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This **MEMORANDUM OF UNDERSTANDING** (hereinafter referred to as the "MOU") made and entered into this day of 2015 (hereinafter referred to as Effective Date) at by and among:

A, established and existing under the laws of and having its registered/corporate/Head office (or one of its offices) at (hereinafter referred to as "A" which expression, unless repugnant to the context or meaning hereof, shall include its successor(s), administrator(s) or permitted assignees) of the

FIRST PART

and

B established and existing under the laws of and having its registered/corporate/Head Office (or one of its offices) at (hereinafter referred to as "B" which expression, unless repugnant to the context or meaning hereof, shall include its successor(s), administrator(s) or permitted assignees) of the

SECOND PART

(A, B, shall hereinafter be individually referred to as "Party" and collectively as "Parties" or "Consortium").

PREAMBLE/RECITALS

Preamble contains background facts which have preceded the execution of MOU and sometimes reason and objective for its execution. The legal importance of preamble is that it contains admitted facts which parties cannot deny later on. An illustration is given below:—

"WHEREAS the Parties have experience and capabilities in the field of co-operation and therefore the Parties desire to join their skill, experience and resources to work together for mutual interest and benefit.

WHEREAS the Parties have enjoyed long lasting and mutually beneficial relationship. The future holds much promise for expanded relations and co-operation. As such, the Parties intend to explore the possibilities and opportunities that exist to further develop their relationship.

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AND WHEREAS the Parties desire to initiate negotiations. It is anticipated that these negotiations will result in a long lasting business relationship and will serve as a platform to broaden and further develop mutual co-operation.

ACCORDINGLY, the Parties desire to create a frame work on which to proceed with and to diligently pursue the activities they mutually agree and to implement it in a manner consistent with the terms set forth in this MOU.

NOW, THEREFORE, in recognition of agreement in principle, the Parties record their understanding as follows:—

ALTERNATIVE PROVISION

“NOW, THEREFORE, for and in consideration of the premises and mutual covenants set forth herein and for other good and valuable consideration, the Parties hereby agree as follows:—“

The above provision is used when MOU is more in the nature of binding agreement or certain provisions are intended to be binding on the parties whereas rest embodies the agreement in principle and are of non-binding nature.

DEFINITIONS

The words which parties want to use in a meaning and sense different from the generally understood or dictionary meanings may be defined for the purpose of MOU. The definition clause may be given at the beginning, or at the end of the document. After a words is defined it should be used with first alphabet is maintained between defined term and same term when used in a general sense in the document.

SCOPE AND PURPOSE OF MOU

There may be separate clause defining and setting the scope and purpose of MOU. For example following provision may be included—

“This MOU shall be the framework for future negotiations and agreements between the Parties which shall govern the rights and obligations of the Parties.”

ROLE OF THE PARTIES

Since relationship has not concretized, therefore, MOU may contain role of each party. An example is given below—

The division of duties between the Parties shall be as set below:—

Party A will help in obtaining approval and permits related to or required for the work.

Party B will help and advise on fiscal and technical aspects.

The Parties shall also undertake the work entrusted to them by co-ordination committee.

CO-ORDINATION COMMITTEE

Provision for the constitution of a committee in MOU provides a permanent platform and a sort of single window so as to further achieve the objectives of MOU and helps in laying and opening up clear cut lines of communication between the parties. The various tasks which are to be accomplished may be decided by mutual agreement or through unanimity by the members of respective Parties in such a committee.

Establishment of the co-ordination Committee

“The Parties shall, as soon as practicable after the Effective Date, establish a Co-ordination Committee (Committee) to supervise and co-ordinate all of the activities of the Parties including the co-ordination and overseeing of any sub-committees or task forces which it may decide to set up. Each Party shall nominate in writing one (1) representative and one alternate be members of the Committee. The representatives of the Committee or their designates shall attend the meetings and shall have the authority to represent and bind appointing Party in all matters that come before it. The Committee shall establish the rule and procedure and frequency of meeting. The nominee of ‘A’ shall be the chairman and shall preside over all meetings of the Committee.

The decisions of the Committee shall be taken by unanimity of all the members of the Committee.

The functions of the Committee shall include, amongst other:—

- (i) approval of Study(s) if any carried out;
- (ii) approval of Work Schedule and any revisions thereto;
- (iii) appointment of consultants and advisors and constitution of negotiation teams;
- (iv) approval of the detailed activities and tasks to be assigned to each Party.”

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MANAGING THE FINANCES

Generally parties to an MOU bear their own costs and that is why there is no element of consideration. However, in some cases if so agreed and stipulated, third party costs may be shared equally by the parties. Examples of such a clause are given below.

Parties to bear their own cost.

"All costs and expenses incurred by a party in relation to the MOU, which include, but are not limited to, all internal balances, overheads, travel expenses, other out-of-pocket expenses and any other internal expenses shall be borne and paid by the Party incurring the same without charge to or reimbursement from the other Party."

Third party costs

If agreed by the Parties, a provision dealing with third party costs may be included. These costs may include costs and expenses for a legal advisor, financial advisor, other advisors and consultants, and other costs and expenses incurred or to be incurred in connection with work being undertaken under the MOU on the direction of Committee and may be shared and borne equally by the parties or in such other proportion as parties desire.

Procedure for Payment

In case the third Party costs are agreed to be borne then task of collecting payments from the Parties may be entrusted to the Committee. The Committee may consolidate the costs on a monthly basis and ask parties to remit the requisite amounts so that expenses are shared on regular basis.

Billing

Committee may bill each Party on or before the last day of each month for its share of the costs and expenses for the preceding month. The invoice may include a statement of all charges and credits summarized by appropriate classifications indicative of the nature.

NO COMPETITION AMONG CONSORTIUM PARTIES

Exclusivity/Non-exclusivity

An MOU may be entered either on exclusive basis that is to say parties are restrained from entering into similar MOU with other parties, or on non-exclusive basis

wherein parties, are free to enter into MOU with other parties dealing with the same subject matter. The drafter, after analyzing the interest of the party it is representing, must decide as to which provision is to be included.

“Except in accordance with the provisions of this MOU, each of the parties agrees that it and its Affiliates shall not, directly or indirectly in any manner whatsoever, associate individually or in combination with others, with respect to subject matter this MOU. The provisions of this Article shall survive the expiry or earlier termination of MOU.”

ALTERNATIVE PROVISION

“This MOU is being entered on non-exclusive basis and does not preclude the Parties from entering into similar MOUs with other parties.”

A decision is required to be taken whether MOU is intended on exclusive or non-exclusive basis and accordingly alternative provision is to be chosen and incorporated.

TERM AND TERMINATION OF MOU

“This MOU shall remain in effect until the first to occur of the following events:

- (a) Twenty four (24) months following the Effective Date; or
- (b) The execution by the parties of a subsequent agreement or
- (c) Agreement of all the Parties to terminate or otherwise withdraw from this MOU.”

NOTICES

“Any and all correspondence made or notices to be sent or required to be made under this MOU shall be in writing, signed by the Party giving such notice (claim or demand) and shall be delivered personally, or by facsimile transmission or by registered mail, to the other Parties at its addresses as such other Parties may subsequently notify. All notices shall be deemed given when delivered, which include facsimile transmissions.

Party A

Telephone No.

Facsimile No.

Address:

Attention:

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Party B

Telephone No.

Facsimile No.

Address:

Attention:'

ASSIGNMENT

This provision is generally not included in MOU because at this stage relationship of the Parties is in nascent stage and except confidentiality of one or more other provisions, respect of provisions are not intended to be of binding nature. Furthermore, MOU does not create any assignable interest which may be transferred. Therefore, in an MOU simpliciter, this clause may not be included. However, an illustration is given below.

"Assignment by a Party of its rights and obligations under this MOU to any other party shall be subject to the consent of the other Parties to the MOU."

APPLICABLE LAW

This clause is also not required and provided for in MOU simpliciter but if some clauses are intended to be of binding nature and foreign parties are involved, it is to incorporate this clause so as to avoid any controversy in future.

"This MOU shall be governed by and construed in accordance with the laws ofand Courts at only shall have exclusive jurisdiction."

DISPUTE SETTLEMENT

"In the event of any difference(s) or dispute(s) arising out of the interpretation or application of the provisions of this MOU, the Parties shall immediately consult each other with the view to expeditiously resolve such differences or disputes in a spirit of mutual understanding and co-operation."

CONFIDENTIALITY

This clause is included when confidential information on data is being exchanged so as to assess the chances of co-operation.

"No Party shall disclose any information

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This to any third party concerning the matters under this MOU. Any proprietary information (Properly identified as such by the disclosing Party) to be contained in reports or disclosed by one Party to the other Party, shall be kept strictly confidential by the receiving Party, and shall not be disclosed to any third party without the prior written consent of the original disclosing Party.

This clause shall not apply where;

- (a) disclosure is made to the employees, or
- (b) disclosure to any Court, the Government or other statutory authorities or other bodies to the extent required by law, guidelines, rules or regulations applicable to any Party.
- (c) required by consultants, advisers engaged by a Party;
- (d) information is already in public domain but not as a result of breach of this MOU;
- (e) already available with the Party from other lawful source.

This clause shall survive the termination or expiry of the MOU. The confidential information shall be returned on termination or expiry of this MOU and all copies in any form, shall be destroyed.

PUBLIC ANNOUNCEMENT

In case of PSUs and even private companies, public announcement sometimes may lead to embarrassment or complications, so it is better that parties are taken in confidence before any public announcement is made. A provision is given below for this purpose:—

“The release and contents of all public announcements (other than when such disclosure is required under any applicable law) related to the MOU shall be subject to the prior written approval of other Party”.

SURVIVAL

It is better to make it clear that what are binding clauses and which clauses will survive termination.

“The obligations of the Parties under Articles are of binding nature and shall survive the termination or expiration of the MOU”.

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NO RIGHT TO BIND PARTY AND NO ENTITY CREATED

"No Party shall have the right or power to bind any other party to any other MOU/agreement without the prior written consent of the other Party. The Parties do not intend merely by this MOU to create a partnership, corporation or an entity taxable as a corporation or otherwise."

IN WITNESS WHEREOF, the parties have caused this MOU to be executed as of the day and year first above written.

ALTERNATIVE PROVISION

IN WITNESS WHEREOF, the Parties by their duly authorized respective representatives have caused this MOU to be executed as of the day and year first above written.

For and on behalf of Party A

Name:

Address:

In the presence of

Name:

Address:

For and on behalf of Party B

Name:

Address:

In the presence of

Name:

Address: