In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.

5.11 If Suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.

5.12 The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-I and issue a Completion Certificate.

5.13 For carrying out its functions under this Paragraph 5.10 and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-I.

5.14 Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire. The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.

6 Operation Period

6.1 In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.

6.2 The Independent Engineer shall review the annual Maintenance Programme furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance Programme.

6.3 The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.

6.4 The Independent Engineer shall inspect the XXX Ropeway, including carriers and Stations, once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Key Performance Indicators, Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the XXX Ropeway. The Independent Engineer shall send a copy of its O&M Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

6.5 The Independent Engineer may inspect the XXX Ropeway more than once in a month, if any lapses, defects or deficiencies require such inspections.

6.6 The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the XXX Ropeway is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf. In respect of any defect or deficiency referred to in Paragraph 3 of Schedule - L, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.

6.7 The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.

6.8 The Independent Engineer shall examine the request of the Concessionaire for closure of the XXX Ropeway for undertaking maintenance/repair thereof, keeping in view the need to minimize disruption in traffic and the time required for completing such maintenance/repair in accordance with Good Industry Practice. It shall grant permission with such modifications, as it may deem necessary, within 3 (three) days of receiving a request from the Concessionaire. Upon expiry of the permitted period of closure, the Independent Engineer shall monitor the re-opening of

such rope(s), and in case of delay, determine the Damages payable by the Concessionaire to the Authority under Clause 17.7.

6.9 The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in Clause 19.4.

6.10 In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the XXX Ropeway, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.

6.11 In Independent Engineer shall undertake traffic sampling, as and when required by the Authority, under and in accordance with Article 23 and Schedule – O.

7. Audit of Fee collection system

7.1 The Independent Engineer shall, at least once every month, conduct an audit of the workingof the automatic fee collection system installed by the Concessionaire, to check its accuracy in recording the entry and exit of Users and in recording the fee.

8. Termination

8.1 At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the XXX Ropeway for determining compliance by the Concessionaire with the Divestment Requirements set forth in Clause 39.1 and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of theXXX Ropeway is such that its repair and rectification would require a larger amount thanthe sum set forth in Clause 40.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.

8.2 The Independent Engineer shall inspect the XXX Ropeway once in every 15(fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire under Article 43, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Authority and the Concessionaire.

9. Determination of costs and time

9.1 The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement. The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it underthe Agreement.

10. Assistance in Dispute resolution

10.1 When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement. In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineershall specify such meaning, scope and nature by issuing a reasoned written statement relying on Good Industry Practice and authentic literature.

11. Other duties and functions

11.1 The Independent Engineer shall perform all other duties and functions specified in the Agreement.

12. Miscellaneous

12.1 The Independent Engineer shall notify its programme of inspection to the Authority and tothe Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.

12.2 A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all thetest results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.

12.3 The Independent Engineer shall obtain and the Concessionaire shall furnish in 2 (two) copies thereof, all communications and reports required to be submitted, under thisAgreement, by the Concessionaire to the Independent Engineer, whereupon the Independent Engineer shall send 1 (one) of the copies to the Authority along with its comments thereon.

12.4 The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.

12.5 Upon completion of its assignment hereunder, the Independent Engineer shall duly classifyand list all Drawings, Documents, results of tests and other relevant records, and hand themover to the Authority or such other person as the Authority may specify and obtain writtenreceipt thereof. Two copies of the said documents shall also be furnished in editable digitalformat or in such other medium or manner as may be acceptable to the Authority.

SCHEDULE – J

(See Clause 14.1.2)

TEST

1 Schedule for Tests

1.1 The Concessionaire shall, no later than 60 (sixty) days prior to the likely completion of theXXX Ropeway, notify the Independent Engineer and the Authority of its intent to subjectthe XXX Ropeway to Tests, and no later than 7 (seven) days prior to the actual date of Tests, furnish to the Independent Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of the XXX Ropeway.

1.2 The Concessionaire shall notify the Independent Engineer of its readiness to subject the XXX Ropeway to Tests at any time after 7 (seven) days from the date of such notice, andupon receipt of such notice, the Independent Engineer shall, in consultation with the Concessionaire, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Independent Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conductedin accordance with Article 14 and this Schedule-J.

2 Tests

2.1 The Independent Engineer shall conduct, or cause to be conducted, the Tests in accordance with Applicable Law, Good Industry Practice and Specifications and Standards.

SCHEDULE – K

(See Clause 14.2 & 14.3)

COMPLETION CERTIFICATE

1. I/We,.....(Name of the Independent Engineer), under and in accordance with the Concession Agreement dated .....(the "**Agreement**"), for development and operation of the XXX Ropeways for ..... corridor in city of ..... on design, build, finance, operate and transfer (the "**DBFOT**") basis, through …… (Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-J of the Agreement have been successfully undertaken to determine compliance of the XXX Ropeway with Specifications and Standards and with the provisions of the Agreement, and I/We am/are satisfied that the XXX Ropeway can be safely and reliably placed in commercial service of the Users thereof.

2. It is certified that, in terms of the aforesaid Agreement, all works forming part of XXX Ropeway have been completed, and the XXX Ropeway is ready for entry into commercial operation on this the …… day of …… 20……

SIGNED, SEALED AND DELIVERED

For and on behalf of INDEPENDENT ENGINEER by:

(Signature)

(Name)
(Designation)
(Address)

PROVISIONAL CERTIFICATE

1 I,..... (Name of the Independent Engineer**)**, under and in accordance with the Concession Agreement dated .....(the "**Agreement**"), for ***ropeway (the "**XXX Ropeway**") on design, build, finance, operate and transfer (the "**DBFO**T") basis through …… (Name of Concessionaire), hereby certify that the Testsspecified in Article 14 and Schedule-J of the Agreement have been undertaken to determinecompliance of the XXX Ropeway with the provisions of the Agreement.

2 Construction Works that were found to be incomplete and/or deficient have been specifiedin the Punch List appended hereto, and the Concessionaire has agreed and accepted that itshall complete and/or rectify all such works in the time and manner set forth in the Agreement. (Some of the incomplete works have been delayed as a result of reasons attributable to the Authority or due to Force Majeure and the Provisional Certificate cannotbe withheld on this account. Though the remaining incomplete works have been delayed as a result of reasons attributable to the Concessionaire,) @ I am satisfied that having regardto the nature and extent of such incomplete works, it would not be prudent to withhold commercial operation of the XXX Ropeway, pending completion thereof.

3 In view of the foregoing, I am satisfied that the XXX Ropeway can be safely and reliably placed in commercial service of the Users thereof, and in terms of the Agreement, the XXXRopeway is hereby provisionally declared fit for entry into commercial operation on this the …… day of …….. 20…...

ACCEPTED, SIGNED, SEALED	SIGNED, SEALED AND
AND DELIVERED	DELIVERED
For and on behalf of	For and on behalf of
CONCESSIONAIRE by:	INDEPENDENT ENGINEER by:

(Signature)(Signature)

(Name and Designation) (Name and (Designation)
(Address)(Address)

SCHEDULE – L

(See Clause 17.2)

PERFORMANCE AND MAINTENANCE REQUIREMENTS

1. Maintenance Requirements

1.1 The Concessionaire shall, at all times, operate and maintain the XXX Ropeway in accordance with the provisions of the Agreement, Applicable Laws and ApplicablePermits. In particular, the Concessionaire shall, at all times during the Operation Period, conform to the maintenance requirements set forth in this Schedule-L (the "**MaintenanceRequirements**").

Performance and Maintenance Requirements

The list of performance and maintenance requirements of key ropeway components to optimize ropeway efficiency during its operational lifetime. Each equipment supplier willprovide service schedule which the Concessionaire will follow for trouble free and safe performance of the ropeway. Checks are recommended for daily, weekly, monthly, quarterly, half yearly, yearly, 3-year, 6-year basis etc.

1. Check the loading and unloading points as well as the access and exit areas and fixthem if need be;

2. Towers: Check the platforms, handrails, catwalks, anemometers, ladders and rope lifting frames for cracks, rust, deformation, correct position or any deviation fromthe standard;

3. Overhead Cables - Signal Cables: Check for any visual deviation in terms of physical damage such as breakage, color deformation, cuts, correct position, overhead cable for oscillations;

4. Lighting Protection Cable inspection as Overhead Cables at Serial No.3;

5. Main Gear Box: Follow gear box manufacturers recommendation for maintenance schedule;

6. Universal Shaft: Check for any unusual noise (technician should be trained to differentiate between a normal and abnormal noise during shaft operation);

7. Main Motor: refer to manufacturer's manual schedule of activities;

8. Gear Rim: General check for any physical damage or aberration;

9. Hydraulic Unit for emergency drive / brakes;

10. Service Brake: check for correct functioning by actuating the switch 'EMERGENCY STOP' check stopping distance. Check the brake and hydraulic lines for any leaks;

11. Emergency Brake: Check for correct functioning by actuating the switch 'EMERGENCY STOP' check stopping distance. Check the brake release cylinderand the hydraulic lines for any leaks;

12. Rope Tensioner Hydraulic Unit: check tension on display and visual check for leaks;

13. Drive and Return Bull wheels: Check for any unusual noise, wobble or eccentricityin the motion of the bull wheel, etc.;

14. Bull wheel coupling, positioning monitoring unit, axle position monitoring unit, bearing;

15. Tension Carriage: Check tension carriage position;

16. Grip Opening/Closing Equipment: Check for Normal Operation as per approved manufacturer's process; other components associated with functioning of the gripssuch as grip fault before launch limit switch, not open limit switch, grip gauge, grip operating lever fault, electronic grip force testing device;

17. Outer Guide Rail: Functional check of the dampened outer guide rail;

18. Tyre Conveyors: General inspection as per schedule of maintenance;

19. Hydraulic Lifting Unit: Check for leaks and loose pipe connections;

20. Clutch/Brake Combination/Safety Clutch: Check the clutch/brakecombination/safety clutch for correct functioning;

21. Line components such as rope, sheave assemblies, hangar, grip mechanism, tacho drive, counting sheave, haul rope grounding, towers, overhead cables, signal cables, lightning protection rope, gear rim, rope tensioner hydraulic unit, power take off (PTO) drive, break fork switch etc. including all safety features listed in Schedule M to be checked and technical specifications of the equipment suppliers;

22. Door opening closing of gondolas, access control barriers and passenger control systems; and

23. Magnetic Particle Testing of components to ensure safety of the operations.

1.2 The Concessionaire shall repair or rectify any defect or deficiency set forth in Paragraph 2of this Schedule-L within the time limit specified therein and any failure in this behalf shallconstitute a breach of the Agreement. Upon occurrence of any breach hereunder, the Authority shall be entitled to recover Damages as set forth in Clause 17.7 of the Agreement,without prejudice to the rights of the Authority under the Agreement, including Termination thereof.

2. Repair/rectification of defects and deficiencies

The obligations of the Concessionaire in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies specified in Annex - I of thisSchedule - L within the time limit set forth therein. The Concessionaire shall at all times maintain an adequate inventory of spares and consumables to meet the Maintenance Requirements.

3. Other defects and deficiencies

3.1 In respect of any defect or deficiency not specified in Annex - I of this Schedule-L, the Concessionaire shall undertake repair or rectification in accordance with Good Industry Practice and within the time limit specified by the Independent Engineer.

3.2 In respect of any defect or deficiency not specified in Annex - I of this Schedule-L, the Independent Engineer may, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Concessionaire within the time limit specified by the Independent Engineer.

4. Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-L, if the nature and extent of any defect or deficiency justifies more time for its repair or rectification than thetime specified herein, the Concessionaire shall be entitled to additional time in conformitywith Good Industry

Practice and Specification and Standards. Such additional time shall be determined by the Independent Engineer and conveyed to the Concessionaire and the Authority with reasons thereof.

5. Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Schedule-L, if any defect, deficiency or deterioration in the XXX Ropeway poses a hazard to safety or risk of damageto property, the Concessionaire shall promptly take all reasonable measures for eliminatingor minimizing such danger.

6. Daily Inspection by the Concessionaire

The Concessionaire shall, through its engineer, undertake a daily visual inspection of the XXX Ropeway and maintain a record thereof in a register to be kept in such form and manner as the Independent Engineer may specify. Such record shall be kept in safe custody of the Concessionaire and shall be open to inspection by the Authority and the IndependentEngineer at any time during office hours.

7. Divestment Requirements

All defects and deficiencies specified in this Schedule-L shall be repaired and rectified bythe Concessionaire so that the XXX Ropeway conforms to the Maintenance Requirementson the Transfer Date.

8. Display of Schedule – L

The Concessionaire shall display a copy of this Schedule-L at every station along with the Complaint Register stipulated in Article 45.

Annex - I

(Schedule-L)

Repair/Rectification of Defects and Deficiencies

Any deficiency leading to stoppage of XXX Ropeway shall be rectified in accordance with Applicable Laws, Good Industry Practice and Specifications and Standards.

SCHEDULE-M

(See Clause 18.1)

SAFETY REQUIREMENTS

1 Guiding principles

1.1 Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents on the XXX Ropeway, irrespective of the person(s) at fault.

1.2 Users of the XXX Ropeway include staff of the Concessionaire and its contractors workingon the XXX Ropeway.

1.3 Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same,and implementation of appropriate remedial measures.

1.4 Safety Requirements include measures associated with safe movement, safety management, safety equipment, fire safety, enforcement and emergency response, with particular reference to the safety guidelines specified in Annex - I of this Schedule - M.

1.5 The XXX Ropeway shall be especially designed, operated and serviced in such a way soas to:

(a) eliminate and reduce risks by means of design and construction features;

(b) implement necessary measures to protect against risks that cannot be completely eliminated; and

(c) lay down precautions to be taken to avoid any risks.

2 Obligations of the Concessionaire

The Concessionaire shall abide by the following insofar as they relate to safety of the Users:

(a) Applicable Laws and Applicable Permits;

(b) provisions of this Agreement;

(c) relevant standards/Guidelines addressing highest passenger safety parameters; and

(d) Good Industry Practice.

3 Safety measures during Development Period

3.1 No later than 90 (ninety) days fr om the date of this Agreement, the Authority shall appointa Safety Consultant for carrying out safety audit at the design stage of the Project.

3.2 The Concessionaire shall provide to the Safety Consultant, in four copies, the relevant drawings containing the design details that have a bearing on safety of Users (the "**SafetyDrawings**"). Such design details shall include ropeway alignments; horizontal and verticalforces, layouts of ropeway profile, foundation drawings, inertia forces, bending moments in global coordinates, tower loads, sheave loads, effects of forces caused by winds, snow, ice or any other external factors, Station forces and design, people movement and safety procedures at Stations along with other incidental or consequential information. The Safety Consultant shall review the design details and forward 3 (three) copies of the SafetyDrawings with its recommendations, if any, to the Independent Engineer who shall record its comments, if any, and forward one copy each to

the Authority and the Concessionaire.

3.3 The design and equipment details shall be compiled, analysed and used by the Safety Consultant for evolving a package of recommendations consisting of safety related measures for the XXX Ropeways. The safety audit shall be completed in a period of 3 (three) months and a report thereof (the "**Safety Report**") shall be submitted to the Authority, in 5 (five) copies. One copy each of the Safety Report shall be forwarded by theAuthority to the Concessionaire and the Independent Engineer forthwith.

3.4 The Concessionaire shall endeavour to incorporate the recommendations of the Safety Report in the design of the XXX Ropeways, as may reasonably be required in accordancewith Applicable Laws, Applicable Permits, Manuals and Guidelines of the Authority, Specifications and Standards, and Good Industry Practice. If the Concessionaire does not agree with any or all of such recommendations, it shall state the reasons thereof and conveythem to the Authority forthwith. In the event that any or all of the works and services recommended in the Safety Report fall beyond the scope of Schedule-C, Schedule-D or Schedule-E, the Concessionaire shall make a report thereon and seek the instructions of theAuthority for funding such works in accordance with the provisions of Article 18.

3.5 Without prejudice to the provisions of Paragraph 4, the Concessionaire and the Independent Engineer shall, within 15 (fifteen) days of receiving the Safety Report, send their respective comments thereon to the Authority, and no later than 15 (fifteen) days of receiving such comments, the Authority shall review the same along with the Safety Reportand by notice direct the Concessionaire to carry out any or all of the recommendations contained therein with such modifications as the Authority may specify; provided that anyworks or services required to be undertaken hereunder shall be governed by the provisionsof Article 18.

4 Safety measures during Construction Period

4.1 A Safety Consultant shall be appointed by the Authority, no later than 6 (six) months priorto the expected Project Completion Date, for carrying out a safety audit of the completed Construction Works.

4.2 The Safety Consultant shall study the Safety Report for the Development Period and inspect the XXX Ropeway to assess the adequacy of safety measures. The Safety Consultant shall complete the safety audit within a period of 4 (four) months and submit aSafety Report recommending a package of additional safety measures, if any, that are considered essential for reducing accident hazards on the XXX Ropeway. Such recommendations shall be processed, *mutatis mutandis*, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule-M.

4.3 The Concessionaire shall make adequate arrangements during the Construction Period forthe safety of workers and road users in accordance with Applicable Laws and Good Industry Practice for safety in construction zones and notify the Authority and the Independent Engineer about such arrangements.

4.4 Layout, speed, distance between vehicles

4.4.1 The XXX Ropeways shall be designed taking into account the characteristics of the terrainand its surroundings i.e., atmospheric and meteorological conditions.

4.4.2 Sufficient distance shall be maintained laterally and vertically between vehicles, towing devices, tracks, cables, etc., and possible structures and obstacles located in the vicinity either on the ground or in the air, taking account of the vertical, longitudinal and lateral movement of the cables and vehicles or of the towing devices under the most adverseforeseeable operating conditions.

4.4.3 The maximum distance between vehicles and ground shall take account of the nature of the XXX Ropeway, the type of vehicles and the rescue procedures. In the case of open cars, it shall also take account of the risk of fall as well as the psychological aspects associated with the

distance between vehicles and ground.

4.4.4 The maximum speed of the vehicles or towing devices, the minimum distance between thetwo and their acceleration and braking performance shall be decided in a way to ensure thesafety of Users and safe operation of the XXX ropeways.

4.5 Cables and their supports

4.5.1. All measures shall be taken in line with the latest technological developments:

(a) to avoid cables or their attachments breaking;

(b) to cover their minimum and maximum stress values;

(c) to ensure that they are safely mounted on their supports and prevent derailment; and

(d) to enable them to be monitored.

4.5.2. Measures to be taken to ensure that cables can be retrieved in case of any cable derailementand that the XXX Ropeways can be shut down without any risks to any persons in the eventof such derailment.

4.6. Mechanical installations

4.6.1. Drives

The drive system of the XXX Ropeways shall be of a suitable performance and capability,adapted to the various operating systems and modes.

4.6.2. Standby drive

The XXX Ropeways shall have a standby drive with an energy supply which isindependent of that of the main drive system.

4.6.3. Braking

4.6.3.1. In an Emergency it shall be possible to shut down the XXX Ropeways and/or the vehiclesat any moment, under the most unfavourable conditions in terms of authorised load and pulley adhesion during operation. The stopping distance shall be as short as the security ofthe XXX Ropeways dictates.

4.6.3.2. Deceleration values shall be within adequate limits fixed in such a way as to ensure both the safety of the Users and the satisfactory functioning of the vehicles, cables and other parts of the XXX Ropeways.

4.6.3.3. In all XXX Ropeways there shall be 2 (two) or more braking systems, each capable of bringing the it to a halt, and coordinated in such a way that they automatically replace theactive system when its efficiency becomes inadequate. The XXX Ropeways' last braking system shall act as close as possible to the traction cable.

4.6.3.4. The XXX Ropeways shall be fitted with an effective clamp and locking mechanism toguard against premature restarts.

4.7 Control devices

The control devices shall be designed and constructed in a way that they are safe and reliable, and able to withstand normal operating stresses and external factors such as humidity, extreme temperatures or electromagnetic interference.

4.8 Communication devices

The Concessionaire to ensure that the operational staff is provided with equipment to communicate with one another and the Users in case of an Emergency

4.9 Vehicles and Towing devices

4.9.1 The fittings of vehicles and towing devices shall be dimensioned and constructed so as notto:

a) damage the cable, or

b) slip, except where slippage does not significantly affect the safety of the vehicle,the towing device or the installation, under the most unfavorable conditions.

4.9.2 Vehicle doors (on cars, carriers) shall be designed and constructed in such a way as to makeit possible to close and lock them. The vehicle floor and walls shall be designed and constructed so as to withstand pressure and loads exerted by Users and operating staff under any circumstances.

4.9.3 The vehicle shall be fitted with the suitable equipment if, for reasons of operational safety,an operator is required on board.

4.9.4 Vehicles and/or towing devices and, in particular, their suspension mechanisms shall be designed and fitted so as to ensure the safety of personnel servicing them in accordance with appropriate rules and instructions.

4.9.5 In the case of vehicles equipped with disconnectable fittings, all measures shall be taken to bring to a halt, without risk to Users or operating staff, at the moment of departure, anyvehicle whose fitting has been incorrectly connected to the cable and, at the moment of arrival, any vehicle whose fitting has not been disconnected, and to prevent the vehicle from falling.

4.9.6 All ropeway installations shall be equipped with an automatic braking device.

4.9.7 Where all risk of derailment of the vehicle cannot be eliminated by other measures, the vehicle shall be fitted with an anti-derailment device which enables the vehicle to be brought to a halt without risk to persons.

4.9.8 Vehicles and/or towing devices shall be designed and fitted out in such a way that under foreseeable operating conditions no passenger or operation personnel can fall out or encounter any other risks i.e., getting stuck in doors, etc.

5 Safety measures during Operation Period

5.1 The Concessionaire shall develop, implement and administer a surveillance and safety programme for Users, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement. This shall be approved by the Safety Consultant after an inspection.

5.2 The Safety Consultant shall establish a Ropeway Safety Management Unit (the "**RSMU**")to be functional on and after COD and designate one of its officers to be in-charge of the RSMU. Such officer shall have specialist knowledge and training in ropeway system safetyby having attended a course conducted by a reputed organisation on the subject.

5.3 The Safety Consultant shall keep a copy of every FIR recorded by the Police with respectto any accident occurring on the XXX Ropeway. In addition, the Safety Consultant shall also collect

data for all cases of accidents not recorded by the Police. The information so collected shall be summarised in the form prescribed by the Authority for this purpose. TheSafety Consultant shall also record the exact location of each accident on a route map. Theaforesaid data shall be submitted to the Authority at the conclusion of every quarter.

5.4 The Safety Consultant shall submit to the Authority before the 31st (thirty first) May of each year, an annual report (in ten copies) containing, without limitation, a detailed listing and analysis of all accidents of the preceding Accounting Year and the measures taken bythe Safety Consultant pursuant to the provisions of Paragraph 6.1 of this Schedule-M for averting or minimising such accidents in future.

5.5 Once in every Accounting Year, a safety audit shall be carried out by the Safety Consultantto be appointed by the Authority. It shall review and analyse the annual report and accidentdata of the preceding year and undertake an inspection of the XXX Ropeway. The Safety Consultant shall complete the safety audit within a period of 1 (one) month and submit a Safety Report recommending specific improvements, if any, required to be made in the XXX Ropeway. Such recommendations shall be processed, *mutatis mutandis*, and acted upon in the manner set forth in Paragraphs 4.3, 4.4 and 4.5 of this Schedule-M.

5.6 The workspace for the construction and operation of the XXX Ropeways shall be designedin such a way so as to prevent trained personnel from any accidents by way of falling. TheSafety Consultant shall provide its appointed personnel with adequate protective gear to prevent workplace accidents.

5.7 Safety in the event of immobilization of the ropeway installation: all technical provisions and measures shall be adopted to ensure that passengers and operating personnel can be brought to safety within a set time appropriate to the type of ropeway installation and its surrounding is immobilized and cannot be restarted quickly.

5.8 Operators' stands and workplaces: Movable part which are normally accessible in the Stations shall be designed, constructed and installed in such a way as to preclude any risksor, where such risks exist, be fitted with protective devices so as to prevent any contact with parts of the ropeway installation which may cause accidents. Those devices shall be of a type that cannot easily be removed or rendered inoperative.

6 Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Paragraph 2 of this Schedule, shall be met in accordance with Article 18, and in particular, the remuneration of the Safety Consultant, safety audit, and costs incidental thereto, shall be met by the Concessionaire.

7 Dimensions

The ropeway installation, the subsystems and all its safety components shall be dimensioned, designed and constructed to withstand, with a sufficient degree of safety, all stresses encountered under all foreseeable conditions, including those which occur when not in operation, and taking account in particular of outside influences, dynamic effects and fatigue phenomena, while complying with the acknowledged rules of design, in particular with regard to the choice of materials.

8 Assembly

8.1 The ropeway installation, the subsystems and all the safety components shall be designed and constructed in such a way as to ensure that they can be safely assembled and put into place.

8.2 The safety components shall be designed as to make assembly mistakes impossible eitheras a result of construction or by means of appropriate markings on the components themselves.

9 Integrity of the Ropeway Installation

9.1 The safety components shall be designed and constructed and be useable in such a way asto ensure that, in every case, their own operational integrity and/or the safety of the ropeway installation is ensured, so that their failure is avoidable and with an acceptable safety margin.

9.2 Safety analysis and Safety Report for Planned Ropeway Installations.

9.2.1 The bidder responsible for the ropeway installation, shall carry out a safety analysis of the planned ropeway installation or have such a safety analysis carried out.

9.2.2 The safety analysis required for each ropeway installation shall:

(a) take into account all modes of operation envisaged;

(b) follow a recognized or established method;

(c) take into account the design parameters and the complexity if the ropewayinstallation in question;

(d) ensure that the design and configuration of the ropeway installation takes accountof the local surroundings and the most adverse situations in order to ensure satisfactory safety conditions;

(e) cover all safety aspects of the ropeway installation and its external factor sin the context of the design, construction and entry into service;

(f) make it possible to identify from past experience risks liable to occur during the operation of the ropeway installation.

9.2.3 The safety analysis shall also cover the safety devices and their effects on the ropeway installation and related subsystems that they bring into action so that the safety devices:

(a) are capable of reacting to an initial breakdown or failure detected so as to remain either in a state that guarantees safety, in a lower operation mode or in a fail-safe state;

(b) are redundant and are monitored; or

(c) are such that the probability of their failure can be evaluated, and their effects areof a standard equivalent to that achieved by safety devices that meet the criteria setout in points (a) and (b).

9.2.4 The safety analysis shall be used to draw up the inventory of risks and dangerous situations,to recommend the measure envisaged to deal with such risks and to determine the list of subsystems and safety components to be incorporated into the ropeway installation.

9.2.5 The result of the safety analysis shall be included in a safety report.

9.3 The safeguards referred to in Clause 10.2 2. Shall apply throughout the period between two scheduled inspections of the competent concerned. The time period for the scheduled inspection of the safety components shall be clearly indicated in the instruction manual.

9.4 Safety components which are incorporated as spare parts shall satisfy the essential safety requirements and the conditions relating to the smooth interaction with the other parts of the ropeway installations.

9.5 Measures shall be taken to ensure that the effects of a fire in the ropeway installation do not endanger the safety of persons.

9.6 Special measures shall be taken to protects ropeway installations and persons from the effects of lightning.

10 Safety Devices

10.1 Any defect in the ropeway installation which could result in a failure endangering safety shall, where practicable, be detected, reported and processed by a safety device. The sameapplies to any normally foreseeable external event which may endanger safety.

10.2 It shall be possible at all times to shut down the ropeway installation manually.

10.3 After the ropeway installation has been shut down by a safety device, it shall not be possibleto restart it unless appropriate action has been taken.

11 Maintainability

The ropeway installation shall be designed and constructed for routine or special maintenance and repair operations and procedures to be carried out safely.

12 Equipment for passengers and operating personnel

12.1 The access to embarkation areas and exit and disembarkation areas and the embarkation and disembarkation of passengers and operating personnel shall be organized with regard to the movement and stopping of vehicles in such a way as to ensure the safety of passengers and operating personnel, in particular in areas where there is a risk of falling.

12.2 It must be possible for children and persons with reduced mobility to use the ropeway installation safely if the ropeway installation is designed for the transport of such persons.

Annex - I

(Schedule-M)

Safety Guidelines

1. Safe movement

1.1. In the design, construction and operation of Stations and ropeway system, particular care shall be taken to ensure safety of Users in entry and exit; while waiting, boarding or alighting; and in moving systems in case of any immobilization. This shall include facilitiesfor safe and efficient evacuation in case of Emergency In particular, ropeways shall be designed and tested for safe movement.

2. System integrity

2.1 In the design of power supply, ropeway, circuits and equipments, particular care shall be taken to minimise the likely incidence of failure.

2.2 All noxious gases, noise emissions and vibrations fall within the prescribed limit set by theMember State in whose territory the ropeway system is installed and should be in accordance with Applicable Law.

3. Safety management

3.1 A safety statement shall be prepared by the Concessionaire once every quarter to bring out clearly the system of management of checks and maintenance tolerances for various assets including carriers, and compliance thereof. The statement shall also bring out the nature and extent of, staff training and awareness in dealing with such checks and tolerances. Two copies of the statement shall be sent to the Independent Engineer within 15 (fifteen) days of the close of every quarter.

4. Safety equipment

4.1 The following equipment shall be provided at every Station:

a. Fire extinguishers and fire alarms at the appropriate locations on the platforms;

b. Two fire extinguishers in the station office;

c. Two stretchers and two standard first aid boxes; and

d. Such other equipment as may be required in conformity with Good IndustryPractice.

4.2 Any defect in the ropeway installation which could result in a failure endangering safety shall, where practicable, be detected, reported and processed by a safety device.

4.3 The ropeway installation shall be designed in a way to ensure that it can be shut down manually

5. Emergency

5.1 A set of emergency procedures shall be formulated to deal with different Emergency situations and the operations staff shall be trained to respond appropriately during emergency through periodic simulated exercises as laid down in a manual for management of disasters (the "**Disaster Management Manual**") to be prepared and published by the Concessionaire prior to COD. The Concessionaire shall provide 5 (five) copies each of the Disaster Management Manual to the Authority and the independent expert no later than 30 (thirty)days prior to COD.

6. Fire safety

6.1 The Concessionaire shall adopt provisions in a combination of the National Fire Protection Association (NFPA) 130 standard & Fire Safety Recommendations for Passenger Ropeway Systems.

6.2 To prevent fire in the passenger areas, the Concessionaire shall use fire resistant materialsin the construction thereof and shall avoid use of materials which are to some extent flammable, or which emit smoke and harmful gases when burning.

6.3 Emergency exit should be accessible without any obstructions and the exit doors should bekept locked in the ordinary course. The exit doors shall be easy to open from inside the Station in case of Emergency.

6.4 Escape routes shall be clearly marked by arrows in the correct direction and no cryptic symbols shall be used. In complying with the provisions of this Clause 6.4, the possibilityof poor visibility due to smoke shall be duly taken into account. All notices and signages shall be uniform and standardized.

7 User safety and information system:

7.1 The Independent Engineer / Safety Consultant shall provide the RSMU with the facilities required for supervising passenger areas and carriers, and shall provide visual informationto Users, both onboard and on the Stations. The Independent Engineer / Safety Consultantshall also provide one way communication to Users at the Stations through a Public Announcement (PA) system. The User call points should be located on all platforms at convenient locations to allow Users to contact the RSMU in emergencies.

7.2 The User information system shall comprise dynamic visual displays and loudspeakers.

SCHEDULE – N

(See Clause 37.4)

VESTING CERTIFICATE

The Chairman, Department of Tourism, XXX State (the **"Authority"**) refers to the Concession Agreement dated ……. (the **"Agreement"**) entered into between the Authority and

……. (the **"Concessionaire"**) for *** ropeway (the **"XXX Ropeway"**) on design, build, finance, operate and transfer (the "**DBFOT**") basis.

The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Clause 37.1 of the Agreement on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interestof the Concessionaire in or about the XXX Ropeway shall be deemed to have vested unto the Authority, free from any Encumbrances, charges and liens whatsoever.

Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Concessionaire to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Concessionaire in any manner of the same.

Signed this ……. day of ……., 20… at …….

AGREED, ACCEPTED AND SIGNED	SIGNED, SEALED AND DELIVERED
For and on behalf of	For and on behalf of
CONCESSIONAIRE by:	AUTHORITY by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
In the presence of:	
1.	2.

SCHEDULE – O

(See Clause 23.2)

TRAFFIC SAMPLING

1 Traffic sampling

The Authority may, in its discretion and at its own cost, undertake traffic sampling, pursuant to Clause 23, in order to determine the actual traffic on the XXX Ropeway. In particular, the Authority may undertake traffic sampling for determining PHPDT. Such traffic sampling shall be undertaken through the Independent Engineer in the manner set forth below or in such manner as the Parties hereto may agree upon.

2 Manual traffic count

The Independent Engineer shall employ the required number of enumerators who shall count, classify and record all the Users as they pass by, and divide the survey into fixed time periods. The count stations shall be located near the Fee collection gates at all s tationsof the XXX Ropeway. The survey shall be conducted continuously for a minimum of 24 (twenty four) hours and maximum of 7 (seven) days at a time. Special surveys may also be undertaken for determining the PHPDT and such surveys may be carried out for upto 4 (four) Peak Hours in a day for a continuous period of 7 (seven) days. The count period shall be 15 (fifteen) minutes with results summarised hourly. All surveys shall be conducted substantially in the manner specified in this Schedule – O or in such manner asthe Parties may agree upon.

3 Automatic traffic count

For automatic traffic count to be conducted on intermittent (non-continuous) basis, the Independent Engineer shall use suitable and standardised equipment to classify and recordthe Users passing through the Fee collection gates and the gates. For this purpose, the counter shall be checked with at least [1,000 (one thousand)] Users to ensure that Users arebeing counted and classified correctly.

4 Variation between manual and automatic count

Average Daily Traffic (ADT) shall be determined separately by the aforesaid two methodsand in the event that the number of Users, as counted by the manual method, varies by more than 1% (one per cent) of the number of such Users as counted by the automatic method, the manual and automatic count shall be repeated, and in the event of any discrepancy between the two counts in the second enumeration, the average thereof shall be deemed to be the actual traffic. For the avoidance of doubt, it is expressly agreed that the Authority may, in consultation with the Concessionaire, adopt modified or alternative processes of traffic sampling for improving the reliability of such sampling.

SCHEDULE – P

(See Clause 39.3)

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the …… day of ……20….

AMONGST

1 The Chairman, Department of Tourism, XXX State and having its principal offices at xxx,State Capital – Pin code (hereinafter referred to as the "**Authority**" which expression shallunless repugnant to the context or meaning thereof include its administrators, successors and assigns);

2 ……. LIMITED, a company incorporated under the provisions of the Companies Act, 1956 or Companies Act, 2013, as the case may be and having its registeredoffice at , (hereinafter referred to as the "**Concessionaire**" which expression shall unless repugnant to the context or meaning thereof include its successors andpermitted assigns and substitutes);

3 ……..name and particulars of Lenders' Representative and having its registered office at ..... , acting for and on behalf of the Senior Lenders as

their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "**Lenders' Representative**", which expression shall unless repugnant to the context or meaning thereof include its successors andsubstitutes);

WHEREAS:

(A) The Authority has entered into a Concession Agreement dated …… with the Concessionaire (the "**Concession Agreement**") for ***** ropeway ("**XXX Ropeway**") on design, build, finance, operate and transfer basis (the "**DBFOT**"), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) Senior Lenders have requested the Authority to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Nominated Company in accordance with the provisions of this Agreement and the Concession Agreement.

(D) In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Authority has agreed and undertaken to transfer and assign the Concession to a Nominated Company in accordance with the terms and conditions setforth in this Agreement and the Concession Agreement.

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

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Substitution Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them: "**Agreement**" means this Substitution Agreement and any amendment thereto made in

accordance with the provisions contained in this Agreement;

"**Financial Default**" means occurrence of a material breach of the terms and conditions ofthe Financing Agreements or a continuous default in Debt Service by the Concessionaire for a minimum period of 3 (three) months;

"**Lenders' Representative**" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"**Nominated Company**" means a company, incorporated under the provisions of the Companies Act, 1956, selected by the Lenders' Representative, on behalf of Senior Lenders, and proposed to the Authority for assignment/transfer of the Concession as provided in this Agreement;

"**Notice of Financial Default**" shall have the meaning ascribed thereto in Clause 3.2.1; and

"**Parties**" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually.

1.2 INTERPRETATION

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.3 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreementshall apply, *mutatis mutandis*, to this Agreement.

2 ASSIGNMENT

2.1 Assignment of rights and title

The Concessionaire hereby agrees to assign the rights, title and interest in the Concession to, and in favour of, the Lenders' Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respectof financing by the Senior Lenders under the Financing Agreements.

3 SUBSTITUTION OF THE CONCESSIONAIRE

3.1 Rights of substitution

3.1.1 Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders' Representative shall be entitled to substitute the Concessionaire by a Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

3.1.2 The Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour of the Nominated Company selected by the Lenders' Representative in accordance with this Agreement. For the avoidance of doubt, the Senior Lenders or the Lenders' Representative shall not be entitled to operate and maintain the XXX Ropeway as Concessionaire either individually or collectively.

3.2 Substitution upon occurrence of Financial Default

3.2.1 Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice tothe Concessionaire (the "**Notice of Financial Default**") along with particulars thereof andsend a copy to the Authority for its information and record. A Notice of Financial Defaultunder this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of this Agreement.

3.2.2 Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3 At any time after the Lenders' Representative has issued a Notice of Financial Default, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the XXX Ropeway in accordance with the provisions of Article 40 of the Concession Agreement, and upon receipt of such notice, theAuthority shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The aforesaid Suspension shall be revoked upon substitution of the Concessionaire by a Nominated Company, and in the event such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, theAuthority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement; provided that uponwritten request from the Lenders' Representative and the Concessionaire, the Authority may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.For the avoidance of doubt, the Authority expressly agrees andundertakes to terminate the Concession Agreement forthwith, upon receipt of a written request from the Lenders' Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

3.3 Substitution upon occurrence of Concessionaire Default

3.3.1 Upon occurrence of a Concessionaire Default, the Authority shall, by a notice, inform the Lenders' Representative of its intention to issue a Termination Notice and grant 15 (fifteen)days' time to the Lenders' Representative to make a representation, stating the intention tosubstitute the Concessionaire by a Nominated Company.

3.3.2 In the event that the Lenders' Representative makes a representation to the Authority withinthe period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitutethe Concessionaire by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Authority shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days.

3.4 Procedure for substitution

3.4.1 The Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Authority under Clause 3.3.2, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the XXX Ropeway including the Concession to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Concessionaire towards the Authority under the Concession Agreement and towards the Senior Lenders under the Financing Agreements.

3.4.2 To be eligible for substitution in place of the Concessionaire, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for shortlisting the bidders for award of the Concession; provided that the Lenders' Representative may represent to the Authority that all or any of such criteria may be waivedin the interest of the Project, and if

the Authority determines that such waiver shall not haveany Material Adverse Effect on the Project, it may waive all or any of such eligibility criteria.

3.4.3 Upon selection of a Nominated Company, the Lenders' Representative shall request the Authority to:

(a) accede to transfer to the Nominated Company the right to construct, operate and maintain the XXX Ropeway in accordance with the provisions of the Concession Agreement;

(b) endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and

(c) enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.

3.4.4 If the Authority has any objection to the transfer of Concession in favour of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the dateof proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Authority, the Nominated Company shall be deemed to have been accepted. The Authority thereupon shall transfer and endorse the Concession within 15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Authority, the Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such NominatedCompany in place of the Concessionaire.

3.5 Selection to be binding

The decision of the Lenders' Representative and the Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaireirrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Senior Lenders or the Authority taken pursuant to this Agreement including the transfer/assignment of the Concession in favour of the Nominated Company.The Concessionaire agrees and confirms that it shall not have any right to seek revaluationof assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Authority or the Lenders' Representative from effecting or causing the transfer by substitution and endorsement of the Concession as requested by the Lenders' Representative.

4 PROJECT AGREEMENTS

4.1 Substitution of Nominated Company in Project Agreements

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in itsdiscretion, in place and substitution of the Concessionaire in the event of such Nominated Company's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

5 TERMINATION OF CONCESSION AGREEMENT

5.1 Termination upon occurrence of Financial Default

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination underand in accordance with the provisions of Article 41 of the Concession Agreement.

5.2 Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Authority is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

5.3 Realisation of Debt Due

The Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders' Representative is entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement. For realisation of the Debt Due, the Lenders' Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Concession Agreementand the Escrow Agreement.

6 DURATION OF THE AGREEMENT

6.1 Duration of the Agreement

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

(a) Termination of the Agreement; or

(b) no sum remains to be advanced and no sum is outstanding to the Senior Lenders, under the Financing Agreements.

7 INDEMNITY

7.1 General indemnity

7.1.1 The Concessionaire will indemnify, defend and hold the Authority and the Lenders' Representative harmless against any and all proceedings, actions and third party claims forany loss, damage, cost and expense of whatever kind and nature arising out of any breachby the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

7.1.2 The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expensearising out of failure of the Authority to fulfil any of its obligations under this Agreement,materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost andexpense, arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.

7.1.3 The Lenders' Representative will indemnify, defend and hold the Concessionaire harmlessagainst any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

7.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which itis entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitledto reimbursement (the "**Indemnified Party**"), it shall notify the other Party responsible for

indemnifying such claim hereunder (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct

the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

8 DISPUTE RESOLUTION

8.1 Dispute resolution

8.1.1 Any Dispute which is not resolved amicably by conciliation, as provided in Article 43.2, the parties shall submit such dispute for arbitration by Principal Secretary, Department of Transport, Government of Himachal Pradesh as the Sole Arbitrator. The proceeding shall be conducted as per the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Shimla, and the language of arbitration proceedings shall be English.

8.1.2 The Sole Arbitrator shall make a reasoned award **(the "Award").** Any Award made in any arbitration held pursuant to this Article 43 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Concessioning Authority agree and undertake to carry out such Award without delay.

8.1.3 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

8.1.4 This Agreement and the rights and obligations of the Parties shall remain in full force andeffect, pending the Award in any arbitration proceedings hereunder.

9 MISCELLANEOUS PROVISIONS

9.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by thelaws of India, and the Courts at Shimla shall have jurisdiction over all matters arising out ofor relating to this Agreement.

9.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereigntyor otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenues now has,may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgement or award againstit in any such proceedings to the giving of any relief or the issue of any process inany jurisdiction in connection with such proceedings (including the making, enforcement or

execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement thatmay be made or given in connection therewith).

9.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

9.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall beeffectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

9.5 Waiver

9.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

9.5.2 Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiverof such breach or acceptance of any variation or the relinquishment of any such right hereunder.

9.6 No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

9.7 Survival

9.7.1 Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limitingthe liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

9.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shallonly survive for a period of 3 (three) years following the date of such termination or expiryof this Agreement.

9.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality orenforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with

a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 8 of this Agreementor otherwise.

9.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

9.10 Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto.A notice shall be effective upon actual receipt thereof, save that where it is received after

5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such noticesand communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

9.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

9.12 Authorised representatives

Each of the Parties shall by notice in writing designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shallbe entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

9.13 Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

[*Signature page follows***]**

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THISAGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Boardof Directors of the Concessionaire at its meeting held on the …… day of 20…… hereunto affixed in the presence of ……, Director, who has signed these presents in token thereof and ……, Company Secretary / Authorised Officer who has countersigned thesame in token thereof[10]:	SIGNED, SEALED AND DELIVERED For and on behalf of AUTHORITY by: (Signature) (Name) (Designation) (Address) (e-mail address)
SIGNED, SEALED AND DELIVERED	
For and on behalf of	
SENIOR LENDERS by the Lenders' Representative:	
(Signature)	
(Name)	
(Designation)	
(Address)	
(Fax)	
(e-mail address)	
In the presence of:	
1.	**2.**

[10] To be affixed in accordance with the articles of association of the Concessionaire

SCHEDULE – Q

(See Clause 19.6)

MONTHLY FEE STATEMENT[11]

Ropeway System: **Month:**

For corresponding monthof previous year		For preceding month		For the month reported upon		
No. of Users (2)	**Fee collected(in lakh Rs.) (3)**	**No. of Users (4)**	**Fee collected (inlakh Rs.) (5)**	**Fee per User (in Rs.) (6)**	**No. of Users (7)**	**Fee collected (in lakh Rs.) (8)**

Note 1: Monthly Fee Statements for Monthly Passes and Daily Passes have been preparedseparately in the above format and are enclosed.

Remarks, if any:

[11] HSA Note: NITI Aayog to confirm if weekly and daily reports are to be included to the schedule.

SCHEDULE – R

(See Clause 30.1.2)

ESCROW AGREEMENT

THIS ESCROW AGREEMENT is entered into on this the ……...day of ……20……

AMONGST

1. Limited, a company incorporated under the provisions of the Companies Act, 1956/ Companies Act, 2013 and having its registered office at……(hereinafter referred to as the "**Concessionaire**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permittedassigns and substitutes);

2. (Name and particulars of Lenders' Representative) and having its registered office at ……. acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation tothis Agreement (hereinafter referred to as the "**Lenders' Representative**" which expression shall, unless repugnant to the context or meaning thereof, include its successorsand substitutes);

3. (Name and particulars of the Escrow Bank) and having its registered office at (hereinafter referred to as the "**Escrow Bank**" which expression shall, unless repugnant to the context or meaning thereof, include its successorsand substitutes); and

4. The Governor of *****, represented by [Secretary, Public Works Department and having its principal offices at ******] (hereinafter referred to as the "**Authority**" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

(A) The Authority has entered into a Concession Agreement dated..... with the

Concessionaire (the **"Concession Agreement"**) for **** ropeway (the "**XXX Ropeway**")in the State on design, build, finance, operate and transfer ("**DBFOT**") basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B) Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C) The Concession Agreement requires the Concessionaire to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

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

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the

context or meaning thereof, have the meaning hereinafter respectively assigned to them:

"**Agreement**" means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

"**Concession Agreement**" means the Concession Agreement referred to in Recital (A) above and annexed hereto as Annex-A, and shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

"**Cure Period**" means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Concessionaire, and shall commence from the date on which a notice is delivered by the Authority or the Lenders' Representative, as the case may be, to the Concessionaire asking the latter to cure the breach or default specified in such notice;

"**Escrow Account**" means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

"**Escrow Default**" shall have the meaning ascribed thereto in Clause 6.1;

"**Lenders' Representative**" means the person referred to as the Lenders' Representative in the foregoing Recitals;

"**Parties**" means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

"**Payment Date**" means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

"**Sub-Accounts**" means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, andif not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out therefrom on the Payment Date(s).

1.2 Interpretation

1.2.1 References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.

1.2.2 The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.

1.2.3 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreementshall apply, *mutatis mutandis*, to this Agreement.

2 ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Authority, the Lenders' Representative and the Concessionaire in connection herewith and authorises the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bankaccepts such appointment pursuant to the terms hereof.

2.1.2 The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Authority, the Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of, or as third-party beneficiaries under this Agreement.

2.2 Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of thisAgreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Senior Lenders or the Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act intrust for the benefit of, and as agent for, the Authority, the Lenders' Representative and theConcessionaire or their nominees, successors or assigns, in accordance with the provisionsof this Agreement.

2.3 Establishment and operation of Escrow Account

2.3.1 Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Concessionaire shall open and establish the Escrow Account with the (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.

2.3.2 The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.

2.3.3 The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4 Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at suchtimes, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shallbe appropriated from the Escrow Account in accordance with Clause 4.1.

2.5 Rights of the parties

The rights of the Authority, the Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and theAuthority, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 Substitution of the Concessionaire

The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemedfor the purposes of this Agreement that the Nominated Company is a Party hereto and theNominated Company shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Nominated Company.

3 DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

3.1.1 The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

(a) all monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Authority;

(b) all funds received by the Concessionaire from its share-holders, in any manner or form;

(c) all Fee levied and collected by the Concessionaire;

(d) any other revenues, rentals, deposits or capital receipts, as the case may be, fromor in respect of the XXX Ropeway; and

(e) all proceeds received pursuant to any insurance claims.

3.1.2 The Concessionaire may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2 Deposits by the Authority

Deleted

3.3 Deposits by Senior Lenders

The Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

3.4 Interest on deposits

The Escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; provided that the Escrow Bank shall be entitled to appropriate therefrom the fee and expenses due to it from the Concessionaire in relation to the Escrow Account and credit the balance remaining to the Escrow Account.

4 WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals as the Lenders' Representativeand the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and ifsuch payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

(a) all taxes due and payable by the Concessionaire for and in respect of the XXX Ropeway;

(b) all payments relating to construction of the XXX Ropeway, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;

(c) O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;

(d) O&M Expenses incurred by the Authority, provided it certifies to the Escrow Bankthat it had incurred such expenses in accordance with the provisions of the Concession

Agreement and that the amounts claimed are due to it from the Concessionaire;

(e) Concession Fee due and payable to the Authority;

(f) monthly proportionate provision of Debt Service due in an Accounting Year;

(g) Premium due and payable to the Authority;}

(h) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire pursuant to the Concession Agreement;

(i) monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;

(j) any reserve requirements set forth in the Financing Agreements; and

(k) balance, if any, in accordance with the instructions of the Concessionaire.

4.1.2 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if freshinformation received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

Upon Termination of the Concession Agreement, all amounts standing to the credit of theEscrow Account shall, notwithstanding anything in this Agreement, be appropriated and dealt with in the following order:

(a) all taxes due and payable by the Concessionaire for and in respect of the XXX Ropeway;

(b) 90% (ninety per cent) of Debt Due excluding Subordinated Debt;

(c) outstanding Concession Fee;

(d) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire pursuant to the Concession Agreement, including {Premium,}and any claims in connection with or arising out of Termination;

(e) retention and payments arising out of, or in relation to, liability for defects and deficiencies set forth in Article 43 of the Concession Agreement;

(f) outstanding Debt Service including the balance of Debt Due;

(g) outstanding Subordinated Debt;

(h) incurred or accrued O&M Expenses;

(i) any other payments required to be made under the Concession Agreement; and

(j) balance, if any, in accordance with the instructions of the Concessionaire:

Provided that the disbursements specified in Sub-clause (j) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Authority.

4.3 Application of insufficient funds

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

4.4 Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilised for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the XXX Ropeway, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

4.5 Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Authority may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 40 of the Concession Agreement. Any instructions given by the Authority to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Authority hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

5 OBLIGATIONS OF THE ESCROW BANK

5.1 Segregation of funds

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

5.2 Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3 Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

(a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;

(b) may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;

(c) shall, within 5 (five) business days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Concessionaire or any other person hereunder or in connection herewith; and

(d) shall, within 5 (five) business days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Lenders' Representative in connection herewith.

5.4 No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or otherright or remedy with respect to amounts standing to the credit of the Escrow Account. Forthe avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that themonies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assetsof the Escrow Bank in such bankruptcy or liquidation.

5.5 Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and complywith, all regulatory approvals required for it to establish and operate the Escrow Account.The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

6 ESCROW DEFAULT

6.1 Escrow Default

6.1.1 Following events shall constitute an event of default by the Concessionaire (an "**Escrow Default**") unless such event of default has occurred as a result of Force Majeure or any actor omission of the Authority or the Lenders' Representative: the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breachby depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;

(a) the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub- Account in which such transfer should have been made, within a Cure Period of 5(five) business days; or

(b) the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with underand in accordance with the provisions of the Concession Agreement.

7 TERMINATION OF ESCROW AGREEMENT

7.1 Duration of the Escrow Agreement

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to theAuthority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

7.2 Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Authority and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow

Agreement with the substitute Escrow Bank.

7.3 Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Agreements including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, closethe Escrow Account and Sub-Accounts and pay any amount standing to the credit thereofto the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8 SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary escrow agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub-Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreementor upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9 INDEMNITY

9.1 General indemnity

9.1.1 The Concessionaire will indemnify, defend and hold the Authority, Escrow Bank and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arisingout of any breach by the Concessionaire of any of its obligations under this Agreement oron account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

9.1.2 The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expensearising out of failure of the Authority to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost andexpense arising out of acts done in discharge of their lawful functions by the Authority, itsofficers, servants and agents.

9.1.3 The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost andexpense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

9.2 Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which itis entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitledto reimbursement (the **"Indemnified Party"**), it shall notify the other Party responsible for indemnifying such claim hereunder (the **"Indemnifying Party"**) within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the

Indemnifying Party, which approval shall not be unreasonably withheld or delayed. Inthe event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance incontesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10 DISPUTE RESOLUTION

10.1 Dispute resolution

10.1.1 Any Dispute which is not resolved amicably by conciliation, as provided in Article 43.2, the parties shall submit such dispute for arbitration by Principal Secretary, Department of Transport, Government of Himachal Pradesh as the Sole Arbitrator. The proceeding shall be conducted as per the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Shimla, and the language of arbitration proceedings shall be English.

10.1.2 The Sole Arbitrator shall make a reasoned award **(the "Award").** Any Award made in any arbitration held pursuant to this Article 43 shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Concessioning Authority agree and undertake to carry out such Award without delay.

10.1.3 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

10.1.4 This Agreement and the rights and obligations of the Parties shall remain in full force andeffect, pending the Award in any arbitration proceedings hereunder.

11. MISCELLANEOUS PROVISIONS

11.1 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by thelaws of India, and the Courts at *** shall have jurisdiction over all matters arising out of or relating to this Agreement.

11.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereigntyor otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;

(c) waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and

(d) consents generally in respect of the enforcement of any judgement or award againstit in any such proceedings to the giving of any relief or the issue of any process inany jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgement thatmay be made or given in connection therewith).

11.3 Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

11.4 Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall beeffectual and binding only if in writing and signed by the duly authorised representatives of the Parties.

11.5 Waiver

11.5.1 Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

(a) shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;

(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

11.5.2 Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6 No third-party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

11.7 Survival

11.7.1 Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limitingthe liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts oromissions of such Party prior to the effectiveness of such termination or arising out of such termination.

11.7.2 All obligations surviving the cancellation, expiration or termination of this Agreement shallonly survive for a period of 3 (three) years following the date of such termination or expiryof this Agreement.

11.8 Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality orenforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 10.1 of this Agreement or otherwise.

11.9 Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

11.10 Notices

All notices or other communications to be given or made under this Agreement shall be inwriting and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party,its facsimile number and e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30(five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally or send it by courieror registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such noticesand communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

11.11 Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

11.12 Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all communications shall be made. A Party hereto shallbe entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

11.13 Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THISAGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directorsof the Concessionaire at its meeting held on the …… day of 20…… hereunto affixed in the presence of ……, Director, who has signed these presents in token thereof and ……, Company Secretary / Authorised Officer who hascountersigned the same in token thereof in the presence of[12]:	SIGNED, SEALED AND DELIVERED For and on behalf of SENIOR LENDERS by the Lenders' Representative: (Signature) (Name) (Designation) (Address) (Fax No.) (e-mail address)

[12] To be affixed in accordance with the articles of association of the Concessionaire.

SIGNED, SEALED AND DELIVERED	SIGNED, SEALED AND DELIVERED
For and on behalf of	For and on behalf of
ESCROW BANK by:	THE GOVERNMENT OF *** by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
(Address)	(Address)
(Fax No.)	(Fax No.)
(e-mail address)	(e-mail address)
In the presence of:	
1.	2.

SCHEDULE – S

(See Clause 32.2.1)

PANEL OF CHARTERED ACCOUNTANTS

1. Panel of Chartered Accountants

Pursuant to the provisions of Clause 32.2.1 of the Agreement, the Authority and the Concessionaire shall prepare a mutually agreed panel of 10 (ten) reputable firms of Chartered Accountants having their registered offices in India (the "**Panel of Chartered Accountants**"). The criteria for preparing such Panel and the procedure to be adopted in this behalf shall be as set forth in this Schedule- T

2. Invitation for empanelment

2.1 The Authority shall invite offers from all reputable firms of Chartered Accountants who fulfil the following eligibility criteria, namely:

(a) the firm should have conducted statutory audit of the annual accounts of at least one hundred companies registered under the Companies Act, 1956 or Companies Act 2013, as the case may be, of which at least ten should have been public sectorundertakings;

(b) the firm should have at least 5 (five) practicing Chartered Accountants on its rolls, each with a minimum experience of ten years in the profession;

(c) the firm or any of its partners should not have been disqualified or black-listed bythe Comptroller and Auditor General of India or the Authority; and

(d) the firm should have an office in the State or in an adjacent State with at least 2 (two) practicing Chartered Accountants on its rolls in such State.

2.2 Interested firms meeting the eligibility criteria shall be required to submit a statement of their capability including the bio-data of all the practicing Chartered Accountants on its rolls. In particular, each firm shall be required to furnish year-wise information relating tothe names of all the companies with an annual turnover exceeding Rs. 25,00,00,000 (Rs. twenty-five crore) whose annual accounts were audited by such firm in any of thepreceding 5 (five) Accounting Years.

3. Evaluation and selection

3.1 The information furnished by each firm shall be scrutinised and evaluated by the Authorityand 1 (one) point shall be awarded for each annual audit of the companies specified in Paragraph 2.2 above. (For the avoidance of doubt, a firm which has conducted audit of theannual accounts of any such company for five years shall be awarded five points).

3.2 The Authority shall prepare a list of all the eligible firms along with the points scored by each such firm and 10 (ten) firms scoring the highest points shall be identified and includedin the Panel of Chartered Accountants.

4. Consultation with the Concessionaire

The Authority shall convey the aforesaid panel of firms to the Concessionaire for scrutinyand comments, if any. The Concessionaire shall be entitled to scrutinise the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in

accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 15 (fifteen) days of receiving the aforesaid panel.

5. Mutually agreed panel

5.1 The Authority shall, after considering all relevant factors including the comments, if any, of the Concessionaire, finalise and constitute a panel of 10 (ten) firms which shall be deemed to be the mutually agreed Panel of Chartered Accountants.

5.2 After completion of every five years from the date of preparing the mutually agreed Panelof Chartered Accountants, or such earlier period as may be agreed between the Authority and the Concessionaire, a new panel shall be prepared in accordance with the provisions of this Schedule-T.

SCHEDULE- T

(See Clause 21.8)

PASSENGER CHARTER

XXX Ropeways

At your service

Our Passenger Charter explains our commitments to you and sets out the targets that these are based upon. It is not legally binding and does not affect your legal rights, which are set under the Applicable Law. Copies of the conditions can be obtained from all staffed Stations or from our customer service center. They can also be viewed online at www [*please mention the website*]

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1 Introduction

2 Our standards for ropeway service performance

3 Information and planning for your journey

4 Passengers who require assistance

5 Buying a ticket

6 Your journey

7 Claims for delays and cancellations

8 Listening to your views

1. Introduction

We want to give our passengers excellent service!

This is a bold statement, but its intention is to focus the mind of every employee of the

…… XXX Ropeway, on what is important - our passengers. We aim to provide youwith:

i. Safe, clean, reliable services

ii. Clean and safe Stations

iii. Reliable, timely and easy to understand information

iv. Polite, friendly and helpful staff

Inevitably, there will be times when problems occur, and we are not able to achieve the standards we aim for. Our charter explains what we will do for you when this happens.

2. Our Standards for Ropeway Service Performance

We will continue to work hard at improving our performance to provide you with a consistently reliable service.

2.1 Peak Hour Operation

The Concessionaire will define the peak hours based on the RFP specifications and ridership. Typically, [0600 and 1000] hours inclusive, or between [1700 and 2100]inclusive, Monday to Friday only are peak hours. The aforesaid time definition may be modified from time to time depending on average daily traffic volumes during these hours.The peak hour operation will be suitably dealt by increasing or decreasing the maximum speed limit of the ropeway system.

2.2 Reliability

Our target is 99% (Ninety-nine) percent availability of the transport system for all the 7 (seven) days of the week. You can view our performance results for the previous four weeks and 12 (twelve) months on 'Track Record' posters displayed at every Station of the …… XXX Ropeway. The results are also available for inspection on request, at all our Stations and are published in our season ticket (discounted fee) section.

The method of monitoring our performance is independently audited annually. We do notinclude disruption caused by matters out of the ropeway industry's control, such as trespass, vandalism and terrorism.

3. Information and Planning the Usage of the Ropeway

We will provide you with accurate information about the ropeway services, fees and facilities to help you plan your journey. You can obtain this information in a number of ways.

…… Ropeway Enquiries - telephone.....(24 hours)

…… Ropeway Enquiries on the fees applicable for the systemCalls are charged at a local rate and may be monitored.

You can also obtain online information about train times and up-to-the- minute train-running information by visiting www. …….

Customer Service Centre – Tel: ……

In addition to the ropeway enquiries, customer service centre also provides information onthe ropeway service. The customer service centre is open 24 hours a day except on nationalholidays. Calls are charged at a local rate and may be monitored.

3.1 At Stations

Staff in our ticket offices and travel centres can provide you with information to help you plan your journey. We will display up-to-date timetable posters at all Stations. These will include the locations serviced by the ropeway and connecting transport systems available at each ropeway Station locations to plan your journey ahead.

3.2 Engineering work Planned engineering work

From time to time,.....XXX Ropeway has to carry out planned engineering and improvement work to maintain the system. This can cause alterations to our services,especially on weekends and public holidays. The maintenance work on ropeway systems is done during shutdown hours which means that system functions at peak performance during the operation hours. However, in case ofany specific instances when planned engineering work time extends beyond the shutdown time viz affecting operations during service time, advance information along with notification will be posted on the display system and website. Information on services will also be available from:

Ropeway Enquiries Customer

Service Centre

Under best effort circumstances, we will try to post information well in advance for you toplan your trips.

3.3 Help and advice during your journey

Our customer service helpline is available during operation hours and equipped to handle all enquiries.

4. Passengers who Require Assistance

We are committed to meeting the travelling needs of our disabled passengers. We recognisethat many of our passengers may have special needs which require us to adjust the way weprovide our service. The ropeway Station is equipped to handle requirements of all riders and the ropeway system, carriers are designed to accommodate wheel chairs, baby prams,prosthetics etc. The design facilitates seamless travel from start to finish.

4.1 Advance information and assistance for disabled passengers

We advise passengers who would like assistance to contact our customer service centre in advance.

Telephone (24 hours): ……

Fax: ……

Textphone: ……..

Ropeway Enquiries textphone: …….

4.2 Car Parking

Every Station that has a tarmac or concrete surfaced car park for customers has designatedparking spaces [for either blue or orange badge holders].

4.3 On-Board Information

We are committed to providing information to provide a safe and pleasurable ride in avariety of ways so that it can be accessed by as wide a group of passengers as possible.

Carriers are equipped with public address systems to provide audible announcements to hearing passengers and equipped with a passenger information system that uses visual displays to enable hearing-impaired passengers to access information.

We recognize that good announcements are essential to visually impaired passengers, soour employees are trained to speak clearly.

4.4 Disability awareness training

All our frontline staff and managers receive training in disability awareness.

Further Information

…… XXX Ropeway Disabled Persons' Protection Policy (DPPP) sets out our full arrangements for passengers with disabilities. It can be supplied in a range of formats (largeprint, braille and audio), available from our customer service centre. We have also produced a leaflet containing useful information, called 'Our Service for Passengers with Impairments'. It is available at staffed Stations and from our customer service centre.

5. Buying a ticket

We will sell you the most appropriate ticket for your journey. To purchase a ticket, visit any of our staffed Stations or telephone our customer service centre.

5.1 At Stations

- Our ticket office opening hours are displayed at every staffed Station. They arealso available from our website or by telephoning our customer service centre.
- You can pay by cash or major credit and debit cards.
- Many Stations also have self-service ticket machines, which sell a range of ticketsto main destinations.

We will try to ensure that you do not need to queue for more than five minutes at busy times and no more than three minutes during less busy times. Details of busy times are displayed at each staffed Station.

At major Stations, our travel centres enable you to buy tickets, get travel information and also purchase other travel services.

Tickets can also be purchased from our authorised travel agents.

5.2 By Telephone

Season tickets can also be purchased over the telephone by calling our customer service centre. We accept most major credit and debit cards. Please allow at least five working days for delivery of your tickets.

5.3 Tickets online

You can also buy your season ropeway tickets (Discounted Fee) online.

5.4 Penalty fees

…… XXX Ropeway has a duty to its fee-paying passengers to ensure that no-one travels for free. To help us achieve this, we operate a penalty fees scheme across our network. If you travel without a valid ticket, you may be liable to a penalty fee of [Rs.200 or three times of the single fee (whichever is the greater)]. Your journey Getting a seat

We operate a 'walk-on' service, which means you can board the next arriving carrier provided you have a valid ticket. The seat is guaranteed as the ropeway carrier is designednot to allow more people to board than its capacity. In Aerial Tramway (ATW), Cable Liners (Automated People Movers) are designed to allow sitting and standing passengers.

6.1 Security

We work very closely with the local authorities to improve security at our Stations and carparks.

We aim to reduce levels of crime, trespass and vandalism and we are investing to achievethis. Initiatives include:

- Teams of Travel Safe Officers, trained and co-ordinated by the Police
- Installation of CCTV at Stations
- Installation of CCTV in the carriers
- Lighting at Stations and car parks
- Help points at our Stations

- Security guards at key locations.

More information can be found in the safety and security section of our website.

6.2 Cycles

- We welcome the opportunity to integrate ropeway and cycle travel by providing cycle parking at most of our Stations.

- Cycles are also welcome on our services, except during peak hours.

- Our guards do have the right to refuse a cycle if there is insufficient space available or where the cycles cannot be accommodated safely.

- Our cycle policy is published in our timetable book and shows those services where cycles are not permitted. Information can be found at staffed Stations and from our customer service centre, and in our travel information section.

6.3 Smoking

Smoking is not permitted anywhere on the XXX Ropeway.

6.4 Lost Property

Our lost property office at …….. is open from 0730 -1900 Monday to Friday. Telephone the office on ……..... All property found on our services and at our Stations is forwarded to our lost property office. To make an enquiry, complete our lost property online form.

6.5 Service Disruption

Unfortunately, things do sometimes go wrong, causing disruption that cannot always be foreseen or avoided. Incase emergency maintenance is required, we will host the information on relevant media to ensure that the riders of the ropeway are informed well in advance to avoid any inconvenience.

Other causes of disruption include:

- Emergency engineering work

- Trespass and vandalism

- Security alerts.

Under such circumstances we may have to make changes to our services without giving prior warning to protect your safety and that of our staff. We will always try to minimise disruption, keep you informed and provide or recommend alternative means of travel.

If a problem does occur mid-way in the ropeway journey, we will ensure that you reach the nearest Station with minimum inconvenience.

All our carriers are fitted with public address systems are equipped to provide all information on real time basis and most of our staff are linked by telephone systems. We aim to let you know what is happening.

6.6 Claims for delays or cancellations

6.6.1 Season Tickets Valid for one month or longer 'Void' day refunds

As a holder of a season ticket valid for one month or longer, we may provide you with the appropriate refund for exceptional days when there has been widespread serious, extended disruption. This is known as a 'void' day. In these cases, the period of disruption will be excluded from our performance statistics.

When we have declared a 'void' day we will tell you through 'Track Record' posters displayed at key Stations.

When you renew your season ticket you will be advised by staff at your local ticket office to apply for 'void' day refunds if they have been declared. You will be given a 'void' day refund application form, which you can complete and submit along with your expired season ticket.

6.6.2 Availability and Reliability discounts for Season Tickets (Discounted Fee)

We have certain performance standards for reliability. If we fail to meet these standards, we will offer you a discount from the cost of your season ticket renewal. Discounts will be paid automatically at the time of renewal.

Delays and cancellations that are caused by incidents beyond the control of the ropeway industry are excluded from our performance results. Incidents that are beyond our control include security alerts, vandalism and trespass. We will display the number of trains affected on posters at key Stations and also on our website.

5% discount

We will offer you a 5% discount if, on average, over the previous 12 months if there is deficient service as per the performance parameters (system availability of 99%) has been more than 10% below the standard or reliability has been more than 5% below the standard.

10% discount

We will offer you a 10% discount if performance parameters for system availability are below these discount threshold levels.

To obtain your discount, you must renew your season ticket within four weeks of the previous ticket's expiry.

Other tickets and weekly seasons

We will treat all claims on their merits and give consideration to any problems you encounter. However, for your guidance, you can expect us to offer the following:

Please send us your travel tickets to support your claim. This will also help to speed up your claim. Completed claims should be sent to our customer service centre.

7. Listening to your views

We carry out and analyse passenger survey research to provide information about what you think of different aspects of our service.

We hold regular 'Meet the Manager' events, which enable you to speak directly to managers to put your views to them or ask them questions. Details of Meet the Manager events will be advertised on Station posters, in our passenger magazine e-motion, through our customer service centre and also online.

We will listen to your views and communicate through correspondence and by telephone. We have a specially trained customer service centre team able to respond to you and we also liaise with passenger representative bodies and user groups that exist to protect your interests.

Making a comment or complaint

We welcome your comments, suggestions, complaints and praise about any aspect of our

service. We also welcome comments about our charter. Senior managers monitor the number and type of complaints and comments that you make. They are also responsible for delivering continuous improvement to customer service. Your feedback can therefore help us to achieve this. If you are commenting on a journey, please remember to include your ropeway tickets and any other details, as this will help us to provide you with a swiftresponse.

Further information:

We have a full Customer Comments and Complaints Handling Procedure (CCCHP). copieswhich can be obtained from our customer service centre or from our website www.

Contacting our Customer Service Centre

Please visit 'Contact Us' section for details.

Our promised response times

If you write to us, you should hear from us within five working days of us receiving your communication.

However, it may take longer to provide a full reply (e.g. if an investigation is required) andif this happens, we will send you an acknowledgement within five working days and replywithin twenty working days.

If a full reply cannot be made within twenty working days, we will contact you again to update you.

If you are unhappy with our reply

We will work hard to deal with your concerns to your satisfaction but if you are unhappy with our response, please let us know.

Alternatively, you can approach the consumer courts or other similar for set up under Applicable Laws.