

use of any available on-site facilities to deal expeditiously with any such emergency.

ARTICLE 14 - Termination of the lease

- (a) Where the Company:
- (i) fails to pay any rent or any other amount due by the Company in terms of this Agreement on due date, and fails so to pay within a period of sixty (60) days; or
 - (ii) is insolvent; or
 - (iii) has a change of ownership which could impact on its control, be it by transfer of shares or otherwise, without the prior approval of the Ministry,
- the Ministry shall have the right, but shall not be obliged, to cancel this Agreement *de plein droit* and to resume possession of the Land without compensation and without prejudice to its claim for arrears of rental and other amounts owing hereunder or for damages which it may have suffered by reason of the breach of contract of the Company or of the premature cancellation.
- (b) Should the Company breach any material condition of this Agreement (other than a failure to pay any rent or any other amount due by the Company in terms of this Agreement on due date) and fail to remedy such breach within a period of thirty (30) days or if the breach is not capable of being remedied in thirty (30) days or within such longer period as the Ministry may then reasonably stipulate, the Ministry and the Company agree that the only remedy of the Ministry against the Company shall be in damages, the quantum and time frame for settlement being decided by the Ministry on expert advice, and the Ministry, expressly agrees that it shall not in such circumstances terminate this Agreement.
- (c) Where the lease is terminated other than under paragraphs (a) and (b) and other than the expiry of the lease, the Company or any SPV, subsidiary associate, affiliate or nominee of the Company, shall be eligible for compensation for all improvements made on the land. The quantum of such compensation shall be subject to mutual agreement and in accordance with the Laws of Mauritius.

ARTICLE 15 - Refund of rent paid

In the event of the lease being cancelled under Article 14, the Company shall not be entitled to a refund of any portion of rent paid in advance.

ARTICLE 16 - Free Access to the public

- (a) The Company shall, at its cost, entirely construct the internal roads and associated infrastructure on the Land in accordance with the approved Master Plan of the project. The public shall have free and unrestricted access to the internal public roads and any internal public common area. All internal roads and common areas shall be managed and maintained by the Company at its



own costs during the duration of the lease to the satisfaction of the Ministry/or the MPA.

- (b) The Company shall also irrevocably grant free access, to the Mauritius Port Authority, through the internal roads and common areas to the Cruise Terminal. The Company shall also irrevocably grant a free way leave for the running of pipe lines from the Bulk Sugar Terminal site to the Cruise Jetty, as identified in **Annex II**.

ARTICLE 17 - Harbour Bridge

The Company acknowledges that the Government of Mauritius intends to construct a bridge, known as the Harbour Bridge, as indicated tinted yellow in the plan attached to **Annex II**.

The Company hereby agrees that it shall not carry out any construction or development over that designated piece of land over which the bridge is to be constructed which could jeopardize the construction of that bridge. The Company may however effect works like landscaping and road linkages, generally in line with the spirit of the approved Master Plan.

ARTICLE 18 - Failure to vacate land at termination of sublease

- (a) Should, at the termination or cancellation of this Agreement or at the expiry of the lease, the Company or any other person occupying the land, fails to vacate the Land, the Ministry shall be entitled to apply for a *writ habere facias possessionem* to resume possession thereof.
- (b) Where the Company or any occupier of the land fails to comply with the writ referred to in paragraph (a), it shall pay to the Ministry an indemnity equivalent to one hundred and ten (110) percent of the last rent payable by the Company.

ARTICLE 19 - Expiry of lease

At the expiry of the term of this Agreement, or on termination of the Agreement under Article 14(a), (b) and (c), the Company shall forthwith yield up the Land and any improvements on the Land shall become the property of the Ministry. The Company shall not be entitled to any compensation or indemnity in respect of such improvements.

ARTICLE 20 - Insurance of buildings

The Company shall ensure that all buildings, structures and/or installations erected on the Land are insured against fire and cyclone and all consequential damages to the property of the Mauritius Ports Authority or third parties adjacent to the Land.

The Company shall diligently furnish to the Ministry proof that it has contracted the necessary insurance policy from a well reputed insurance company and shall furnish on an annual basis during the term of this Agreement a copy of the renewal of the said insurance policy within eight (8) days from the date of the said renewal.

ARTICLE 21 - Force majeure

- (a) Neither Party shall be responsible or liable for any failure or delay in complying with or performing its duties and obligation under this Agreement to the extent that such failure or delay is due to one or more events of force majeure.
- (b) Under this Article, any request to the Ministry from the Company for dispensation from payment of rent and other financial charges, or from any of its obligation under this Agreement shall be considered and determined by this Ministry.
- (c) For the purposes of this Agreement, *force majeure* shall mean any event or circumstance, combination of events or circumstances beyond the reasonable control of either Party to this Agreement, which event or circumstance or which combination of events or circumstances cannot by exercise of reasonable diligence be prevented or cause to be prevented, or cannot despite the adoption of reasonable precautions and reasonable alternative measures be prevented or which materially and adversely affect such Party's performance of its duties or obligations of enjoyment of its rights under this Agreement including –
 - (i) acts of God and nature;
 - (ii) explosion, accident, blockade, embargoes, sabotage, breakage or breakdown of facilities or plant or equipment, structural collapse, failure or for defect in major forging or castings or other items of major equipment which require protracted timing to obtain, the place of repair or chemical contamination for a period exceeding thirty (30) days;
 - (iii) strikes, lockouts, work to rule actions, go slows or similar labour difficulties that in any way substantially affect the implementation of the Project;
 - (iv) geological, subsurface ground conditions as a result of which construction, development and redevelopment of the land is delayed or no longer financially or technically viable;
 - (v) disruptions, challenges and placement of legal and traditional impediments by third parties notwithstanding the granting of any and all approvals by the Ministry or any governmental, municipal or other authority which delays or materially adversely affects the implementation of the project; and

