



TA-7691 (BAN):

Public Private Partnership Program Operationalization

Draft Model Concession Agreement

Part II – Special Conditions – Industrial Parks

20 December 2011



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Special Conditions

SECTION 1

DEFINITIONS AND INTERPRETATION

1.1 Definitions

In these Special Conditions, unless the context otherwise requires the following terms shall have the following meanings assigned thereto:

“Damages” means the damages payable by either party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed, genuine pre-estimated loss and damage likely to be suffered and incurred by the party entitled to receive the same and are not by way of penalty;

“Emergency” means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;

“Industrial Park” means the Project Facility to be constructed, operated and maintained by the Concessionaire during the Concession Period;

“Industrial Unit” means individual units of the Industrial Park which will be sub-licensed to Users;

“Project Area Development Plan” means an area development plan in respect of the Project containing the broad details of the development of the entire Site planned by the Concessionaire including provision of facilities for electricity, water, sewage, roads, pathways on the Site;

“Project Area Master Plan” means a master plan in respect of the Project containing the details and description of the development of the Project and commercial space development planned by the Concessionaire;

“Specifications and Standards” means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Annexure E to Annex C and any modifications thereof, or additions thereto, as included in the design and engineering for the Project submitted by the Concessionaire to, and expressly approved by, the Concessioneing Authority;

“User” means a person who uses the Project or any part thereof and includes sub-licensees of the Industrial Park Infrastructure and Allied Infrastructure.

SECTION 3

CONDITIONS PRECEDENT

3.1 Conditions Precedent

- (1) The Concessioneing Authority is not required to satisfy any additional conditions under Section 3.1(a)(xi) of the General Conditions.
- (2) The Concessioneing Authority is not required to satisfy any additional conditions under Section 3.1(b)(iv) of the General Conditions.

SECTION 7

OPERATIONS AND MAINTENANCE

Part A – Operation, Maintenance and Safety of the Project Facilities and Services

7.1 Main Obligations of the Concessionaire With Respect to Operation and Maintenance

- (1) During the Operation Phase, the Concessionaire shall operate and maintain the Project 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 Project to comply with the provisions of this Agreement, Applicable Laws and Applicable Permits, and conform to Good Industry Practice. The obligations of the Concessionaire hereunder shall include:
 - (a) ensuring optimal operation and maintenance of the Project, in accordance with the Specifications and Standards prescribed herein, throughout the Concession Period, either by performing the operation and maintenance itself or by making durable, effective and permanent arrangements for due performance of the operation and maintenance obligations by third party(s);
 - (b) collecting and appropriating the fees from the Project in accordance with the provisions contained herein;
 - (c) complying with the Safety Standards;
 - (d) carrying out periodic preventive maintenance of the Project ;
 - (e) carrying out periodic renovation as required from time to time so that the Project is always in conformity with the scope of the Concession;
 - (f) undertaking routine maintenance including prompt repairs of potholes, cracks, joints, structures, buildings, pavement lighting, road signs, electricity lines, telephone lines, water facilities, sewage system and other public amenities on the Site;
 - (g) undertaking major maintenance such as resurfacing of roads, pavements, repairs to structures and buildings including repairs and refurbishment of other infrastructure and Project Facilities;
 - (h) preventing, with the assistance of concerned law enforcement agencies, any unauthorised use of the Site;
 - (i) preventing, with the assistance of the concerned law enforcement agencies, any encroachments on the Site;
 - (j) protection of the environment and provision of equipment and materials therefor so that the Project is in compliance with Applicable Permits including environmental clearance(s) required under the Environmental Law;

- (k) operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the Project; and
 - (l) maintaining a public relations unit to interface with and attend to suggestions from the Users, government agencies, media and other agencies;
- (2) The Concessionaire shall promptly remove from the Project 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 in a clean, tidy and orderly condition, and in conformity with the Applicable Laws, Applicable Permits and Good Industry Practice.
- (3) The Concessionaire shall maintain, in conformity with Good Industry Practice, and Standards and Specifications applicable to the Project Facilities located on the Site and forming part of the Project.

7.2 Operation and Maintenance Standards

The Concessionaire shall procure that at all times during the Operation Phase; the Project conforms to the Operational and Maintenance Standards set forth in Annex C.

7.3 Maintenance Manual

- (1) At least 120 (one hundred and twenty) days prior to the likely completion of the Project, the Concessionaire shall, in consultation with the Concessioneing Authority, evolve a repair and maintenance manual (the "Maintenance Manual") for the regular and preventive maintenance of the Project in conformity with the Operational and Maintenance Standards, Safety Standards and Good Industry Practice, and shall provide 5 (five) copies thereof to the Concessioneing Authority. The Maintenance Manual shall be revised and updated once every 3 (three) years and the provisions of this Section shall apply, mutatis mutandis, to such revision.
- (2) Without prejudice to the provision of the forgoing Section the Maintenance Manual shall, in particular, include provisions for maintenance of Project Assets and Facilities and shall provide for life cycle maintenance, routine maintenance and reactive maintenance which may be reasonably necessary for maintenance and repair of the Project Assets, including replacement thereof, such that its overall condition conforms to Good Industry Practice.

7.4 Maintenance Programme

- (1) Not later than 45 (forty five) days prior to the beginning of each Accounting Year during the Operation Phase, the Concessionaire shall provide to the Concessioneing Authority, its proposed annual programme of preventive, urgent and other scheduled maintenance (the "Maintenance Programme") to comply with the Operations and Maintenance Standards, Maintenance Manual and Safety 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 Project;
 - (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.
- (2) Within 15 (fifteen) days of receipt of the Maintenance Programme, the Concessioning Authority shall review the same and convey its comments to the Concessionaire with particular reference to its conformity with the Operations and Maintenance Standards, Maintenance Manual and Safety Standards.
- (3) The Concessionaire may modify the Maintenance Programme as may be reasonable in the circumstances.

7.5 Safety, breakdowns and accidents

- (1) The Concessionaire shall ensure safe conditions for the Users, and in the event of unsafe conditions and accidents, it shall follow the relevant operating procedures and undertake 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.
- (2) The Concessionaire's responsibility for rescue operations on the Project shall include safe evacuation of all Users and staff from the affected area as an initial response to any particular incident and shall also include prompt removal of debris or any other obstruction, which may endanger or interrupt the smooth functioning of the Project.

7.6 De-commissioning due to Emergency

- (1) If, in the reasonable opinion of the Concessionaire, there exists an Emergency which warrants de-commissioning and closure of the whole or any part of the Project, the Concessionaire shall be entitled to de-commission and close the whole or any part of the Project to Users for so long as such Emergency and the consequences thereof warrant; provided that such de-commissioning and particulars thereof shall be notified by the Concessionaire to the Concessioning Authority without any delay, and the Concessionaire shall diligently carry out and abide by any reasonable directions that the Concessioning Authority may give for dealing with such Emergency.
- (2) The Concessionaire shall re-commission the Project or the affected part thereof as quickly as practicable after the circumstances leading to its de-commissioning and closure have ceased to exist or have so abated as to enable the Concessionaire to re-commission the Project.

7.7 Maintenance Reports

During Operation Phase, the Concessionaire shall, no later than 7 (seven) days after the close of a quarter, furnish to the Concessioneing Authority a quarterly report stating in reasonable detail the condition of the Project including its compliance or otherwise with the Operation and Maintenance Standards, Maintenance Manual, Maintenance Programme and Safety Standards, and shall promptly give such other relevant information as may be required by the Concessioneing Authority.

7.8 Register of Maintenance Works and Inspection

The Concessionaire must maintain a true, up to date and complete register of all maintenance work undertaken by the Concessionaire in respect of the Project Facilities and all inspections carried out on the Project Facilities. The Concessionaire must, following reasonable notice from the Concessioneing Authority, make available to the Concessioneing Authority the aforesaid register for inspection and if, requested to do so by the Concessioneing Authority, provide it with a full copy of the aforesaid register or extracts thereof.

7.9 Maintenance Inspections by the Concessioneing Authority

(1) Inspection

The Concessioneing Authority shall inspect the Project at least once in a quarter. 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 Operation and Maintenance Standards, Maintenance Manual, Maintenance Programme and Safety Standards, and send a copy thereof to the Concessioneing Authority and the Concessionaire within 7 (seven) days of such inspection.

(2) Test

For determining that the Project conforms to the Operation and Maintenance Standards, the Concessioneing Authority shall require the Concessionaire to carry out, 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 Concessioneing Authority and furnish the results of such tests forthwith to the Concessioneing Authority.

7.10 Remedial measures

- (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 and furnish a report in respect thereof to the Concessioneing 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.

- (2) The Concessioneing Authority 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 Project into compliance with the Operation and Maintenance Standards.
- (3) In the event the Concessionaire has failed to operate and maintain the Project in accordance with the Operation and Maintenance Standards, and such failure has not been remedied within 60 days following a notice to that effect issued by the Concessioneing Authority ("Notice to Remedy"), or such longer period as may in the opinion of the Concessioneing Authority be reasonable and necessary to remedy the failure, the Concessioneing Authority may, without prejudice to any of its other rights / remedies under this Agreement, be entitled to operate and maintain the Project or cause to repair and maintain the Project infrastructure, and Project Facilities at the risk and cost of the Concessionaire until such failure is rectified. The Concessionaire shall reimburse all reasonable costs incurred by the Concessioneing Authority on account of such operation and maintenance or repair and maintenance within 7 days of receipt of the Concessioneing Authority claim therefor.
- (4) The Concessionaire shall be deemed to be in material breach of Operation and Maintenance Standards if the Concessioneing Authority determines that, even after following written notice giving the particulars, and a reasonable opportunity to cure as per above provisions;
 - (a) there has been failure / undue delay in carrying out scheduled / planned maintenance or the scheduled / planned maintenance has not been carried out in accordance with the Operation and Maintenance Standards and such act has a Material Adverse Effect;
 - (b) the maintenance of the Project, Project Assets or Project Facilities or any material part thereof has deteriorated to a level which is below the acceptance level prescribed by the Operations and Maintenance Standards and such deterioration has a Material Adverse Effect;
 - (c) there has been a serious or persistent let up in adhering to the Operation and Maintenance Standards and thereby the Project, Project Assets or Project Facilities or any part thereof is not safe for operations;
 - (d) there has been persistent breach of Operation and Maintenance Standards. For avoidance of doubt, persistent breach shall mean:
 - (i) any recurring breach of Operation and Maintenance Standards by the Concessionaire which has not been remedied by the Concessionaire despite a Notice to Remedy in respect thereof issued by the Concessioneing Authority;
 - (ii) recurrence of a breach by the Concessionaire, during the pendency of Notice to Remedy by the Concessioneing Authority requiring the Concessionaire to remedy a breach, and
 - (iii) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.

- (e) upon occurrence of a material breach of Operation and Maintenance Standards, the Concessioneing Authority shall, without prejudice to and notwithstanding any other consequences provided therefor under this Agreement, be entitled to terminate this Agreement.

7.11 Damages for breach of operation and maintenance obligations

- (1) In the event that the Concessionaire fails to repair or rectify any defect or deficiency set forth in the Operation and Maintenance Standards within the period specified therein, it shall be deemed to be in breach of this Agreement and the Concessioneing 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 0.5% (zero point five per cent) of the cost of such repair or rectification as estimated by the Concessioneing Authority. Recovery of such Damages shall be without prejudice to the rights of the Concessioneing Authority under this Agreement, including the right of termination thereof.
- (2) The Damages set forth above may be assessed and specified forthwith by the Concessioneing Authority provided that the Concessioneing Authority may, in its discretion, demand a smaller sum as 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.

7.12 Updating the Operations and Maintenance Standards and the Safety Standards

- (1) The Concessionaire acknowledges and agrees that the Operations and Maintenance Standards and the Safety Standards set out in the Annexure to Annex C will require ongoing development, amendment and updating throughout the Term to take into account:
 - (a) changes in Applicable Laws;
 - (b) changes to the manner in which the Project Facilities is being used and operated;
 - (c) the development/change in the units of the Project Facilities; and
 - (d) deficiencies in or omissions from the Operations and Maintenance Standards and the Safety Standards of which the Concessionaire becomes aware.
- (2) The Concessionaire must:
 - (a) continue to develop and promptly amend or update the Operations and Maintenance Standards and the Safety Standards to take into account the occurrence of the events and circumstances referred to in Subsection (1); and
 - (b) promptly submit each revised Operations and Maintenance Standards and the Safety Standards to the Concessioneing Authority as it is further developed, amended or replaced.

- (c) without limiting any other rights the Concessioneing Authority may have, if the Concessioneing Authority reasonably considers that:
 - (i) any part of the Operations and Maintenance Standards and the Safety Standards has ceased to comply with the requirements of this Agreement; or
 - (ii) the Concessionaire has not further developed, updated or amended the Operations and Maintenance Standards and the Safety Standards in accordance with the requirements above, the Concessioneing Authority may by written notice direct the Concessionaire to further develop, update or amend the Operations and Maintenance Standards and the Safety Standards specifying:
 - 1. the reasons why such development, updating or amending is required; and
 - 2. such reasonable time within which such development, updating or amending must occur,and the Concessionaire must:
 - (iii) further develop, update or amend the Operations and Maintenance Standards and the Safety Standards as directed by the Concessioneing Authority; and
 - (iv) submit the further developed, updated or amended Operations and Maintenance Standards and the Safety Standards to the Concessioneing Authority within the time specified in the Concessioneing Authority's notice.
- (3) The Concessionaire:
 - (a) must comply with the Operations and Maintenance Standards and the Safety Standards submitted to the Concessioneing Authority;
 - (b) agrees that compliance by it with the Operations and Maintenance Standards and the Safety Standards will not in any way lessen or affect:
 - (i) its liabilities or responsibilities under this Agreement or otherwise according to Applicable Laws; or
 - (ii) the Concessioneing Authority's rights against it, whether under this Agreement or otherwise according to Applicable Laws.
- (4) The Concessioneing Authority will have the right at any time to audit at the Concessioneing Authority's cost the Concessionaire's compliance with the Operations and Maintenance Standards and the Safety Standards. The Concessioneing Authority must give the Concessionaire at least 28 days' notice of its intention to exercise this right.

Part B – Obligations of the Concessioneing Authority

7.13 Approvals

The Concessioneing Authority shall promptly grant any approval or consent sought by the Concessionaire in relation to Operation and maintenance as required under this Agreement subject to the Concessionaire having complied with all relevant requirements under Applicable Laws.

7.14 Exclusivity

For the duration of the Concession Period, the Concessionaire exclusively shall operate and maintain the Project Facilities.

7.15 Utilities and Services

The Concessioneing Authority shall during the Concession Period provide access to the Concessionaire to all infrastructure facilities and utilities including water, electricity and telecommunication facilities necessary for the implementation, operations and maintenance of the Project/Project Facilities and Services in accordance with this Agreement, at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers availing substantially equivalent facilities and utilities.

SECTION 9

PAYMENTS TO THE CONCESSIONING AUTHORITY

9.1 License Fee

- (1) The Concessionaire shall, as consideration for the use, in its capacity as a bare licensee of the Project Site made available in accordance with Section 2.4 of the General Conditions, pay to the Concessioneing Authority the sum of BDT [●] (Takas [●] Only) (as specified in the tender documents) (the “License Fee”). Such amount shall be paid by the Concessionaire [as agreed upon in lump sum or in half yearly/yearly instalments].
- (2) Any delay in payment of the amount in the preceding Sub-Section shall entail payment of interest @ BB PLR plus 2% (two percent) per annum on the amount outstanding.

9.2 Payments of Royalty

- (1) The Concessionaire shall pay to the Concessioneing Authority a Royalty per Month equivalent to [●] % ([●] percent) of the Gross Revenue chargeable by the Concessionaire (“the Royalty”).
- (2) Gross Revenue shall be computed on the basis of the maximum Tariffs leviable for and in respect of the Project Facilities and Services provided during the relevant period of computation. It is agreed that discounts and deferments, if any offered by the Concessionaire to the users or amounts if any not collected by the Concessionaire for any reason whatsoever in respect of the Project Facilities and Services, shall be ignored for the purpose of Gross Revenue. Further, in computing the Gross Revenue, income from interest, sale of assets, amounts received by the Concessionaire by way of damages from third parties (excepting damages received from the users on account of demurrage or such other related charges in respect of the Project Facilities and Services), taxes and cesses in respect to the Project Facilities and Services, if any collected and paid to any Government Authority shall not be taken into account.
- (3) Royalty for each Month shall be paid on or before the seventh Day of the immediately succeeding Month.
- (4) The payment of Royalty shall commence from the Month in which the Concessionaire commences to provide any Project Facilities and Services, and shall be irrespective of Date of Commercial Operation.
- (5) Royalty amounts remaining unpaid on respective due dates would carry interest @ BB PLR plus 2% (two percent) per annum from the due date till the date of payment or realization thereof.

9.3 Other Payments

None.

SECTION 15

EVENTS OF DEFAULT

15.1 The Concessionaire Event of Default

There is no additional Concessionaire Event of Default under Section 15.1(xxvii) of the General Conditions.

15.2 The Concessioneing Authority Event of Default

There is no additional Concessioneing Authority Event of Default under Section 15.2(v) of the General Conditions.

Annexes

ANNEX A

PROJECT SITE

[Description of Project Site will be included here.]

1. The Site shall mean the land admeasuring [●] acres situated at [●] of [●] District, as delineated in the map attached hereto as an Annexure and bounded as follows:

North :

South :

East :

West :

2. An inventory of the Site including the land, buildings, structures, road works, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by the Concessioneing Authority.

ANNEX B

PROJECTS ASSETS

[The Project Assets handed over by the Concession Authority to the Concessionaire will be identified and described here, like existing facilities, such as buildings.]

ANNEX C

PROJECT REQUIREMENTS

[This Annex will set out the key project requirements and the Construction Standards, Operations and Maintenance Standards and Safety Standards. The indicative standards and norms in this regard will be included in the annexure.]

Part A – Project Facilities

[Description of the Industrial Park to be built and operated by the Concessionaire.]

1 Development of the Project

The Project shall be developed and constructed in conformity with Annexure A to this Annex C. The operation and maintenance of the Project shall be in conformity with the Operation and Maintenance Standards specified in Annexure B to this Annex C.

2 Industrial Park Infrastructure

The Concessionaire shall design, develop, construct, operate and maintain the proposed Industrial Park Infrastructure having following infrastructure facilities:

- (a) Built-up space for Industrial Park units;
- (b) Developed Industrial plots for companies;
- (c) Any other Industrial Park related infrastructure.

The aforesaid facilities are referred to in this Agreement as the “Industrial Park Infrastructure”.

3 Allied Infrastructure

- (a) In addition to the Industrial Park Infrastructure, the Concessionaire shall design, develop, construct, operate and maintain the Allied Infrastructure, such as business facilitation centre, convention centre, logistics/ warehouse facilities, dispensary/ healthcare centre, etc., in the processing as well as non-processing area. The aforesaid facilities are referred to in this Agreement as the “Allied Infrastructure”.
- (b) Provided that if the Concessionaire decides to develop a guest house as a part of the Allied Infrastructure, the area allotted for the same shall not exceed 1 acre and the number of rooms in the guest house shall not be more than thirty (30).

5 User of Project Services and Facilities

The Concessionaire shall allot the Project Services and Facilities, on a sub-license and right to use basis, only to the User of Project Services and Facilities. The terms and conditions of the concession shall be made based on mutually agreeable terms between the Concessionaire and the User of the Project Services and Facilities and shall include:

- (a) [Any specific requirement related to Project Facilities will be included here such as, proportionate area to be used by the unit/User for a specific use.]
- (b) The tenure of such concession shall not exceed beyond expiry of the Concession Period and any extension of the same shall be at the sole discretion of the Concessioneing Authority on such terms and conditions as may be decided by the Concessioneing Authority in this regard;
- (c) The payment terms shall be finalised based on mutually agreed terms between User and the Concessionaire which subject to approval of the Concessioneing Authority;
- (d) Project Services and Facilities shall only utilise the surface of the soil and shall carryout excavation works only to the extent required for construction of the facilities/ building;
- (e) Project Services and Facilities shall obtain necessary licenses/ permits and adhere to Applicable Laws.
- (f) The User shall at all times be bound by the terms and conditions of this Agreement.

6 1/3 rule

The Concessionaire shall not allot more than one-third ($1/3^{\text{rd}}$) of the total area in the Project to one Project Services and Facilities/ User.

7 Sublicenses

The Concessionaire shall give sublicense/provide services in an equitable and non discriminatory manner to the Users.

Part B – Project Services

The Concessionaire shall provide, as of Date of Commercial Operation and for the remaining duration of the Concession, the following minimum Project Services:

[The specific requirements in regard to sub-licensing to Users and maintaining the Industrial Park should be inserted here.]

ANNEXURE A TO ANNEX C

[.....]

ANNEXURE B TO ANNEX C

CONSTRUCTION STANDARDS, OPERATIONS AND MAINTENANCE STANDARDS AND SAFETY STANDARDS

Indicative and minimum standards and norms for various kinds of projects will be prescribed here to suit project requirements.

A. Construction Standards

[.....]

B. Operations and Maintenance Standards

B.1 General

(1) Maintenance Standards

The Concessionaire shall, at all times, operate and maintain the Project in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Concessionaire shall, at all times during the Operation Phase, ensure compliance with the general and specific maintenance requirements.

(2) Repair/rectification of defects and deficiencies

The obligations of the Concessionaire in respect of Operation and Maintenance Standards shall include repair and rectification of the defects and deficiencies.

(3) Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Annexure, if any defect, deficiency or deterioration in the Project poses danger to the life or property of the Users thereof, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.

(4) Divestment Requirements

All defects and deficiencies specified in this Annexure shall be repaired and rectified by the Concessionaire so that the Project conforms to the Operation and Maintenance Standards on the Transfer Date.

B.2 Particular Specification

(1) Operational & Environmental Compliance

(a) Operational Considerations

The operations shall confirm to:

[Please insert applicable laws, policies that the Industrial Park is required to follow]

(b) Environmental Compliance

The development and all operations of Industrial Park shall confirm with applicable law and guidelines. Indicative list of Act/Rules/Guidelines are presented below:

[List of applicable environmental laws]

[Applicable laws including building, chemical, drugs, manufacturing are to be inserted here]

(2) Operational Standards

[Please insert the specific standards which this Industrial Park needs to conform to]

(3) Maintenance Standard

[Please insert the specific standards which this Industrial Park needs to conform to]

C. Safety Standards

The Concessionaire shall ensure compliance with the safety standards set out in this Agreement, Applicable Laws and Applicable Permits and conform to Good Industry Practice for securing the safety of the Users, including those standards set out below:

C.1 Guiding principles

- (1) Safety Standards aim at reduction in injuries, loss of life and damage to property resulting from accidents on the Site, irrespective of the person(s) at fault.

- (2) Users of the project include staff of the Concessionaire and its contractors working on the Project.
- (3) Safety Standards 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.
- (4) The Concessionaire shall abide by the following insofar as they relate to safety of the Users:
 - (a) Applicable Laws and Applicable Permits;
 - (b) fire safety norms as per Good Industry Practice;
 - (c) provisions of this Agreement;
 - (d) usage of earthquake resistant materials and designs in accordance with Good Industry Practice, in the event the Site is prone to seismic activity
 - (e) relevant standards/guidelines contained in internationally accepted codes; and
 - (f) provisions of the Environmental Law
- (5) The Concessionaire shall make adequate arrangements during the Construction Phase for the safety of workers and road users in accordance with Applicable Laws and Good Industry Practice for safety in construction zones, and notify the Concessioneing Authority about such arrangements.
- (6) **Safety measures during Operation Phase**
 - (a) 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.
 - (b) The Concessionaire shall establish a Safety Management Unit (the “SMU”) to be functional on and after Date of Commercial Operation, and designate one of its officers to be in-charge of the SMU.

C.2 Safety Guidelines

(1) Safe movement

In the design, construction and operation of the Project, particular care shall be taken to ensure safety of Users. This shall include facilities for safe and efficient evacuation in case of Emergency.

(2) System integrity

In the design of power supply, circuits and equipments, particular care shall be taken to minimise the likely incidence of failure.

(3) Restoration of service

The Project shall be designed such that in the event a fault occurs, a limited service can be provided within a few minutes by isolation of the affected area or equipment, to the extent possible.

(4) Safety management

A safety statement shall be prepared by the Concessionaire once in every quarter to bring out clearly the system of management of checks and maintenance tolerances for various assets. 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 Concessioning Authority within 15 (fifteen) days of the close of every quarter.

(5) Safety equipment

The following equipment shall be provided in adequate numbers:

- (a) fire extinguishers and fire alarms at the appropriate locations;
- (b) stretchers and standard first aid boxes; and
- (c) such other equipment as may be required in conformity with Good Industry Practice.

(6) Emergency

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 disaster management manual to be prepared and published by the Concessionaire prior to COD.

(7) Fire safety

- (a) To prevent fire in the User areas, the Concessionaire shall use fire resistant materials in the construction thereof and shall avoid use of materials which are to some extent flammable, or which emit harmful gases when burning.
- (b) Emergency exit should be accessible without any obstructions and the exit doors should be kept locked in the ordinary course. The exit doors shall be easy to open from inside the building in case of emergency.
- (c) 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 Section, the possibility of poor visibility due to smoke shall be duly taken into account. All notices and signages shall be uniform and standardised.

(8) User safety and information system

- (a) The Concessionaire shall provide the SMU with the facilities required for supervising User areas, and shall provide visual information to Users. The Concessionaire shall also provide one way communication to Users through a Public Announcement (PA) system. The User call points should be located at convenient locations to allow Users to contact the SMU in emergencies.
- (b) The User information system shall comprise dynamic visual displays and loudspeakers.
- (c) In particular, the Concessionaire shall develop, implement and administer a surveillance and safety programme for providing a safe environment on or about the Project.

D. Project Facilities

1. The Concessionaire shall construct the Project Facilities in accordance with the provisions of this Agreement.
2. The Concessionaire shall construct the Project Facilities described in this Annex to form part of the Project Assets. The Project Facilities shall include the Project Facilities required to adequately and efficiently support the Project and shall include but not be limited to adequate:
 - (a) sewage and sanitation facilities;
 - (b) sewerage treatment plant (STP) and effluent treatment plant (ETP) facilities
 - (c) water supply and distribution;
 - (d) electricity supply and distribution;
 - (e) paved interconnecting roads and lanes;
 - (f) toilets;
 - (g) tree plantation and green areas;
 - (h) facilities for disabled;
 - (i) refreshment facilities;
 - (j) public access telephones;
 - (k) parking facilities;
 - (l) and such other facilities as may be necessary and required to establish and operate the Project in accordance with the Specifications and Standards.
3. The STP and ETP facilities to be developed as a part of the Project Facilities would not only service the Users but also the other users/ entities including institutions, and organizations/companies that might come up in the entire ____ acres of land. Further, the Concessionaire shall provide STP/ETP services at ____% of normal user charges payable by other entities to the existing ____ Institutions, i.e., _____, for the current and future needs.
4. The Project Facilities shall be developed, constructed and commissioned in accordance with the Project Schedules specified in Annex-D and shall be completed by not later than [---] Months from the date of commencement of the Concession Period .

E. Specifications and Standards**1 Project**

The Concessionaire shall comply with the Specifications and Standards set forth in below for construction of the Project and shall always adhere to Good Industry Practice.

2 Specifications and Standards to apply

Without prejudice to the generality of the provisions contained in this Agreement and compliance with Applicable Laws, the Project shall conform to the provisions, principles and guidelines laid down below.

(1) General Specifications

The general specifications to be followed for development of the Project is set out in the table.

| S. No | Activity | Specifications |
|-------|-------------------------------|----------------|
| 1 | All built up structures | |
| 2 | Storage Facilities | |
| 3 | Pollution control measures | |
| 4 | Noise control | |
| 5 | Solid Waste Handling | |
| 6 | Brick Work, Flooring, Roofing | |
| 7 | Water Supply, Sewerage | |
| 8 | Electrical works | |

| | | |
|---|--|--|
| 9 | Effluent collection, treatment and disposal facilities | |
|---|--|--|

(2) Layout Development Specifications

This layout will be of developed plots for construction of individual Industrial Units. Development shall conform to the following.

(a) General

The layout development shall be in compliance with the applicable development control regulation/building bylaws of the competent authority.

(b) Roads

Road width shall not be less than 12 m. Carriage way width of 5.5 m for intermediate lane or 7m two lanes are usually recommended for internal roads. Paved shoulders of 1.5m to 2 m width are recommended. Carriage way may be constructed in asphalt or concrete.

(c) Road furniture

(i) For traffic safety and convenience, appropriate signs, markings, lighting and guideposts are to be provided on curves, intersections, public utility places etc. The designs for these shall be made on the basis of .

(ii) Proposals for road furniture are made considering the importance of the road, safety and aesthetics. The design of road furniture and quality proposed are of [] standard. Accordingly, the following road furniture for the roadway are recommended:

1. Pavement marking using reflector thermoplastic road painting
2. Cautionary, regulatory and informatory sign boards
3. Single pole street lighting @ 30m interval along the edges of the road
4. Identification signs

(d) Rain/Storm water drains

Appropriate rain and storm water drainage system shall be provided. The roadside drains may be designed as per [] for road gullies.

- (e) Green belt/Parks: 10 percent of the total area shall be earmarked for green belt/parks
- (f) Parking Area: 5 percent of the total area shall be reserved for parking purpose.

(3) Building Design and Construction Considerations

- (a) The Concessionaire shall conform to the Building Code and Applicable Law, as applicable.
- (b) The Concessionaire shall conform to appropriate International Standards (standards followed in United States of America and United Kingdom) as per best industry practice for specialized components where Bangladesh standards are not available.
- (c) Special construction should be given to the choice of fireproof construction for the buildings
- (d) Large sections of the glass shall be shatter resistant
- (e) Other specific considerations to be inserted for this Project

ANNEX D

PROJECT SCHEDULE

[Project Specific – key milestones shall be specified by the Concessioneing Authority for milestone dates for completion of Construction Works including installation of equipments etc. These should be easily identifiable and measurable. Following is an example table.]

| Milestone date | Activity/level of completion of project |
|---|---|
| [●] Days from Date of Award of Concession | [25% of Construction Works should have been completed] |
| [●] Days from Date of Award of Concession | [50% of Construction Works should have been completed] |
| [●] Days from Date of Award of Concession | [100% of Construction Works should have been completed] |

ANNEX E

DESIGNS AND DRAWINGS

[The Concessioneing Authority to stipulate the Designs and Drawings that the Concessionaire will be expected to submit for review by the Independent Engineer as per the Project Requirements, examples of which are given below.]

1. Project Area Development Plan
2. Project Master Plan

ANNEX F

PERMITS AND CLEARANCES

- A. [Applicable Permits to be obtained by the Concessionaire before commencement of Construction Works.]
- B. [Such permits and clearances under Environmental Law/other Applicable Laws as will be procured by the Concessioneing Authority before the commencement of the Project, to be specified by the Concessioneing Authority.]

ANNEX G

RATES APPLICABLE IN RESPECT OF LAND, UTILITIES AND SERVICES

[Scale of Rates.]

ANNEX H

TARIFFS

The Concessionaire shall charge sub-license fees and service charge to the Users of the Industrial Park for the Project Facilities and Services provided in accordance with the Tariff Notification No. [●] published by [cite relevant authority]. The fees and charges shall be included in the respective agreement entered into by the Concessionaire and the individual User.

The aforesaid Tariff caps shall be revised every year based on a variation in the Wholesale Price Index ("WPI"). Such revision shall be based on indexation against 60% (sixty percent) of the variation in the WPI for a relevant year beginning 1st January and ending 31st December.

ANNEX I

PERFORMANCE STANDARDS

[This Annex will prescribe project-specific minimum Performance Standards.]

A. Performance Standards

[.....]

B. Performance evaluation and calculation of liquidated damages

[.....]

ANNEX J

YEARLY INFORMATION LIST

[List of information to be provided by the Concessionaire to the Concessioneing Authority pursuant to Section 9.4(3) of the General Conditions.]