

APPENDIX – VI

SHARE SALE AGREEMENT

Among

THE GOVERNOR OF UTTAR PRADESH

And

(NAME OF THE COMPANY)

AND

(NAME OF THE INVESTOR)

OR

(NAME OF THE LEAD MEMBER)

AND

(NAME OF THE CONSORTIUM MEMBER 1)

AND

(NAME OF THE CONSORTIUM MEMBER 2)

AND

(NAME OF THE CONSORTIUM MEMBER 3)

(As may be Applicable in case of Investor)

(On a stamp paper of appropriate value)

SHARE SALE AGREEMENT

THIS SHARE SALE AGREEMENT is made and entered into on this _____.day of _____, 2009 BY AND AMONG:

(1) THE GOVERNOR OF UTTAR PRADESH, acting through and represented by the Principal Secretary, Department of Tourism, Government of Uttar Pradesh (hereafter referred to as the "**Government**" which expression shall include its successors in office)

AND

(2) _____, a company duly incorporated and existing under the provisions of the (Indian) Companies Act, 1956, with its registered office at _____ (the "**Investor**" which expression shall include its Associates and successors), in case of sole Applicant;

OR

(2) _____, a company duly incorporated and existing under the provisions of the (Indian) Companies Act, 1956, with its registered office at _____ (the "**Investor/Lead Member**" which expression shall include its Associates and successors);

AND

(3) _____, a company duly incorporated and existing under the laws of _____, with its registered office at _____ (hereinafter referred to as "**Consortium Member 1**" which expression shall include its Associates and successors);

AND

(4) _____, a company duly incorporated and existing under the laws of _____, with its registered office at _____ (hereinafter referred to as “**Consortium Member 2**” which expression shall include its Associates and successors);

AND

(5) _____, a company duly incorporated and existing under the laws of _____, with its registered office at _____ (hereinafter referred to as “**Consortium Member 3**” which expression shall include its Associates and successors);

Lead Member, Consortium Member 1, Consortium Member 2 & Consortium Member 3 are hereinafter collectively referred to as “Investor/Consortium Members” and “Consortium Member” means any one of them), in case of Consortium;

AND

(6) _____, a company duly incorporated and existing under the provisions of the (Indian) Companies Act, 1956, with its registered office at _____ (hereinafter referred to as "**Company/SPV**", which expression shall include its successors).

RECITALS:

WHEREAS:

A. The Company is engaged principally in the business of Hospitality/Tourism Services industry.

B. Government is the beneficial and legal owner of almost 100% (one hundred percent) of the issued, subscribed and paid up equity share capital of the Company (**Share Capital**) as on date of this Agreement.

C. Pursuant to a competitive bidding process conducted by and on behalf of the Government, the Investor (now having been identified and acting through Lead member in case of consortium) has been selected by the Government to hold the shares of the Company to the extent of 76% of the Share Capital of the Company (**Transaction Shares**).

D. The Investor (as a sole or through its Lead Member in the case of Consortium) is duly authorised for the purpose of acquiring the Transaction Shares and to fulfill the various obligations set out in this Agreement and the Shareholders Agreement. Term “Investor” in case of Consortium executing this Agreement shall mean the Consortium.

E. The Investor and the Government are parties to an agreement of even date (the “**Shareholders Agreement/SHA**”) to record their agreement as to the manner in which the Company’s affairs shall be conducted after the Investor acquires the Transaction Shares from the Government and to identify and determine certain rights and obligations with respect to their ownership, directly and indirectly, of the equity shares of the Company.

F. The Parties have entered into this Agreement whereby the Government has, subject to the terms and conditions stated herein, agreed to sell to the Investor, and the Investor has agreed to purchase from the Government 76 % of the Equity Share Capital of the Company i.e. the Transaction Shares.

NOW THEREFORE, in consideration of the premises and the covenants and mutual agreements contained herein (the receipt and adequacy of which are hereby mutually acknowledged), the Parties hereby agree as follows:

ARTICLE – 1

DEFINITIONS AND INTERPRETATION

1.1 In this Agreement (including the recitals above and the Annexures and the schedules attached hereto), except where the context otherwise requires, the following words and expressions mean the following: Act” shall mean the Companies Act, 1956 including any amendment thereto from time to time;

“**Associates**” means in relation to the Investor/ Consortium Member, a person who controls or is controlled by or is under common control with such Investor/ Consortium Member. For this purpose “Control” means with respect to an entity which is a company or corporation, the ownership directly or indirectly of more than 50% (Fifty percent) of the voting rights of such entity

“Agreement” means this Share Sale Agreement including Recitals, all attached Schedules and all instruments supplemental to or in amendment or confirmation of this Agreement entered into by the Parties in writing;

“Aggregate Liability Threshold” shall have the meaning ascribed to such term in Clause 11.4 hereof;

“Approvals” means all authorisations, consents, approvals and permissions required under the laws of the Republic of India for or in respect of this Agreement including for performance of any obligation or exercise of any right by a Party;

"Arbitration Act" means the (Indian) Arbitration and Conciliation Act, 1996, as now enacted or as the same may be amended or re enacted or replaced from time to time;

“Bid Security” means the bank guarantee as per RFP Document deposited by the Investor with the Government as a bid security during the competitive bidding process;

“Board” means the board of directors of the Company;

“Business Day” means a day on which the principal commercial banks located at Lucknow are open for business during normal banking hours but excluding a Sunday, a gazetted public holiday and any other day that is declared as a holiday by the Government of India and/or the

Government of Uttar Pradesh as per Negotiable instruments Act or any other relevant enactment.

“Closing Date” shall mean the day on which Closing occurs and would be the latter of (a) date of execution of this Agreement; or (b) a date which is mutually agreed to between the Parties but being within seven days from the date of this Agreement;

“Claim” means any claim, demand, action, cause of action, suit, litigation, damage, loss, costs, liability or expense including, without limitation, reasonable legal fees, professional fees and all costs incurred in pursuing any of the foregoing or proceedings relating to any of the foregoing;

“Closing” means the payment of the Purchase Price to the Government and the completion of the sale to and purchase by the Investor of the Transaction Shares, in accordance with the terms of this Agreement

“Closing Board Meeting” shall have the meaning ascribed to such term in Clause 3.2 hereof;

“Company” shall have the meaning ascribed to such term in the Preamble hereof;

“Confidential Information” shall have the meaning ascribed to such term in Clause 12.1 hereof.

“Closing Time” means 1:00 PM, Indian Standard Time, on the Closing Date unless the Parties agree in writing on some other time as the time at which the Closing shall occur, in which case such other time shall be the Closing Time;

“Conditions Precedent” means the conditions listed in Article 4 hereof;

“Data Room” means the rooms located at U P Tourism Development Corporation Ltd, Paryatan Bhawan, 13 Vipin Khand, Gomtinagar, Lucknow or at IFCI Ltd, 5, Regency Plaza, Park Road, Lucknow where documents relating to the Company shall be made available for review by shortlisted bidders in connection with the purchase of the Transaction Shares;

“Data Room Documents” shall have the meaning ascribed to such term in Clause 8.8 hereof;

“De-Minimis Investor Losses” shall have the meaning ascribed to such term in Clause 11.4 hereof;

“Disclosed Information” means any information that expressly forms part of any Data Room Document or is capable of being inferred from any one or more of the Data Room Documents and any subsequent information provided to the bidders;

“Dispute” shall have the meaning ascribed to such term in Clause 13.12 hereof;

"Event of Bankruptcy" means, with respect to any Person (other than Government), any of the following:

(a) An adjudication that it is bankrupt or insolvent, or the entry of an order for relief under applicable bankruptcy Law;

(b) The making by it of a general assignment for the benefit of creditors;

(c) The commencement by it of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets or property, or consent to any such relief or to the appointment of or taking of possession by any such official in an involuntary case or other proceeding commenced against it; or

(d) The commencement against it of an involuntary case or other proceeding seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets or property and such involuntary case or other proceeding shall remain undismissed or unstayed for a period of 120 (one hundred and twenty) days from the date of admission of such case or proceeding;

“Government” shall mean Government of State of Uttar Pradesh;

“Government Losses” shall have the meaning ascribed to such term in Clause 11.2 hereof;

“Government Nominee Directors” shall have the meaning ascribed to such term in Clause 2.1.1(d) hereof;

“Governmental Authority” shall mean any government, regulatory authority, governmental department, agency, commission, board, tribunal or court or other law, rule or regulation-making entity, having or purporting to have jurisdiction on behalf of any nation, or province or state or other subdivision thereof or any municipality, district or other subdivision thereof;

“Investor” shall have the meaning ascribed to such term in the Preamble hereof;

“Investor Losses” shall have the meaning ascribed to such term in Clause 11.1 hereof;

“Last Balance Sheet” shall have the meaning ascribed to such term in Clause 3.4(a) hereof

“Law” means any statute, law, regulation, ordinance, rule, judgement, notification, rule of common law, order, decree, bye-law, Government approval, directive, guideline that may be applicable in compliance of the terms of this Agreement,

“**Lock In Period**” shall mean the time period of three (3) years starting from the date of execution of Share Sale Agreement by the Investor during which the Investor shall retain a minimum of 76% of the issued and paid up capital of the SPV in the manner as prescribed herein and the SHA.

“Material and Adverse Effect” or “Materially and Adversely Affect” as used in this Agreement, shall mean the material adverse effect on:

- (a) the assets, business, properties, liabilities, financial conditions, operations or the prospects of the Company;
- (b) the ability of the Parties to perform any of the obligations under this Agreement;
- (c) the validity and enforceability of this Agreement or of the rights or remedies of any of the Parties.

“Parties” means, collectively the Investor, the Company, the Government and any other Person which becomes a party to this Agreement and “Party” means any one of them;

“Person” includes any individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organisation, trust, company, body corporate, and a natural person in his capacity as trustee, executor, administrator, or other legal representative;

“Purchase Price” shall have the meaning ascribed to such term in Clause 2.2 hereof;

“Representation and Warranty (R&W) Claim Period” shall have the meaning ascribed to such term in Clause 11.5 hereof;

“Representative” means in relation to a Person, any director, officer, employee, agent, consultant, advisor, or other representatives, including legal counsel, accountant or financial advisor, of such Person;

“Shareholders Agreement” shall have the meaning ascribed to such term in Recital E hereof;

“Third Party Claim” shall have the meaning ascribed to such term in Article

11.3 (a) hereof;

“Transaction Shares” shall have the meaning ascribed to such term under Recital C hereof.

Rules of Interpretation:

In this Agreement:

(a) The descriptive headings of Articles and Clauses are inserted solely for convenience of reference and are not intended as complete or accurate descriptions of content thereof and shall not be used to interpret the provisions of this Agreement;

(b) The use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Agreement to any Person or Persons or circumstances as the context otherwise permits;

(c) The terms “hereof”, “herein”, “hereto”, “hereunder” or similar expressions used in this Agreement mean and refer to this Agreement and not to any particular Article or Clause of this Agreement. The terms “Article” and “Clause” mean and refer to the Article and Clause of this Agreement so specified;

(d) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the immediately following Business Day if the last day of such period is not a Business Day; and whenever any payment is to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the immediately following Business Day.

(e) All capitalized words and expressions used in this Agreement but not defined shall have the same meaning as ascribed to them in the RFP and the Shareholders Agreement, as the case may be.

(f) The preamble and schedules annexed to this Agreement form an integral part of this Agreement.

ARTICLE – 2

SALE AND PURCHASE OF THE SHARES

2.1 Subject to the terms and conditions of this Agreement, the Government agrees to sell and the Investor agrees to purchase the Transaction Shares (being equivalent to 76 % of the Equity Share Capital of the Company) for the Purchase Price in the following manner:

2.1 On the Closing Date:

(a) The Government shall sell and the Investor shall purchase the Transaction Shares, free and clear of all liens and from all other rights exercisable by or Claims by third parties and together with all rights and benefits now and hereafter attaching thereto;

(b) The Investor shall pay to the Government the Purchase Price in the manner provided in Clause 2.3;

(c) On confirmation of receipt of the Purchase Price to the satisfaction of the Government, the Government shall simultaneously transfer the Transaction Shares to the Investor.

(d) The Government shall deliver to the Investor the resignation letters of all directors (including the working directors) except two of the directors nominated by Government (“Government Nominee Directors”).

2.2 The consideration for the purchase by the Investor of the Transaction Shares shall be an aggregate sum of Rs. _____ (Rupees _____) (the “Purchase Price”) at a per Equity Share price of Rs. (Rupees _____). The Purchase Price shall be payable to the Government without any deductions on any account whatsoever and exclusive and independent of all taxes, duties, fees and charges payable in respect of the sale of the Transaction Shares which shall be the responsibility of the Investor, and shall be paid by the Investor.

2.3 On or before the Closing Date, the Investor shall upon the written instructions of the Government, pay the Purchase Price to the Government by way of a banker’s draft, drawn on

a scheduled commercial bank registered with the Reserve Bank of India excluding any regional rural bank or any cooperative bank, and the same shall be payable at Lucknow in favour of “Govt of UP”,

ARTICLE – 3

CLOSING MECHANISM

3.1 The Closing shall take place upon the fulfillment of all the Conditions Precedent at the Closing Time on the Closing Date at Lucknow or such other place as the Parties may agree to in writing.

3.2 Promptly after the completion of the actions contemplated in Clause 2 above there shall be a board meeting of the Company on the Closing Date or on the earliest mutually convenient date (the “Closing Board Meeting”), at which the following business shall be conducted:

(a) Appropriate board resolutions shall be passed, for altering the articles of association of the Company to be in conformity with the provisions of this Agreement and the Shareholders Agreement and issue a notice for convening a general meeting of the Company on a date not later than thirty (30) days from the Closing Date for the approval of the same;

(b) Appropriate board resolutions shall be passed, including a board resolution taking on record the transfer of the Transaction Shares from the Government to the Investor;

(c) The resignation letters of the Government Nominee Directors beyond two in number as provided in Clause 2.1(d) above shall be placed before the Board and accepted by the Board;

(d) 6 (Six) nominees of the Investor in accordance with the Shareholders Agreement shall be appointed as additional directors on the Board;

(e) 2 (Two) nominees of Government in accordance with the Shareholders Agreement shall be appointed as additional directors on the Board.

(f) Government shall hand over the share certificate, alongwith a stipulation that they are non transferable for a period of 3 years from the date of issue, along with share transfer deed duly executed in favour of the Investor.

ARTICLE – 4

CONDITIONS PRECEDENT TO CLOSING

4.1 Conditions Precedent to be complied with by the Investor before Closing.

The Investor shall fulfill the following Conditions Precedent on or before the Closing Date unless waived in writing by the Government:

4.1.1 The Investor shall have obtained or complied with all legal permissions and regulatory compliances in order to be eligible to purchase the Transaction Shares;

4.1.2 The Investor shall not be in default of any of its constitutional documents, any lease, mortgage, pledge, memorandum of understanding, or any other document to which it is a party by way of purchasing the Transaction Shares and the Investor shall have submitted a certificate confirming, that to its knowledge, the representations and warranties of Investor are true, correct and complete, in all material respects, as of the Closing Date.

4.1.3 The Investor shall have paid the Purchase Price to the Government in the manner as set forth in this Agreement before claiming to be entitled for the issuance of Transaction Shares.

4.1.4 The Investor shall have agreed in writing to hold the Transaction Shares or any shares issued subsequently and constituting 76% of the issued and paid up capital of the Company for at least a period of 3 years from the date of issue i.e. the Lock In Period and to this effect shall have executed the Shareholders Agreement with the Government and the Company. Even after the Lock-in Period the Investor undertakes to sell his share only after prior intimation to the Government and to those companies that fulfil the qualification requirements and are willing to sign a deed of adherence in the prescribed format.

4.2 Conditions Precedent to be complied with by Government

The Government shall fulfill the following Conditions Precedent on or before the Closing Date unless waived in writing by the Investor:

4.2.1 All of the representations and warranties of Government and the Company made in or pursuant to this Agreement shall be true and correct as at the Closing Date and with the same effect as if made as of the Closing Date (except such representations and warranties as may be effected by occurrence of events or transactions expressly contemplated or permitted by this Agreement).

4.2.2 The Government has and shall continue to have marketable title and unfettered right to transfer the Transaction Shares on the Closing Date to the Investor, free and clear of all liens, in accordance with the terms of this Agreement.

4.2.3 Each of Government and/or the Company shall have performed or complied with, in all material respect the obligations, covenants and agreements in this Agreement that are to be performed or complied with by the Government and/or the Company, prior to Closing.

4.2.4 The Government and the Company shall have executed and delivered the Shareholders Agreement in the form attached hereto as Exhibit A.

ARTICLE – 5

COVENANTS OF THE PARTIES

5.1 Each of the Parties agree to take all such actions as are within their power to control, and to use their best efforts to cause other actions to be taken which are not within their power to

control, so as to ensure compliance with each of the conditions and covenants set forth herein which are for the benefit of the other Party or to otherwise consummate the transaction contemplated herein. Each of the Parties to this Agreement shall refrain from taking any action that would render any representation or warranty made by it and contained in this Agreement as inaccurate.

5.2 The Investor shall take all necessary steps to preserve and keep the records of the Company in connection with the completion of the transaction contemplated by this Agreement for a period of 3 (three) years from the Closing Date, or for any longer period as may be required by any Law or Governmental Authority, and shall make such records available to the Government or the Company as may be reasonably required by the Government or the Company, as the case may be, in connection with a Claim by the Investor or another Person against the Government or the Company, as the case may be, under this Agreement or otherwise.

5.3 The Investor shall not issue, or cause the publication of, any press release or other announcement or public communication concerning the transaction contemplated by this Agreement, except:

(a) With the prior approval of the Government, which approval shall not be unreasonably withheld; or

(b) When required by Law after prior consultation with the Government, and only to the limited extent as required by Law.

5.4 If, the Closing Date is not the date of execution of this Agreement, the Investor shall be entitled to nominate not more than two of its representatives to be stationed at Registered Office of the Company. Such representatives shall have, subject to applicable laws, without interference to the ordinary conduct of the Company's business, access to the employees, agents, representatives, officers, consultants, auditors, premises, plant, machinery, books of account, records, documents, writings and other papers of the Company. The representatives shall also be provided with copies of all notices concerning shareholders meetings of the Company and meetings of the Board or any committee of such Board along with all agenda papers, and representatives nominated by the Investor shall be entitled to attend such meetings as special invitees and observers.

5.5 The Government and the Investor covenant and undertake that each of them shall vote in favour of necessary resolutions seeking to amend the Memorandum of Association and the Articles of Association so as to enable the following:

(a) reflect the provisions of the Shareholders Agreement in full;

(b) reflect the change in status of the Company from a government company under Section 617 of the Act to a non – government company.

ARTICLE – 6

REPRESENTATIONS AND WARRANTIES OF GOVERNMENT

Except as disclosed in the Disclosed Information, Government hereby represents and warrants to the Investor that:

6.1 Government is the sole registered and beneficial owner of the Transaction Shares which are free and clear of all liens.

6.2 Government has all necessary power, authority and capacity to enter into this Agreement and to perform its obligations under this Agreement.

6.3 Save and except as disclosed or provided for in this Agreement, the execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement have been duly authorized by all necessary action on the part of Government. Government further represents that the signatory to this Agreement on behalf of Government has been duly authorised by Government and has the requisite signing authority to that effect.

6.4 This Agreement constitutes a valid and binding obligation on the Government that is enforceable against it in accordance with its terms, except to the extent of equitable remedies of specific performance and injunction which are at the discretion of the court from which they are sought.

6.5 Save and except the representations and warranties expressly stated in this Agreement, Government makes no other representations or warranties of any kind or nature including, without limitation, any representations or warranties concerning the business, financial viability, assets or liabilities of the Company and no statutory or other representations or warranties shall be implied.

6.6 The execution, delivery and performance of this Agreement will not constitute a breach of any statute, judgment or decree by which the Government is bound.

6.7 Save and except as disclosed or provided for in this Agreement, no Person has any agreement or option or right, capable of becoming an agreement, for the purchase of any Equity Shares owned by the Government.

6.8 Excepting as disclosed or provided for in this Agreement, the execution and performance by the Government of the obligations contained herein shall not constitute a breach of any agreement including, but not limited to, any financing, joint venture, licensing or technology transfer agreements to which the Government is a party.

6.10 All information which has been provided to the Investor with respect to the sale of Transaction Shares is, to the knowledge of the Government, true and correct in all material respects and no material fact or facts has been omitted or concealed there from which would make such information misleading.

6.11 Save and except what is expressly stated herein, neither the Government nor the Company nor any of their agents, affiliates, attorneys, representatives, directors, officers or employee(s) has made any representations or warranties regarding the Company or any of its assets.

ARTICLE – 7

REPRESENTATIONS AND WARRANTIES OF COMPANY

Except as disclosed in the Disclosed Information, the Company hereby represents and warrants to the Investor as regards the matters set out below:

7.1 It is a company duly incorporated or created and is validly subsisting and in good standing under the laws of India with power and authority to own its properties and conduct its business.

7.2 The Company has all the necessary corporate power, authority and capacity, including under its Articles of Association, to enter into this Agreement and to carry out its obligations under this Agreement.

7.3 The Company is not a party to any agreement, which would have a Material and Adverse Effect on the business operations of the Company after the Closing. After the Closing, excepting the impact or consequences that arise due to the Company no longer being treated as a “Government Company” or a “public sector undertaking”, the Company will be able to carry on its business on substantially the same basis as its business being presently carried on.

7.4 Excepting as otherwise disclosed or provided for in this Agreement:

- (a) the Company is the legal and beneficial owner of all its freehold property with good and marketable title thereto;
- (b) there are no agreements, undertakings or other documents, which adversely affect the title to, or ownership of, its immovable property;
- (c) the Company has such rights of entry and exit to and from its immovable property, as are reasonably necessary to carry on its business upon such immovable property substantially in the manner in which such business is currently carried on upon such immovable property;
- (d) the Company has not granted any option, right of first refusal or other contractual rights with respect to any of its movable or immovable property;
- (e) the Company has not entered into any agreement to sell, transfer, lease, encumber, or otherwise dispose of or impair the Company’s right, title and interest in and to its movable and immovable property;
- (f) the Company has no knowledge of any expropriation or condemnation or similar proceeding pending or in progress against its movable or immovable property or any part of such movable or immovable property;

(g) there are no trespassers of any nature on any of the immovable properties.

7.7 No person has any agreement or option or right capable of becoming an agreement for the subscription or issue of Equity Shares.

7.8 Excepting as otherwise disclosed or provided in this Agreement, neither the execution and delivery of this Agreement by the Company, nor the performance by the Company of its obligations hereunder nor compliance by the Company with the provisions hereof will violate, adversely affect, contravene or breach or create a default or accelerate any obligation under any indenture, mortgage, lease, agreement, instrument, charter or by-law provision, statute, regulation, judgement, ordinance, decree, writ, injunction or Law applicable to the Company.

ARTICLE – 8

REPRESENTATIONS AND WARRANTIES OF THE INVESTOR

The Investor/each of the Consortium Members of the Investor hereby represents and warrants/jointly and severally represent and warrant to the Government and the Company that:

8.1 The Investor/each of the Consortium Members is a company duly incorporated and validly existing under the laws of India;

8.2 The Investor/each of the Consortium Members has all necessary corporate power, authority and capacity (corporate and financial) to enter into this Agreement and to carry out its obligations under this Agreement.

8.3 The execution and delivery of this Agreement and the consummation of the transaction contemplated under this Agreement have been duly authorized by all necessary corporate action of the Investor/each of the Consortium Members.

8.4 This Agreement constitutes a valid and binding obligation of the Investor/each of the Consortium Members enforceable against each in accordance with the terms hereof, subject, however, to limitations with respect to enforcement imposed by law in connection with bankruptcy or similar proceedings and to the extent that equitable remedies as specific performance and injunction are in the discretion of the court from which they are sought.

8.5 The Investor/each of the Consortium Members is not a party to, or bound or affected by or subject to any indenture, mortgage, lease, agreement, instrument, charter or by-law provision, statute, regulation, order, judgment, decree, license, permit or any other law which would be violated, contravened or breached by, or under which any default would occur, or an encumbrance would be created, as a result of the execution, delivery and performance by it of this Agreement or any of its terms.

8.6 There is no suit, action, litigation, investigation, Claim, complaint or proceeding in progress or pending or threatened against or relating to the Investor/any of the Consortium Members, which, if determined adversely to the Investor could:

- (a) Prevent the Investor/any of the Consortium Members to cause the Investor from paying to Government, the Purchase Price;
- (b) Enjoin, restrict or prohibit the transfer of all or any part of the Transaction Shares as contemplated by this Agreement; or
- (c) Prevent the Investor from fulfilling any or all of its obligations set out in this Agreement or arising from this Agreement; and
- (d) the Investor has no knowledge of any existing ground on which any such action, suit, litigation or proceeding might be commenced against it with any reasonable likelihood of success.

8.7 Except as disclosed in Schedule I hereto, no governmental or regulatory authorization, approval, order, consent or filing is required on the part of the Investor in connection with the execution, delivery and performance of this Agreement or any other agreement to be delivered under this Agreement. The Investor declares that all such governmental or regulatory authorization, approval, consent, order or filing required has been obtained/ made or shall be obtained/ made before Closing.

8.8 The Investor has reviewed the documents with respect to the Company and its business and operation which included land title documents, status of various legal cases pending against the GoUP/UPSTDCL and financial documents of each of the Units of Company, which were made available for review in the Data Room set up by the Government prior to the date of bidding.

The Investor has conducted his on site review of all the facilities of the Company.

8.9 (a) the Investor has reviewed and understood the contents of the Government of India Office Memorandum No. 64/2001 – DDII dated July 13, 2001 (“Guidelines for qualification of bidders seeking to acquire stake in public sector enterprises through the process of disinvestment”) and represents that the Investor is OR each of the members of the Consortium (in case of a Consortium) are duly qualified to participate in the process of Disinvestment in terms thereof.

b) Neither the Investor, its Associates nor any of their directors or principal officers have been convicted by a Court of law nor has any adverse order been passed by a regulatory authority which casts a doubt on the ability of the Investor to manage the Company or relates to a “grave offence”, For the purposes of this Clause 8.9, “grave offence” would mean an offence of such nature which would outrage the moral sense of the community and is punishable under existing criminal law or other statutes.

(c) No charge-sheet has been filed against the Investor, or against any of the sister concern or Associates of the Investor or any of their officers by any agency of the Government of India or any of its political sub divisions or any other Governmental Authority nor has the Investor, its sister concerns including Affiliates of the Investor and Principals or any of their respective officers had been convicted for any offence.

(d) Neither the Investor, any of its sister concerns (including Associates of the Investor) nor any of their respective directors and principal officers, are or are reasonably expected to be in breach of any criteria laid down by the Government of India for selection of strategic investors for disinvestments in government companies.

ARTICLE 9

MUTUAL REPRESENTATION AND WARRANTIES BETWEEN THE PARTIES

9.1 Each of the Investor, and the Government is a valid and existing legal person that was advised by experienced counsel and, to the extent such Parties deemed necessary, other Representatives in connection with this Agreement and the Investor has undertaken such investigation, and has been provided with and has evaluated such documents and information (including the Data Room Documents), as it has deemed necessary in connection with the execution, delivery and performance of this Agreement. Accordingly, each of the Parties to this Agreement hereby acknowledges that (a) other than the representations and warranties made in and/ or referred to in Articles 6, 7 and 8, no Party has relied upon or will rely upon any other representation or warranty (whether written or oral) or any financial projection or forecast or market information delivered to it with respect to the business and operations of the Company; and (b) there are no representations or warranties by or on behalf of any Party or its Representatives other than those expressly set forth and/ or referred to in Articles 6, 7 and 8 of this Agreement. With respect to any projection or forecast delivered by or on behalf of the Government to the Investor, the Investor understands, acknowledges and agrees that there are uncertainties inherent in making such projections and forecasts and that neither the Government nor the Company nor any of their Representatives has given, or will give, any representation or warranty with respect to any projection or forecast relating to the Company or the business or operations of the Company which will be relied upon by the Investor. The Investor further acknowledge that (a) it has conducted its own independent due diligence, enquiry and investigation into the business and operations of the Company; and (b) the Investor has entered into this Agreement and is purchasing the Transaction Shares and is fulfilling its obligations in terms hereof solely on its own judgement and not in reliance on any representations or warranties of the Government, the Company or any of their Representatives (other than those provided herein and to the extent set forth in Article 6 and 7).

ARTICLE – 10

TERMINATION

10.1 This Agreement may be terminated on or prior to the Closing Date as follows:

- (a) By written mutual consent of each of Government and the Investor; or
- (b) By Government in the event the Investor fails to fulfill any of its Conditions Precedents or fails to fulfill any of its obligations at Closing; or

(c) By the Investor in the event that Government fails to fulfill any of its Conditions Precedents or fails to fulfill any of its obligations at Closing by the Closing Time; or

(d) By Government if an Event of Bankruptcy occurs in relation to the Investor or any of its respective sister concerns or Affiliates and/or if there is any breach on or after the date hereof of any of the Investor's obligations, representation and warranties contained herein.

10.2.1 The termination of this Agreement pursuant to Clause 10.1(b) and (c) hereof shall be effected by the Party terminating this Agreement by delivering 3 (three) days' prior written notice of such termination to the other Parties. If this Agreement so terminates, it shall become null and void and have no further force or effect, except as provided hereinbelow.

10.2.2 In the event Government terminates this Agreement pursuant to the provisions of Clause 10.1(b), and/ or 10.1(d) then the Government may terminate this Agreement without the Government being liable in any manner whatsoever to the Investor, including any liability to repay the Purchase Price. This however shall not limit Government's right to exercise any other rights which it may have against the Investor and/ in respect of such default. Government shall also be free to transfer any Equity Shares owned by it including the Transaction Shares to any third party.

10.3 If this Agreement is terminated pursuant to Clause 10.1 or otherwise, all obligations of Government, the Investor and the Company under this Agreement shall automatically terminate with no further act or conduct being necessary or required on the part of any such Party, or any liability of any such Party, and each of the Parties shall irrevocably be released from all obligations and liabilities hereunder, except that, in each case

(a) Notwithstanding any provision of this Agreement to the contrary, the provisions under Articles/Clauses 1, 10.2.2, 11.2, 12, 13.1, 13.2, 13.7, 13.11, 13.12 and this Clause 10.3 shall survive such termination;

(b) Such termination shall not constitute a waiver by any Party of any obligation that by its terms shall survive such termination pursuant to this Agreement; and

(c) Such termination shall not constitute a waiver by any Party of any Claim it may have for actual damages caused by reason of, or relieve any Party from liability for any breach of this Agreement prior to termination under Clause 10.1 hereof.

ARTICLE 11

Government shall defend, indemnify and hold only the Investor (and no other Person whatsoever) harmless from and against any Claim actually incurred or suffered by the Investor (collectively, the "Investor Losses") arising out of or resulting from any breach by Government or the Company of any representation and warranty contained in this Agreement

provided that in no event shall Government be liable, whether in contract, tort or otherwise for any special, indirect, incidental or consequential damages arising out of or in connection

with this Agreement, or any breach, performance or non performance of any provision hereof.

11.2 Indemnification by the Investor

From and after the Closing Date, subject to this Article 11, the Investor shall defend, indemnify and hold Government harmless from and against any Claim actually incurred or suffered by Government (collectively, the “Government Losses”) arising out of or resulting from:

(a) any breach by the Investor of any representation and warranty contained in this Agreement; and

(b) any breach by the Investor of any of its covenants, agreements or obligations contained herein; provided that in no event shall the Investor be liable, whether in contract, tort or otherwise for any special, indirect, incidental or consequential damages arising out of or in connection with this Agreement, or any breach, performance or non performance of any provision hereof.

11.3 Notice of Claim; Right to Participate in and Defend Third Party Claim; Non-Third Party Claims.

(a) If any indemnified party receives notice of any Claim in respect of which indemnification may be sought under this Agreement (a “Third Party Claim”), and the indemnified Party intends to seek indemnification under this Agreement, then the indemnified Party (the “Indemnified Party”) shall promptly provide the indemnifying Party with written notice of the Third Party Claim and the relevant facts and circumstances to the extent known, provided, however, that if:

(i) such Claim is under Clause 11.1 or 11.2(a), any notice of the Third Party Claim must be delivered prior to the expiration of the R&W Claim Period with respect to the pertinent representation and warranty described in Clause 11.5 of this Agreement;

(ii) if such Claim is under Clause 11.1 or 11.2(b), any notice of the Third Party Claim must be delivered within 30 (thirty) calendar days of the breach of the pertinent covenant or obligation;

(iii) the failure by the Indemnified Party to notify an indemnifying Party of a Third Party Claim shall not relieve the indemnifying Party of any indemnification responsibility under this Article 11, unless:

(a) such failure prejudices the ability of the indemnifying Party to defend such Third Party Claim, or

(b) such Claim is under Clause 11.1 or 11.2(a) and notice of the Third Party Claim is delivered after the expiration of the R&W Claim Period with respect to the pertinent representation and warranty as described in Clause 11.5, or

(c) such Claim is under Clause 11.1 or 11.2(b) and notice of the Third Party Claim is delivered after 30 calendar days following the breach of the pertinent covenant or obligation;

(iv) the indemnifying Party shall have the right, at its option and expense, to participate in the defence of such Third Party Claim, but not to control the defence, negotiation or settlement thereof (which control shall at all times rest with the Indemnified Party) unless (1) such Third Party Claim involves only money damages and not an injunction or other equitable relief; or (2) if the indemnifying Party has a defence or counterclaim in relation to such Third Party Claim which the Indemnified Party is not entitled to assert (to the extent necessary to assert and maintain such defence or counterclaim). The Indemnified Party shall continue to have the right to be represented, at its own expense, by counsel of its choice in connection with the defence, negotiation or settlement of such Third Party Claim;

(v) if the indemnifying Party does not assume control of the defence of such Third Party Claim, the entire defence, negotiation or settlement of such Third Party Claim by the Indemnified Party shall be deemed to have been consented to by, and shall be binding upon, the indemnifying Party as fully as though the indemnifying Party alone had assumed the defence thereof and a judgment had been entered in such Third Party Claim in respect of such settlement or judgment.

(b) The Parties agree to cooperate fully with each other in connection with the defence, negotiation or settlement of any such Third Party Claim, including, without limitation, at the request of the indemnifying Party, in participating in the defence, negotiation or settlement thereof.

(c) Any indemnifiable Claim under this Agreement that is not a Third Party Claim must, in order to be valid and effective hereunder, be asserted by the Indemnified Party by prompt delivery of written notice thereof to the indemnifying Party, provided that (i) if such Claim is under Clause 11.1 or 11.2(a), it must be delivered prior to the expiration of the R&W Claim Period with respect to the pertinent representation and warranty as described in Clause 11.5 of this Agreement; or (ii) if such Claim is under Clause 11.1 or 11.2(b), notice of the Claim must be delivered within 30 (thirty) calendar days of the breach of the pertinent covenant or obligation.

11.4 Notwithstanding any other provision in this Agreement or of any applicable Law the Government shall not be obligated or required to indemnify, defend and hold harmless the Investor from and against any Investor Losses under Clause 11.1 hereof unless and until the cumulative aggregate amount of such Investor Losses equal or exceeds Rs.10,00,000/- (Rupees Ten Lacs only) (the "Aggregate Liability Threshold"). After the Investor Losses exceed the Aggregate Liability Threshold, the Government shall pay all Investor Losses, including any Investor Losses that are less than the Aggregate Liability Threshold; provided however, that in calculating the Investor Losses for purposes of indemnification under Clause 11.1, any Investor Losses in respect of any individual event or occurrence that is less than Rs. 2,50,000/- (Rupees Two Lacs Fifty Thousand Only) (the "De-Minimis Investor Losses")

shall be excluded in their entirety and Government shall have no liability whatsoever to the Investor for any such De-Minimis Investor Losses;

11.5 Representation and Warranty Survival Period

All representations and warranties of the Parties contained in this Agreement shall survive for a minimum period of 3 (three) years from the Closing Date (the “R&W Claim Period”), and upon the expiration of the R&W Claim Period, all representations and warranties to which such R&W Claim Period relates to shall automatically expire without any action from the Parties hereto. The representations and warranties made in this Agreement by the Government and the Company will be deemed for all purposes to be qualified with by the disclosures made herein regardless of whether in the case of any particular representation and warranty such representation and warranty refer to such disclosure in which the disclosure is made.

11.6 Mitigation of Losses

The Investor shall not be entitled to indemnification or compensation with respect to any Investor Loss to the extent that the Investor had a reasonable opportunity, in good faith, to mitigate the Investor Loss but failed to do so.

11.7 Exclusive Remedy

The remedies set forth in this Article 11 shall be the sole and exclusive remedies of the Investor for any breach of or any matter relating to, any representation, warranty, covenant, agreement or obligation contained in this Agreement.

11.8 No Set Off Right

Notwithstanding any other provisions in this Agreement to the contrary, no Indemnified Party shall be entitled to (and such Indemnified Party shall not) recover any indemnification payment or other amounts due from an indemnifying Party under this Agreement or otherwise by retaining and setting off such payment or amounts (whether or not such amounts are liquidated or reduced to judgment) against any amounts due or to become due from the Indemnified Party to such indemnifying party under this Agreement or otherwise.

ARTICLE – 12

CONFIDENTIAL INFORMATION

12.1

The Parties acknowledge that in order to purchase the Transaction Shares of the Company, it is necessary for the Government to entrust the Investor with certain valuable proprietary information and knowledge of certain modes of business operations (“**Confidential Information**”) which are essential to the profitable operation of the Company and which gives the Company a competitive advantage over other organizations pursuing related business activities. In the context of this Agreement, the term “Confidential Information”

shall mean (i) all information, data, knowledge and know-how (in whatever form and however communicated) relating directly or indirectly to the Company (or to its Associates, their respective businesses, their clients, employees, operations, properties, products, markets or financial positions) that is delivered or disclosed by the Company, or its Associates or any of their respective officers, directors, members, employees, contractors, agents or shareholders to the Investor in writing, electronically, orally or through visual means, or that the Investor or its Associates or any of their respective officers, directors, partners, employees, sub contractors, agents or shareholders learns or obtains orally through observation or analyses, interpretations, compilations, studies or evaluations of such information, data, knowledge or know-how and is identified at the time of disclosure as confidential with respect to written materials and with respect to other information in writing or orally and (ii) any information that would be reasonably deemed to be confidential when considering the nature of such information and the circumstances surrounding its disclosure.

12.2

Confidential Information shall not include information which: (a) is now, or hereafter becomes, through no act or failure to act on the part of the Investor, generally known or available to the public; (b) is rightfully known by the Investor at the time of receiving such information; (c) is independently developed by the Investor without any breach of this Agreement; or (d) is required to be disclosed by the Investor pursuant to any law or ordinance, or any order, direction or judgment of any court, tribunal or judicial or quasi-judicial authority provided prior to any disclosure the Company has been notified by the Investor and all reasonably available legal remedies to maintain the confidentiality of such information have been exhausted.

12.3

The Investor including its Associates, representatives, employees, agents, directors, agents, officers shall only use the Confidential Information for providing the Hospitality/Tourism Services in terms of this Agreement and the Shareholders Agreement and shall keep such Confidential Information in confidence and use reasonable efforts to prevent the unauthorized duplication, use and disclosure of the Confidential Information. The Investor shall upon expiration or termination of this Agreement or otherwise upon demand, at Company's option, either return or destroy and certify in writing the destruction of any and all documents (the term "document," shall include any writing, instrument, agreement, letter, memorandum, chart, graph, blueprint, photograph, financial statement or data, telex, facsimile, cable, tape, disk or other electronic, digital, magnetic, laser or other recording or image in whatever form or medium), papers and materials and notes thereon in the Investor's possession including copies or reproductions thereof, to the extent they contain Confidential Information. The Investor agrees that it will protect the confidentiality of Confidential Information through the exercise of the same procedures and care that it uses in preserving and safeguarding its own proprietary and confidential information. The Investor will limit access to Confidential Information to only those of its directors, employees, agents, officers, representative and sub

contractors having a need-to-know in connection with the performance of their obligation under this agreement.

12.4

The Investor hereby acknowledges and agrees that in the event of any breach of this Clause 12 or the actual or threatened disclosure of Confidential Information without the express prior written consent of Company, the Company will suffer irreparable harm and injury. Accordingly the Company in such event shall be entitled to specific performance of the Investor's obligations under this Agreement, as well as relief by way of an injunction or restraining order against the Investor and/or any other relief as may be granted by a court of competent jurisdiction. The Company shall be entitled to claim from the Investor, all costs and expenses associated with any legal action initiated by the Company to protect its rights under this Clause. Any right to obtain an injunction, restraining order and/or any other relief hereunder shall not be deemed to waive any other right which the Company may have under law, including compensation and damages.

ARTICLE – 13

MISCELLANEOUS

13.1 Expenses: Each of the Parties shall pay their respective legal, accounting, and other professional advisory and other fees, costs and expenses incurred in connection with the purchase and sale of the Transaction Shares and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement. In particular, it is agreed that the stamp duty payable on the transfer of the Transaction Shares (in the event the Transaction Shares are not transferred in the dematerialised form) and the stamp duty on this Agreement shall be paid by the Investor and such expenses shall not constitute an obligation of the Company or the Government.

13.2 Any notice or other writing required or permitted to be given under this Agreement or for the purposes of this Agreement (referred to in this Article as a "Notice") to any Party shall be sufficiently given if delivered personally, or if sent by prepaid registered mail or if transmitted by fax or other form of recorded communication tested prior to transmission to such Party:

- (a) in the case of a Notice to Government, at:

Attention: Principal Secretary

Address:

Fax:

(b) in the case of a Notice to the Investor, at:

Attention: Managing Director

Address:

Fax:

(c) in the case of Investor being a Consortium

Lead Member, at Attention: Managing Director

Address:

Fax:

(d) in case of a Notice to the Company, at:

Attention: Managing Director

Address:

Fax:

Or at such other address as the Party to whom such writing is to be given shall have last notified to the Party giving the same in the manner provided in this Clause. Any notice personally delivered to the Party to whom it is addressed as provided in this Clause shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day then the notice shall be deemed to have been given and received on the manner provided for in Clause 1.2(d). Any notice sent by prepaid registered mail shall be deemed to have been given and received on the fifth Business Day following the date of its mailing. Any notice transmitted by fax or other form of recorded communication shall be deemed to have been given and received on the first Business Day after its transmission.

13.3 Assignment: Neither this Agreement nor any benefits or liabilities under this Agreement shall be assigned by any Party without the prior written consent of all the other Parties. Subject to the foregoing, this Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation or merger of any Party).

13.4 Further Assurances: The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transaction contemplated by this Agreement, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing, provided that such co-operation shall not extend to joining in or commencing litigation or arbitration proceedings.

13.5 Amendments and Waivers: No amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the parties to this Agreement. To the extent any such modification or amendment requires a corresponding modification or amendment to the Company's Memorandum and/or Articles of Association, the Parties shall use their best efforts in good faith to cause all such modifications or amendments to such Memorandum and/or Articles of Association. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

13.6 Non-Sovereign Act: The execution, delivery and performance by the Government of this Agreement and any other related agreements to which it is a party constitutes commercial acts done and performed for commercial purposes and do not constitute sovereign acts and the Government, saving and excepting the present or future assets and properties concerning the military of the Government or any diplomatic/consular office or the constitutional authorities (of India) and their offices, waives any and all rights of immunity that it or any of its assets may have or may acquire in future against the institution of any legal or arbitral proceedings and the enforcement of any judgement, settlement or arbitral award.

13.7 Governing Law: This Agreement shall be governed and interpreted by and construed in accordance with the laws of India, without giving effect to the principles of conflict of laws thereunder. The Courts at Lucknow shall have the exclusive jurisdiction in the matter.

13.8 Severability: If any provision of this Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability shall attach only to such provision or part of such provision and the remaining part of such provision and all other provisions of this Agreement shall continue to remain in full force and effect.

13.9 Counterparts: This Agreement may be executed by the Parties in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument.

13.10 Rights of Third Parties: Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or give any Person, other than the Parties hereto any rights or remedies under or by reason of this Agreement or any transaction contemplated by this Agreement.

13.11 Limitation on Government's Liability: Notwithstanding anything to the contrary contained anywhere in this Agreement, the Government's aggregate liability under this Agreement shall not exceed 10% (ten percent) of the Purchase Price.

13.12 Dispute Resolution: Any and all Claims, disputes, questions or controversies involving any of the Parties hereto and arising out of or in connection with this Agreement, including the execution, interpretation, validity, performance, breach or termination hereof, (collectively, "Disputes"), shall be resolved and settled, subject to the procedures set out in Schedule III to this Agreement.

IN WITNESS WHEREOF, each of the Parties have caused this Agreement to be duly executed by their duly authorised representatives on the date and year first hereinabove written.

For and on behalf of the

Governor of Uttar Pradesh

Signed By:

Designation:

Witnessed by :

Name:

Address

For and on behalf of (Investor) having authority to sign on behalf of the Investor vide resolution dated [____] of the board

of directors

Signed by: Designation Witnessed by:

Name:

Address

OR (In case of a Consortium)

For and on behalf of _____ (Lead Member) having authority to sign on behalf of the Member vide resolution dated [____] of the board of directors

Signed by: Designation

Witnessed by:

Name:

Address:

For and on behalf of _____ (Member 1) having authority to sign on behalf of the Member vide resolution dated [____] of the board of directors

Signed by: Designation

Witnessed by: Name: Address

For and on behalf of _____ Member 2) having authority to sign on behalf of the _____ vide resolution dated [____] of the board of directors

Signed by: Designation

Witnessed by:

Name:

Address:

For and on behalf of _____ (Member 3) having authority to sign on behalf of the Member
vide resolution dated [_____] of the board of directors

Signed by: Designation

Witnessed by:

Name:

Address:

For and on behalf of the Company having authority to sign on behalf of the

Company vide resolution dated [_____] of the board of directors Signed by: Designation

Witnessed by:

Name: Address

SCHEDULE I
LIST OF APPROVALS

SCHEDULE II
DATA ROOM DOCUMENTS

- Land Title Records
- Legal cases against UPSTDCL
- Balance Sheets of UPSTDCL
- Unit-wise Balance Sheets and progress report upto 31.12.2008
- Unit-wise Preliminary Information Memorandum

SCHEDULE III

DISPUTE RESOLUTION

(a) Dispute resolution

Disputes which cannot be finally resolved by such Parties within 30 (thirty) calendar days of the arising of a Dispute by amicable negotiation (each Party in good faith making its best effort to reach a reasonable and equitable resolution of the matter) shall be immediately referred for resolution by good faith negotiation between their respective senior officers with decision-making power and who shall not have had substantive involvement in the matters involved in the Dispute, unless the Parties otherwise agree. If any such panel of senior officers is unable to resolve and settle the Dispute within 60 (sixty) calendar days after the Dispute is first submitted to it, then any Party shall be entitled to cause the Dispute to be submitted for arbitration pursuant to the terms of Clause (b) of this Schedule III.

(b) Arbitration

Any Dispute which is not settled in accordance with Paragraph (a) of this Schedule III shall be submitted to arbitration in accordance with the provision of the Arbitration Act. The Disputes shall be referred to a sole arbitrator if the Government and the Investor agree upon a sole arbitrator. In the event a sole arbitrator cannot be agreed upon within 30 (thirty) days of the Dispute having been submitted to arbitration, the arbitral tribunal shall comprise of three arbitrators, one to be appointed by each of Government and the Investor and the third to be jointly appointed by the two arbitrators appointed by the Parties. The venue of arbitration shall be Lucknow, India. The language to be used in the arbitration shall be the English language, and any award shall be made in the English language. In connection with the arbitration proceedings, the Parties to the Dispute hereby agree to cooperate in good faith with each other and with the arbitral tribunal and to use their respective best efforts to respond promptly to any reasonable discovery or demand made by the other Party(ies) and/or the arbitral tribunal. Each of the Parties expressly understands and agrees that the arbitral award shall be the sole, exclusive, final and binding remedy between them regarding the Dispute(s) presented to the arbitral tribunal. The Parties hereto agree that the arbitral award may be enforced against the Parties or their assets wherever they may be found and that a judgement upon the arbitral award may be entered in any court having jurisdiction. (c) Continuing obligations Neither the existence of any Dispute nor the fact that any arbitration is pending hereunder shall relieve any of the Parties of their respective obligations under this Agreement.

The pendency of a Dispute in any arbitration proceeding shall not affect the performance of the obligations of the Parties under this Agreement.