

DATED 8TH SEPTEMBER, 2014

**CONCESSION AGREEMENT
FOR THE RECLAMATION AND INFRASTRUCTURAL
DEVELOPMENT OF FESTAC PHASE II, FESTAC TOWN,
LAGOS**

BETWEEN

THE FEDERAL GOVERNMENT OF NIGERIA REPRESENTED BY HON. MINISTER
OF LANDS, HOUSING AND URBAN DEVELOPMENT AND THE FEDERAL
HOUSING AUTHORITY

AND

NEW FESTAC PROPERTY DEVELOPMENT COMPANY LIMITED

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THIS AGREEMENT is made 8TH day of SEPTEMBER, 2014

BETWEEN:-

- (1) **THE FEDERAL GOVERNMENT OF NIGERIA** represented by the **Hon. Minister of Lands, Housing and Urban Development and Federal Housing Authority (FHA)**, established by the Federal Housing Authority Act CAP F14 Laws of the Federal Republic of Nigeria 2004, having its Head Office situate at No.26 Julius Nyerere Crescent, Off ECOWAS Secretariat Road, Asokoro District, Abuja, FCT (hereinafter called "**THE AUTHORITY**") which expression shall where the context so admits include its successors-in-title and assigns) of the One Part.

AND

- (2) **NEW FESTAC PROPERTY DEVELOPMENT COMPANY LIMITED** (RC No. 657651) a limited Liability company established under the Laws of Nigeria with its registered office located at No 12 Nalrobl Street, Off Parakou Crescent, Wuse II, Abuja, Nigeria (hereinafter called ("**THE CONCESSIONAIRE**") which expression shall where the context so admits include its successors-in-title and assigns) of the other part.

WHEREAS:-

- (A) In preparation for the hosting of FESTAC 77, the Authority acquired 2,024 hectares of land in Lagos for housing development. Phase I of this development (known as "FESTAC Phase I") has been developed, the remaining 1,126 hectares of swampy land (known as "FESTAC Phase II") has been identified by the Authority for development as part of the Project,
- (B) The Authority took advantage of a partnership with the private sector under the Nigerian Public-Private Partnership (PPP) programme to procure the Project in accordance with Federal Government Policy on PPP.
- (C) The Concessionaire is a Company specifically established for the purposes of carrying out property development Project.

- (D) The Authority is desirous of promoting investment and private sector participation in the development and operation of its public utilities and infrastructures.
- (E) With the coming into operation of the Infrastructure Concession Regulatory Commission (ICRC), it became necessary to ensure that the award of the concession is in accordance with the requirements of the ICRC Act, which empowers the ICRC to ensure the efficient execution of this Agreement and to monitor compliance with the terms of the ICRC Act.
- (F) Under the provisions of the ICRC Act, any Federal Government Authority, Agency, Corporation or body involved in the financing, construction, operation or maintenance of infrastructure may enter into a contract with or grant a concession to any duly pre-qualified private sector bidder for the financing, construction, operation or maintenance of any infrastructure that is financially viable or any development facility of the Federal Government in accordance with the provisions of the ICRC Act.
- (G) In accordance with the provisions of the ICRC Act, the Authority identified FESTAC 'Phase II, as infrastructure that is financially viable and placed an advertisement in the Punch Newspapers of 19th June, 2006, inviting proposals, by way of expressions of interest, for the reclamation and development of FESTAC Phase II under the ICRC Act with the aim of the Project creating approximately units of 7,000 serviced accommodation in FESTAC Phase II.
- (H) Following a competitive bid process in line with the provisions of the Public Procurement Act and ICRC Act, the Concessionaire was adjudged the most responsive bidder and was subsequently appointed as the preferred developer for the Project.
- (I) The Concessionaire's bid on the project was forwarded to BPP for a certificate of No Objection and also to ICRC for clearance and the Bureau issued a No objection certificate in favour of the concessionaire vide its letter Ref No BPP/S.1/CID/11/VOL.II/062 dated 24TH June, 2011 whilst the ICRC also issued a Concurrence vide its letter Ref No ICRC/HQ/MIN/26/125 dated 1ST June, 2011 respectively.

- (J) On 15 November, 2006, the then President of Nigeria (Chief Olusegun Obasanjo GCFR) granted anticipatory approval to the Concessionaire for the Project ("Anticipatory Approval"),
- (K) The Authority through its Honorable Minister has by a memo dated 27th April, 2012 sought approval of President Goodluck Jonathan (GCFR) for the revalidation of the anticipatory approval earlier granted by President (Chief Olusegun Obasanjo) as in paragraph J above and his minute on the summary sheet dated 2nd May, 2012, Mr. President granted approval for the revalidation vide his letter to the Hon. Minister Ref No PRES/86-2/MLHUD/28/81/SGF/-2/436 of May 2nd, 2012.
- (L) The anticipatory approval of Mr. President was thereafter presented to FEC for ratification and same was ratified at its meeting of 13th March, 2013 vide its Council conclusion No EC (2013)21 dated 21st of March, 2013. A copy of Council Conclusion containing FEC's ratification is in Schedule 6 to this Agreement.
- (M) The Federal ministry of Lands, Housing and Urban development subsequently issued a letter conveying approval of the Concession to the concessionaire on behalf of the Federal Government of Nigeria vide its letter Ref No LH/PJV/NFDC/FHA/1011/187 dated 8th April 2013 and the concessionaire accepted same vide its letter dated 11th April, 2013, as in Schedules 7 and 8.
- (N) The Authority has been authorized by the Federal Government of Nigeria to enter into this Agreement with the Concessionaire for the implementation of the Project in accordance with and subject to the terms and conditions set out herein.

IT IS AGREED as follows:-

1.0 DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement, the following words shall have the following meanings:-

"Authorized Representatives" has the meaning given in Clause 40

"Affiliate"	<p>* in relation to any person, any other person directly or indirectly controlled by, or Controlling of, or under common Control with, that person and, in the case of a trust, any trustee or beneficiary</p> <p>(Actual or potential) of that trust and, in the case of an individual, any person connected with him. For the purpose of this definition, 'control' shall mean direct or indirect beneficial ownership of more than 50% of the share capital</p>
"Agreement"	<p>* this concession agreement, together with all Schedules attached hereto, as the same may be amended from time to time in accordance with its terms "Applicable" means (including the Laws of Nigeria), regulations, directives, statutes, subordinate legislation, common law and civil codes of any relevant jurisdiction, all judgments, orders, notices, instructions, decisions and awards of any court or competent Authority or tribunal and all codes of practice having force of law, statutory guidance and policy notes in the relevant jurisdiction affecting the Parties, the Project or the discharge of any obligation under this Agreement:</p>
"Approvals"	<p>* the Authority Approvals and Concessionaire Approvals granted in relation to the Project;</p>
"Assignment"	<p>* the transfer of the Authority's rights and interests and the Concessionaire's rights and interests in the Concession Projects.</p>
"Business Day"	<p>* any day other than a Saturday or Sunday, a Federal Government declared public holiday, or a day on which banks are authorized by a Law of Nigeria or executive order to be closed in the Federal Republic of Nigeria.</p>
"BPP"	<p>* the Bureau of Public Procurement established under the provisions of the Public Procurement Act, 2007</p>
"CAMA"	<p>* Companies & Allied Matters Act, Cap C20, Laws of the Federation of Nigeria, 2004</p>

- "Complete" * when in the reasonable opinion of the Concessionaire the relevant services and/or works have been performed so as to meet the requirements of the Design and the Development Master plan;
- "Commencement Date" This Agreement shall commence on the date of Execution by both parties.
- "Compensation Event" has the meaning given to such term in Clause 22
- "Competing Infrastructure" has the meaning given in Clause 8
- "Concessionaire" * New Festac Property Development Company Limited.
- "Concessionaire Approvals" * any and all permissions, clearances, licenses, authorizations, consents, sanctions, and no-objections, approvals required from any third party in connection with the Project for undertaking, performing or discharging the Concessionaire's obligations under this Agreement but excluding all Authority Approvals:
- "Concessionaire Default" shall have the meaning set out In Clause 35
- "Concession Fees" shall have the meaning set out In Clause 24
- "Concessionaire Rights" has the meaning given to such term in Clause 5
- "Concessionaire Related Party" * any of the Concessionaire's employees, agents, subcontractors, cons or related corporate entities including any person performing any part of Transition Services, Reclamation Works, Infrastructure Works and the Development Management Services:
- "Concession Services" * collectively the Transitional Services, Reclamation Works, Infrastructure Works and the Development Management Services;
- "Concession Term;" * the thirty (30) years period commencing after the last day of the Moratorium Period;

- "Contract Period" * the period commencing from the Execution Date and ending on the last day of the Concession Term;
- "Design" * the engineering and architectural drawings, calculations, designs, design Information, specifications, plans, programmer, computer software, graphs, sketches, models, samples and mock ups and other documents prepared or to be prepared by or on behalf of the Concessionaire in relation to the Transitional Services, Reclamation Works and Infrastructure Works:
- "Development Management Services" means the operation and management of the Developments in accordance with the scope of services.
- "Developments" * all and any developments of whatever kind on the Reclaimed Land including commercial, residential, hotel and leisure and any other developments of whatever kind undertaken by the Concessionaire or any Person to whom the Concessionaire sold, leased or licensed part of the Reclaimed Land or any person entitled to undertake (or having an interest in undertaking) development of the Land and "Development" means anyone of the Developments:
- "Development Master Plan" refers to the FESTAC Phase II" Master plan set out at Schedule 2.
- "Dispute Resolution Procedure" refers to the procedure set out in Clause 42.
- "Effective Date" * the date upon which all Conditions Precedent are satisfied in accordance with Clause 2
- "Encumbrance" * any encumbrance or other third party right such as a claim, charge, mortgage, pledge, security interest, lien, option, interest in equity, hypothecation, privilege, right of priority or any other third party right, retention of title, right of pre-emption, right of first refusal or security interest of any kind whatsoever.

- "Environmental Act" * includes any Enactment, Protocol, Regulation, Convention, Instrument, Bye-Laws and any Legal Instrument Relating to the Environment.
- "Environmental Challenge" * any contamination or pollution of the air, ground or water above, under or contamination whatsoever surrounding the Land or any part thereof that is not permitted by or consistent with the Environmental Act
- "Environmental Impact Study" * the study of anticipated environmental impact of the Project conducted by the Concessionaire and approved by Relevant Government Authority:
- "Event of Delay" * has the meaning given in Clause 21
- "Event of Insolvency" * in relation to any Party any of the following events: (a) a liquidator, provisional liquidator, trustee, administrator, manager, receiver or similar officer is appointed in respect of the Party or any of its assets; (b) an order is made or a resolution is passed for the purpose of winding up the Party on or for implementing a scheme of arrangement for the Party or for placing it under administration; (c) a moratorium of any debts of the Party or an official assignment or a composition or an arrangement formal or informal with its creditors or any similar proceeding or arrangement by which its assets are submitted to the control of its creditors is ordered or declared; or (d) the Party becomes, is declared or is deemed to be insolvent within the meaning of any Applicable Law or admits in writing its inability to pay its debts as these fall due; provided, that for the avoidance of doubt an "Event of Insolvency" shall exclude any corporate restructuring or reorganization transaction that is voluntarily undertaken by the Party and/or its Affiliates and shall include any event or step analogous to any of the aforementioned steps occurs or is taken under the law of any jurisdiction to which the Party or its activities is subject;
- "Execution Date" * the date this Agreement is signed by all the Parties:

"Existing Contracts"	* those agreements current and in force at the Execution Date between the Authority or any Authority Related Party and a third party in relation to FESTAC Phase II and copies of which either have been provided by the Authority to the Concessionaire prior to the Execution Date or which will be provided as a Condition Precedent under and in accordance with Clause 2.2
"Expropriation"	* any direct or indirect expropriation, nationalization, requisition, confiscation or compulsory acquisition in Nigeria whether lawful or not and pursuant to which the ownership or control of an asset, right or benefit having a value is involuntarily lost by the party previously lawfully entitled to same as a direct consequence of the unilateral action or inaction, whether by one action or a series of actions or inaction or by any measures having like effect, of any Relevant Governmental Authority including courts of law;
"FEC"	* the Federal Executive Council of the Federal Republic of Nigeria
"FHA"	* the Federal Housing Authority.
"Federal Housing Act"	* the Federal Housing Act Cap F14, Laws of the Federation of Nigeria, 2004;
"Financial Close"	* occurs when all Projects and Financing Agreements have been signed and all the required conditions contained in them have been met;
"Funding Agreements"	* any Agreements or Instruments entered into by the Concessionaire in connection with the provision of finance or any financial facilities including any related interest rate, hedging arrangements, to enable the Concessionaire to undertake the Reclamation Works and Infrastructure Works. For the avoidance of doubt these include any and all agreements or instruments entered into by the Concessionaire:-

- (a) In respect of the Reclamation Works and Infrastructure Works or part thereof; and
- (b) any Agreements or Instruments entered into by the Concessionaire for the purpose of raising additional or substitute finance or financial facilities of any form or relating to the rescheduling of its indebtedness or the refinancing of the Project

"Force Majeure"	* shall have the meaning set out in Clause 34.
"Good Industry Practice"	* the exercise of that degree of skill, diligence, care, foresight, practices, methods and standards which would reasonably and ordinarily be expected to be used by a prudent, skilled and experienced contractor and operator experienced with performing the same kind of works and services as the Reclamation Works, Infrastructure Works and Development Management Services in the same or similar circumstance in the context of Projects of the same or similar size, value and scope as the Project
"ICRC"	* the Infrastructure Concession Regulatory Commission established by the Provisions of the Infrastructure Concession Regulatory Commission Act of 2005
"Independent Engineer"	* the Independent Engineer appointed in accordance with the provisions of Clause 28.0
"Intellectual Property Rights"	* Franchises, Trademarks, Trade Names or Brands, Patents, Patent Applications, Inventions, Designs, Processes, Know-How, Trade Secrets, and Copyrights which are necessary or useful for the conduct of the business as now conducted or which are in fact owned or used by the Concessionaire, or which are necessary for the purposes of the Project
"Land"	* the site comprising FESTAC Phase II, FESTAC Town, Lagos, Lagos State as identified in Schedule 1 and Schedule 3

"Laws of Nigeria"

*

- (a) the Nigerian Constitution and all Nigerian Laws, Statutes, Treaties, Rules, Codes, Ordinances, Regulations, Certificates, Decisions, Orders, Memoranda, Circulars, Decrees, Resolutions, Directives, Rulings, Interpretations, Approvals, Licenses, and Permits of any Regulatory Authority; and
- (b) Judgments, Decrees, Injunctions, Writs, Orders or like Actions of any Regulatory Authority, Court, Arbitrator or other Administrative, Judicial or Quasi-Judicial Tribunal or Agency of competent jurisdiction in each case:-
 - (i) that applies to the Concessionaire or the Project and
 - (ii) as amended, supplemented, replaced, reinterpreted by a Regulatory Authority or court or otherwise modified from time to time

"Lender"

* all the Parties providing Finance under the Funding Agreements to the Concessionaire and their permitted Successors and Assigns, including any Agent or Trustee of such Parties but not including any Provider of Shareholder loans or equity bridge loans with respect to indebtedness constituting equity

"Losses"

* all Damages, Losses, Liabilities, Costs, Expenses (including Legal and other Professional Charges and expenses) and Charges whether arising under Statute, Contract or at Common Law and/or in connection with Judgments, Proceedings, Internal Costs or Demands;

"Material Adverse Effect"

* circumstance(s) which adversely affect (s) the ability of anyone of the Parties to exercise, in a timely manner, any of

their rights or perform/discharge any of their duties and obligations under this Agreement or (b) the legality, validity, binding nature or enforceability of this Agreement.

"Authority Default"

* has the meaning given in Clause 35.5

"Authority Approval"

* any and all Permissions, Clearances, Licenses, Authorizations, Consents, Sanctions, No-Objections, Approvals of/or from any Relevant Governmental Authority or International Organization required in connection with the Project and for undertaking, performing or discharging the obligations contemplated by this Agreement:

"Authority"

* Federal Housing Authority (FHA).

"Authority's Related Party"

* any of the Concessionaire's employees, Agents, Subcontractors, Consultants or related Corporate Entities including any person performing any part of the Transition Services, Reclamation Works, Infrastructure Works and the Development Management Services;

"Moratorium Period"

* the period of three (3) calendar years commencing from and including the day after the last day of the Transitional Phase:

"MPR"

* Monetary Policy Rate as from time to time determined by the Monetary Policy Committee of the FGN

"Non Compete Period"

* has the meaning given in Clause 8

"Parties"

* collectively the Authority, the FHA, the Concessionaire and "Party" shall refer to anyone of them.

"Persons"

* any natural person, corporation (whether Incorporated or not), partnership, 'unincorporated association, any Relevant Government Authority and any other entity or association of any nature (in each case whether or not having legal capacity), but excluding the Parties.

- "Programme of Work" * the indicative programme for the Project as set out in Schedule 5
- "Project" * the:-
- (a) Financing, design, engineering, procurement, construction and completion of the Reclamation Works and Infrastructure Works;
 - (b) Provision of Development Management Services;
 - (c) Implementation of the Developments on the Reclaimed Land by the Concessionaire or by any other Person; and
 - (d) all permanent and temporary works necessarily incidental to the Reclamation Works, Infrastructure Works and Development Management Services;
- "Project Cost Consultant" * the Cost Consultant appointed by the Parties in accordance with Clause 29;
- "Project Documents" * collectively this Agreement, the Reclamation Works Agreement, the Design and Build Agreement, the Facilities Management Agreement and the Funding Agreements entered into by the Concessionaire in respect of the financing of the Project:
- "Reclaimed Land" * the Land which is to be reclaimed as identified in Schedule 3
- "Reclamation Works" * the investigation, designing, engineering and carrying out of the reclamation of the Land and associated works with the Land in accordance with the Scope of Works generally set out in Clause 4.1.2 (a)
- "Relevant Government Authority" * (i) any Department, Authority, Instrumentality, Agency or any other relevant Entity from which an Approval is to be obtained from time to time; or (ii) any federal or

state legislative Authority or any other Authority, Body or other Person, including ICRC, FHA and Lagos State Government, having Jurisdiction under the Laws of Nigeria with respect to this Agreement or the Project

"Revenue"	* the entitlement to and receipt of all Fees, Levies, Charges, Rents, Proceeds of Sale, Toll Charges, Advertising Fees, Lease Payments and any other amounts whatsoever by the Concessionaire from any Person In connection with the use of the Developments as more particularly described in Schedule 4:
"Security Agreement"	*the Agreement that create an interest in the Concession Project for use as collateral by the Concessionaire and/or the Authority.
"Subsidiary"	* has the meaning given in Section 338 of CAMA:
"Taxes"	* any taxes on Corporate Income, Sales Tax, Excise Duties, Customs Duties, Local Taxes and any Imposition of like nature (whether at central, regional or local level) charged, levied or imposed on the goods, materials, equipment or services incorporated in and forming part of the Reclamation Works, Infrastructure Works or Development Management Services;
"Transitional Phase"	* the period from the date of selection of the preferred bidder ending 3 months after the Effective Date;
"Transition Services"	* the works and services to be performed by the Concessionaire during the Transitional Phase:
"Utility"	* any Person, Undertaking, Company, Organization or Relevant Governmental Authority that engages in supplying or providing utilities (including electricity, traffic control, telecommunications, data cabling, gas, water, drainage and sewage) and any associated work and "Utilities" shall refer to two or more of them;

"Utility Works"

* the provision by Utilities of all arrangements to supply water, electricity and telecommunications connections to the Reclaimed Land and for the design and construction of electricity, lighting, telecommunications, data cabling, water, drainage and sewerage infrastructure for the Developments, insofar as such works are located within the boundary of the Reclaimed Land;

1.2 Rules of interpretation

In this Agreement, unless the context requires otherwise:-

- 1.2.1 The headings are for convenience only and shall not be considered in construing this Agreement;
- 1.2.2 references to Recitals, Clauses and Schedules are references to Recitals, Clauses and Schedules to, this Agreement and the Recitals and the Schedules form an Integral part of this Agreement and have the same full force and effect as if they were set out in the body of this Agreement;
- 1.2.3 Reference made to any contract or agreement means the same as amended, supplemented or replaced from time to time in accordance with its terms;
- 1.2.4 The provisions in the body of this Agreement shall prevail in the event of any conflict between such provisions and the provisions of the Schedules;
- 1.2.5 In this Agreement, the interpretation rule known as the "ejusdem generals" rule shall not apply, nor shall any similar rule or approach to interpretation apply, and accordingly where a general statement is followed by the word "including" or "in particular" or where in some other way specific examples are given of matters included in the general statement the word "Including" or "In particular" or the specific examples shall not limit the scope of the ordinary meaning of the general statement;
- 1.2.6 references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or

consolidation applies or is capable of applying to any transaction entered into hereunder;

1.2.7 references to "construction" or "build" include, unless the context otherwise requires, Investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "construct" shall be construed accordingly;

1.2.8 Where any word is given a defined meaning, any other grammatical form of that word or expression shall have a corresponding meaning, where the context requires,

1.2.9 **Where the context requires:-**

(a) the singular includes the plural and vice versa; and

(b) the masculine includes the feminine and the neuter and vice versa

1.2.10 whenever provision is made for the giving or issuing of any notice, endorsement, consent, approval, certificate or determination by any person, unless otherwise specified, such notice, etc, shall be in writing, and the words "notify", "endorse", "approve", "certify" or "determined shall be construed accordingly;

1.2.11 the language in this Agreement is English. All correspondence, drawings, test reports, certificates, specifications and information between the parties shall be entirely in English;

1.2.12 references to this Agreement and any agreement or document include (subject to all relevant Approvals) a reference made to that agreement or document as varied, Substituted, novated or assigned; and to those agreements or documents that are contemplated by this Agreement, but come into existence after the date hereof;

1.2.13 references to the Authority or other public organization shall be deemed to include a reference to any successor to such Authority or public organization or any organization or entity which has taken

over either or both of the relevant functions and responsibilities of the Authority, FHA or public organization

- 1.2.14 each of the Concessionaire's or the Authority's obligations, duties and responsibilities shall be construed as separate obligations, duties and responsibilities, owed to the Concessionaire and the Authority respectively;
- 1.2.15 references to a Party shall include its permitted successors and assigns;
- 1.2.16 the rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply; and
- 1.2.17 the words "written" and "in writing" includes a facsimile transmission and any means of reproducing works in a tangible and permanently visible form.

2.0 CONDITIONS PRECEDENT

- 2.1 Subject to Clause 2.7, the rights and obligations of the Parties under this Agreement are conditional upon the satisfaction of each Condition Precedent.

2.2 Authority

- 2.2.1 The following Conditions Precedent is to be satisfied by the Authority:-

- (a) The Authority shall deliver or procure the delivery of the following documents to the Concessionaire:
- (i) The engineering and architectural drawings, calculations, designs, design information, specifications, plans, programme, computer software, graphs, sketches, models, samples and mock ups and other documents prepared by Or on behalf of the Authority in relation to the development of FESTAC Phase I including but not limited to civil, architectural, structural, electrical, mechanical, engineering drawings and specifications were available ("Phase 1 Document"):

- (ii) All Authority Approvals:
- (iii) Copies of all Existing Contracts
- (iv) Satisfactory evidence that the person(s) signing this Agreement on behalf of the Authority possess all requisite authority to bind the Authority:
- (v) Legal title to the concession area.
- (vi) The authority shall grant access to site to the concessionaire

2.3 CONCESSIONAIRE CPS

2.3.1 The following Conditions Precedent is to be satisfied by the Concessionaire:-

- (a) any Concessionaire Approvals required to permit the commencement of the Reclamation Works;
- (b) delivery to the Authority of evidence that the persons signing this Agreement on behalf of the Concessionaire have authority to bind the Concessionaire; and
- (c) delivery to the Authority of a duly certified copy of the Concessionaire's certificate of incorporation and Memorandum and Articles of Association, Form C07 and Form C02.
- (d) Board Resolution approving the transaction.
- (e) Procure EIA certification prior to commencement of site works.

2.4 Authority and Concessionaire CPs

2.4.1 The Parties shall jointly procure and appoint the Project Cost Consultant and the Independent Engineer.

2.5 Each Party shall, at its own cost and expense, diligently and expeditiously do all acts and things reasonably required to satisfy and fulfill the Conditions Precedent to be satisfied by that Party.

2.6 The Concessionaire shall promptly confirm to the Authority the date on which all the Conditions Precedent set out in this Clause 2 are satisfied. If any Condition Precedent has not been satisfied or waived by the other Party in writing within 30 Business Days of the Execution Date (or such other period as may be agreed between the Parties): subject to Clause 2.7, the parties shall take immediate steps to remedy the situation.

2.7 The rights and obligations of the Parties under the following clauses of this Agreement are not conditional on the satisfaction of all the Conditions Precedent and are effective from the Execution Date:

2.7.1 Clause 1 Definitions and Interpretation

2.7.2 Clause 8 Competing Infrastructure

2.7.3 Clause 32 Liability

2.7.4 Clause 37 Expropriation

2.7.5 Clause 38 Waiver and Sovereign Immunity

2.7.6 Clause 39 Confidentiality

2.7.7 Clause 42 Dispute Resolution Procedure

2.7.8 Clause 44 Costs and Expenses

2.7.9 Clause 50 Choice of Law

2.7.10 Clause 55 Third Parties"

3.0 PROJECT DOCUMENTS

3.1 The Project Documents shall be consistent with the terms and conditions of this Agreement.

3.2 The Concessionaire shall fulfill all its obligations under this Agreement and all of the other Project Documents to which it is a party and, except to the extent expressly permitted by other provisions of this Agreement or by the provisions of other Project Documents, shall not:-

3.2.1 itself terminate or agree to the termination of any Project Document;

3.2.2 Make or agree to any material variation of any Project Document;

3.2.3 Waive any rights it may have under any Project Document; and

3.2.4 Enter into any agreement which would materially affect the interpretation of any of the Project Documents

If in each case such act would materially adversely affect the ability of the Concessionaire to perform its material obligations under this Agreement. In the event that the Authority fails to respond within twenty (20) Business Days of receiving notice in writing from the Concessionaire requesting approval for any of the foregoing actions, the Authority shall be deemed to have approved the same. If any such approval is given or deemed to have been given, the Concessionaire shall deliver to the Authority a certified copy of each agreement or document (or, where any such matter is not made in writing, a true and written report of that matter) within ten (10) Business Days of the date of the act or agreement or the execution or creation of the agreement or document, in each case certified as a true copy by a Director of the Concessionaire and such agreement or document, as approved, shall be deemed to be a Project Document for the purposes of this Clause.

4.0 THE PROJECT

4.1 Scope of Project

4.1.1 The Project shall be executed exclusively on the Land by the Concessionaire in accordance with the terms of this Agreement and as provided in schedule 5.

4.1.2 The Concessionaire shall in accordance with clause 7.3.2 of the Agreement;

- (a) Perform or procure the Reclamation Works including degrooving, sand filling;
- (b) Perform or procure the Infrastructure Works including Roads, Drainage, Sewage, Electricity and water;
- (c) Coordinate the Developments; and
- (d) Perform or procure the Development Management Services;

4.2 Financial Model

The Concessionaire's Financial Model for the Project, including the cost of the Project is set out in Schedule 4.

5.0 CONCESSION RIGHTS

5.1 Subject to and in accordance with the terms and conditions set forth in this Agreement the Authority shall entrust and grant to the Concessionaire the exclusive right to investigate, study, design, engineer, construct, finance, develop and otherwise implement the Project on the Land and to exclusively exploit the Project for the purposes of generating Revenue for the Concessionaire. The financing shall be subject to any ceiling interest rate approved for Federal Government Projects.

These rights include a right to,

- 5.1.1 Investigate, design, engineer, finance, procure, develop, construct and complete the Reclamation Works and Infrastructure Works;
- 5.1.2 Market and sell to any willing buyer, including the Concessionaire, the opportunity to purchase any residential, commercial or leisure Developments;
- 5.1.3 Regulate the use of Developments by Persons:
- 5.1.4 Levy, demand, collect and appropriate Revenue from Persons who use the facilities developed upon the Reclaimed Land under or in connection with the Project;
- 5.1.5 Perform its rights and fulfill its obligations under this Agreement;
- 5.1.6 Such rights of way, easements and other rights of access and egress routes to and from the Land as reasonably required;
- 5.1.7 Enter into such agreements with such Persons as the Concessionaire shall consider appropriate in relation to the undertaking of the Developments (including, for the avoidance of doubt, the transfer or disposal of an interest in the Land or any part thereof), subject to the CONSENT of the Authority;
- 5.1.8 Pay to the person set out in Clause 24 the Concession Fee; and
- 5.1.9 Do all things incidental or related thereto.'
- 5.2 The Authority acknowledges, agrees and confirms that until such time as the Concessionaire ceases to have an interest in the Reclaimed Land, the Concessionaire shall be exclusively entitled to take the benefits of and generate Revenues from all of the Reclaimed Land in which it has a subsisting freehold or leasehold interest from all activities that are incidental or related thereto or which the Concessionaire considers desirable and appropriate to be carried on in connection therewith.
- 5.3 The Authority acknowledges and agrees that with the concessionaires total acceptance of the concession, the concessionaire shall at its own cost, charges, expenses and risks including but not limited to foreign exchange, variation risks

if any, conceptualize, design, finance, construct, equip, operate and maintain project facilities.

- 5.4 All of the rights granted to the Concessionaire in accordance with Clauses 5.1 and 5.2 shall be collectively referred to as the "Concession Rights."
- 5.5 Interference of any kind by the Authority or by any Relevant Government Authority in any matter in respect of which the Concessionaire is entitled to exercise Concession Rights under this Agreement shall be deemed to be a Compensation Event.
- 5.6 The concession is for 30 (thirty) years period.

6.0 COMMENCEMENT AND PROJECT PHASES

6.1 Commencement

- 6.1.1 Subject to Clause 2, the Agreement shall commence on the Execution Date.
- 6.1.2 Subject to Clause 6.1.3, this Agreement shall remain in full force and effect until it expires at the end of the last day of the Concession Term or until it is otherwise terminated in accordance with its terms.
- 6.1.3 The Parties may agree in writing to extend the Concession Term at any time and by such period as they consider acceptable.

6.2 Project Phases

- 6.2.1 The Concessionaire shall commence performance of the Transitional Services on the effective Date and shall perform the Transitional Services in accordance with work execution plan until the last day of the Transitional Phase,
- 6.2.2 The Concessionaire shall commence performance of the Reclamation Works from the first day of the Moratorium Period and shall perform the Reclamation Works in accordance with work execution plan.

6.2.3 The Concessionaire may commence provision of the Infrastructure Works upon the Reclaimed Land and shall perform the Infrastructure Works in accordance with work execution plan.

6.2.4 The Concessionaire shall commence performance of the Development Management Services on the effective Date and shall perform the Development Management Services in accordance with work execution plan

6.3 If a Material Adverse Effect occurs on or after the Execution Date and before the effective Date, the Concessionaire shall be indemnified and held harmless by the Authority for all Losses suffered as a result of the occurrence of such Material Adverse Effect.

6.4 If at any time prior to the effective Date, any Party becomes aware of any fact, matter, event or circumstance which does or which might reasonably be expected to constitute a Material Adverse Effect, it shall promptly notify the other Party in writing giving relevant details of the relevant fact, matter, event or circumstance.

7.0 OBLIGATIONS OF THE PARTIES

7.1 The Authority

7.1.1 The Authority shall grant all Approvals in sufficient time to ensure that there is no delay or disruption to the carrying out of the Transitional Services, Reclamation Works, Infrastructure Works and/or Development Management Services. Any Onerous Condition attaching to any Authority Approval as listed under clause 17.3 or a Concessionaire Approval shall be deemed to be a Compensation Event.

7.1.2 The Authority shall give the Concessionaire and (on the request of the Concessionaire to its sub-contractors of every tier) all reasonable assistance in relation to:-

- (a) identification and obtaining of Concessionaire Approvals required for the carrying out and completion of its obligations in relation to the Project;

(b) Obtaining immigration clearances and employment permits for foreign personnel engaged or employed by the Concessionaire or its subcontractors in connection with the project.

(c) The importation into Nigeria of all items of equipment and materials required for the Project.

- 7.1.3 As soon as reasonably practicable following application, the Authority shall forthwith grant or use best endeavors to procure the grant of, all Authority Approvals required from the Authority or any Relevant Governmental Authority subject to the Concessionaire complying with all conditions required by Applicable Law for the granting of such Authority Approvals.
- 7.1.4 The Authority shall assist the Concessionaire in procuring sufficiently skilled, experienced and qualified security personnel from any Relevant Governmental Authority for the purposes of the Project (or any part thereof).
- 7.1.5 The Authority shall from the Execution Date grant or procure the grant in favour of the beneficiaries/allottees of a leasehold proprietary interest in the Land for a term of not more than 99 years. The Authority shall enter into or procure the execution of any agreements or other instruments of transfer required to implement or to give effect to the grant referred to in this Clause.
- 7.1.6 The Authority shall grant or shall procure the grant in favour of the concessionaire of the right to enter into the land unhindered and unencumbered throughout the contract period.
- 7.1.7 The concessionaire shall issue offer letter to the land beneficiaries/allottees and thereafter the Authority shall issue final title documents of the land accordingly within thirty (30) days of submission by the concessionaire.
- 7.1.8 The Allocation issued by the Concessionaire will constitute valid evidence of title until the Authority title documents are issued to the allottee.
- 7.1.9 The Authority shall ensure that the Concession land is delivered to the Concessionaire free from any encumbrance. For the avoidance of doubt, the Authority shall be responsible for removing all squatters and or any unauthorized encroachers and illegal structures.

- 7.2 Following any request from the Concessionaire, the Authority shall use all reasonable endeavors to support the Concessionaire's performance of its obligations under this Agreement.

7.3 **THE CONCESSIONAIRE**

7.3.1 Without prejudice to any more specific or higher standard set out elsewhere in this Agreement or required by any Applicable Law, the Concessionaire shall (and shall procure that its Sub-contractors) perform the Transitional Services, Reclamation Works, Infrastructure Works and the Development Management Services and all other obligations under this Agreement in an expeditious and diligent manner, based on the specialized experience and knowledge that it has, and at all times in accordance with:-

- (a) Applicable Law;
- (b) The Development Master plan; and
- (c) Where no higher standard is expressly required of the Concessionaire under this Agreement, Good Industry Practice shall be applicable.

7.3.2 **The Concessionaire shall:**

- (a) perform the Transitional Services:
- (b) carry out detailed soil investigation for the choice of burrow pits, type of soil in the area to be reclaimed and the volume to be filled;
- (c) Carry out due diligence to determine status of built up areas on the concession land with a view to retain plots legally allocated by the Authority.
- (d) As a matter of urgency, take all measures to check encroachments on any of the concessioned land including immediate allocation of vacant plots in such areas to contain further encroachment.

- (e) Provision of Reclamation Works and providing schemes for grubbing and removal of mangrove vegetation in the entire area and filling the swamp with suitable fill;
- (f) After sand-filling, carry out soil investigations on the Reclaimed Land for the purpose of the Infrastructure Works;
- (g) Provision of detailed designs of land use plan and all civil, electrical and mechanical infrastructures;
- (h) provision of the Infrastructure Works including construction of all physical infrastructure upon the Land, including but not limited to the erection of at least four (4) concrete-deck bridges and two (2) large-cell box culverts for linking of lands, water and electricity supply, drainage system, sewage system, and waste disposal;
- (i) Marketing, sale and allocation of the Reclaimed Land (and any part thereon);
- (j) Marketing and sale of buildings constructed on the Reclaimed Land; and
- (k) Provision of Development Management Services during the Contract Period.
- (l) The concessionaire assume all costs, risks and liabilities associated with construction works carried out in accordance with the provisions of this Agreement.

8.0 COMPETING INFRASTRUCTURE

- 8.1 The Authority acknowledges that the economic viability of the Project may be adversely affected by Competing Infrastructure. In the event of any proposal to create Competing Infrastructure within the vicinity during the Non-Compete Period, the Authority shall use best endeavors to ensure that the Concessionaire shall be given the right to undertake the construction of the Competing Infrastructure.
- 8.2 In the event that Competing Infrastructure is constructed or marketed during the Non Compete Period-

8.2.1 the Authority and the Concessionaire shall agree such amendments to this Agreement and/or the Concession Rights as may be necessary to ensure that the Concessionaire (together with each Person undertaking or bound to undertake the Developments) shall not be adversely effected (whether financially or otherwise) by the Competing Infrastructure; and

8.2.2 The creation or marketing of the Competing Infrastructure shall be deemed to be a Compensation Event.

8.3. In this Agreement:-

8.3.1 "Competing infrastructural" shall mean any other reclamation or Infrastructure development project undertaken for commercial benefit on the site for which adjoins or will adjoin the boundary of the Reclaimed Land; and

8.3.2 "Non-Compete Period" shall mean a period commencing on the Execution Date and ending on the last day of the Concession Term.

9.0 HANDOVER OF THE LAND

9.1 On the Execution Date, the Authority shall, in accordance with Clause 9.3, procure the grant of leasehold Interest in, under and in respect of the Land for the period of the concession to the Concessionaire free from any Encumbrances and together with all necessary rights of way easements, access and egress for implementation of the Project.

9.2 The Authority warrants that any liabilities prior to the Execution Date in respect of the Land shall be the sole and exclusive responsibility and liability of the Authority and the Concessionaire shall not in any way be responsible for such liabilities or for the consequences thereof whatsoever.

9.3 The Authority grants or procures the grant in accordance with Clause 7.1.5 in favour of the Concessionaire the exclusive right to enter onto and peaceably enjoys the Land in accordance with the provisions of this Agreement for the purposes of carrying out and implementing the Project with such rights extending to:-

9.3.1 All necessary rights of access, egress, use of seaways and waterways; and

9.3.2 All subcontractors and service providers (of any tier), agents employees and representatives of the Concessionaire.

9.4 The Concessionaire shall use the Land solely for the implementation of the Project.

9.5 The Parties agree that the Reclaimed Land may at the Concessionaire's sole discretion (i) be sold to Persons and/or to the Concessionaire or (ii) be used for any other purpose the Concessionaire may decide is appropriate.

9.6 ENCROACHMENT

9.6.1 If at any time during the Contract Period the Land comprises or appears to comprise less than 1,126 hectares in total, the parties shall adjust the financial model accordingly in such manner as (i) is acceptable to the Concessionaire and (ii) would leave the Concessionaire in no worse a position than if the Land had comprised 1,126 hectares throughout the Contract Period.

9.6.2 The Authority acknowledges that should the Land at any time be encroached by any third party, it shall be the responsibility of the Authority to bear all liability and Losses in connection with ensuring the removal of such third party from the Land forthwith.

9.7 Subsisting leases, licensees and grants of right of use to third parties on any part of FESTAC Phase II (Concession Area) Parties expressly agree that from the commencement date, owners of all previous leases, licensees and grantees of right identified pursuant to clause 11.3 (c) shall upon the commencement of this agreement pay to the concessionaire any statutory dues or levies or any other payment due to be received by FHA and or the Authority for the use and enjoyment of such grant, lease or license. Without prejudice to use generality of the foregoing, the FHA and or the Authority shall upon being called upon by the concessionaire exercise its statutory powers over any erring licensee, lease or beneficiary of such grant.

10.0 ARCHAEOLOGICAL GEOLOGICAL ITEMS

- 10.1 As between the FGN and the Concessionaire, all fossils, minerals, antiquities, structures or other remnants or things either of particular geological or archaeological interest on, under or in the vicinity of the Land shall be deemed to be the absolute property of the FGN. The Concessionaire shall take all reasonable precautions to prevent any other persons from removing or damaging any such items. Immediately on discovery of any item the Concessionaire shall inform the FGN of the discovery and comply with such instructions as the FGN may reasonably give as to the removal of the items. The FGN shall promptly (so as to ensure that there is no material delay in the performance of the Transitional Services, Reclamation Works or Infrastructure Works) undertake the removal of such items and shall promptly reimburse to the Concessionaire all reasonable additional costs and expenses incurred by the Concessionaire as a consequence of the discovery or compliance with the FGN's instructions. However any unlawful removal by the concessionaire shall be a compensation event.

11.0 TRANSITIONAL SERVICES

- 11.1 The Concessionaire shall undertake the Transitional Services during the Transitional Phase in accordance with the standards set out in Clause 7.3.1 and the provisions of execution work plan.
- 11.2 The Concessionaire may select such consultants as it shall consider appropriate for the purpose of undertaking the Transitional Works.
- 11.3 During the transition phase, the following activities shall take place:
- a) Verification of the surveyed concession area;
 - b) Submission of concept designs, soil investigation report, environmental impact assessment and any other relevant report to the Authority.
 - c) Immediately after the date hereof, the parties will constitute a joint committee of three (3) representatives each to verify any subsisting grant of right or lease of any part of the concession area by the FHA or any other authority to third parties. The committee shall prepare a list of all such beneficiaries and shall mutually agree on it.
 - d) Where there is an existing contract between the FHA and or the Authority with any third party from grant of lease and right of use of any part of the concession

area provided for in paragraph (a) hereof, the FHA and or the Authority shall render all reasonable assistance to transfer/novate itself under such existing contracts with the concessionaire on the principle that such transfer/novation would release the Authority and or the FHA of all liabilities and obligations under such contracts or agreements as arising from and after the effective date. The parties, along with relevant third parties shall execute necessary documentations or put in place necessary arrangements for the aforesaid novation/transfer.

12.0 UTILITIES

12.1 The Authority shall procure the co-operation of all Utilities to enable the Concessionaire to complete or procure the completion all Utility Works so as to satisfy the requirements of the Design and the Development Master plan.

12.2 The Concessionaire shall make all necessary arrangements with the Utilities to supply water, electricity and telecommunications connections to the Reclaimed Land and for the performance of the Utility Works provided that:

12.2.1 the Concessionaire shall have no responsibility for such Utility Works insofar as they are to be located within areas of the Reclaimed Land that will become the responsibility of the Person undertaking the relevant Development; and

12.2.2 the Authority shall be responsible for ensuring that:

- (a) adequate utility infrastructure complying in all respects with the requirements of the Design and the Development Master plan is available to the Concessionaire at the boundary of the Reclaimed Land at such point as agreed with the Concessionaire so as to permit the Concessionaire to connect the Utility Works to the infrastructure of the relevant Utility at the boundary of the Reclaimed Land: and
- (b) the relevant Utilities have agreed, subject to Applicable Law, to allow the Concessionaire to connect to the relevant Utility Infrastructure.

12.3 Subject to the Authority complying with its obligations in Clause 12.2, the Authority does not accept any liability for the quality of the services provided by

the Utilities and/or for any interruption by third parties in the supply of those services.

- 12.4 The Concessionaire on the issuance of each Completion Certificate assume responsibility for the maintenance, repair and renewal of the relevant Utility Works so as to ensure that the Developments are adequately and reliably served with all necessary utilities until the end of the concession period..

13.0 RECLAMATION WORKS

- 13.1 The Reclamation Works shall be undertaken in phases and in accordance with the standards set out in Clause 7.3.1. The Concessionaire shall commence The Reclamation Works as soon as reasonably practicable after the end of the Transitional Phase. The Concessionaire shall be responsible for the execution and completion of the Reclamation Works and shall assume (subject to the terms of this Agreement) all costs and all risks of the. Reclamation Works in accordance with this Agreement.

13.2 The Reclamation Works shall Include:-

13.2.1 twenty (20) million cubic meters of sand as approved by the Joint Committee of the Ministries of Works and Lands, Housing and Urban Development and the BPP set up by the FEC;

13.2.2 Reclamation operations in accordance with the Design and the Programme of Work;

13.2.3 degrooving of all existing vegetation shall be carried out in accordance with work execution plan and the Programme of Work;

13.2.4. hydraulic sand dredging from approved burrow site, existing canal and existing FESTAC Phase 1 burrow pit in line with approved dredging practice; and

13.2.5 Where required, booster stations shall be incorporated to ensure effective distribution of sand to the Land.

13.3 An indicative programme showing the anticipated duration of the Reclamation Works (current as at the date hereof) is attached at Schedule 5. The Parties acknowledge the Programme for Works is for information only and may be

13.4 RW COMPLETION TESTS:

13.4.1 The Concessionaire shall give to the Independent Engineer no less than five (5) Business Days' notice of when it proposes to:

- (a) undertake any of the tests (the "RW Completion Tests") required to be undertaken pursuant to Clause 13 to demonstrate that the Reclamation Works have been completed so as to meet the requirements of the Development Master plan and the Design; and
- (b) issue a notice to the Authority stating that the RW Completion Tests have been successfully completed and the Reclamation Works are Complete

13.4.2 The Authority and the Independent Engineer shall be entitled to attend any RW Completion Test. To the extent that any Completion Test is not successfully completed the Concessionaire shall be required to give the Authority no less than three (3) Business Days' notice of the date upon which such RW Completion Test is to be repeated and the provisions of this Clause 13.4 shall apply to such repeat tests. In the event that the Authority does not attend any RW Completion Test (or repeat thereof) notified pursuant to this Clause, the Concessionaire's records in relation to the outcome of such test shall be conclusive.

13.5 RW Completion Certificate

13.5.1 Within five (5) Business Days of receipt of a notice issued pursuant to Clause 13.4.1 (b) the Authority shall:

- (a) issue a certificate (a "RW Completion Certificate") certifying that the Reclamation Works are Complete; or
- (b) if the Authority is not satisfied that the Reclamation Works are Complete or has not passed the RW Completion Tests, refuse to issue the RW Completion Certificate in which case the Authority shall notify the Concessionaire of all the work that in the Authority's reasonable opinion requires to be done or effected by the Concessionaire to make the Reclamation Works complete and of

notice pursuant to Clause 42. Any dispute, difference, controversy or claim of any kind arising between the Parties as regards matters dealt with in Clause 13.5 and 13.6 may be referred to the Dispute Resolution Procedure as set out in Clause 42.

13.7 The Concessionaire shall select such consultants and subcontractors as it shall consider appropriate for the purpose of undertaking the Reclamation Works,

14.0 DESIGN REVIEW

14.1 The Concessionaire undertakes that the Transitional Services, Reclamation Works and Infrastructure Works will be designed in accordance with Good industry Practice, within the parameters set within the Development Master plan and all major structures forming part of the Reclamation Works and/or Infrastructure Works will be safe and serviceable for the duration of their design subject to:

- (a) normal wear and tear;
- (b) the undertaking of routine and responsive maintenance and repair by or on behalf of the Concessionaire;
- (b) Force Majeure; and
- (c) the acts or omissions of third parties including, for the avoidance of doubt the provider of any Utility.

14.2 The Concessionaire shall submit the Design to the Authority prior to the commencement of the corresponding elements of the Transitional Services, Reclamation Works and/or Infrastructure Works for the information of and comments by the Authority in accordance with the Review Procedure. If

requested by the Authority within five (5) Business Days of Submission, the concessionaire shall consult with the Authority concerning such Design and answer all reasonable questions of the Authority concerning the same.

14.3 The Concessionaire shall give due consideration to any comments made by the Authority within ten (10) Business Days of submission of the Design to the Authority. Any comment that the Authority may give concerning the Design shall not affect the Concessionaire's ability to comply with the provisions of this Agreement, in particular the provisions of this Clause.

14.4 At any time during the Reclamation Works and Infrastructure Works, the Concessionaire may, by notice to the Authority, propose changes to the Design if such changes will:-

14.4.1 expedite the reclamation, development or construction; or

14.4.2 reduce the cost of reclamation, development, construction of Infrastructure or Management; or

14.4.3 improve the quality of the Project.

14.5 To the extent any change proposed in accordance with Clause 14.4

15.0 INFRASTRUCTURE WORKS

15.1 The Infrastructure Works shall be undertaken in accordance with the standards set out in Clause 7.3.1. The Concessionaire shall commence the Infrastructure Works as soon as reasonably practicable upon any Reclaimed Land.

15.2 The Concessionaire shall be responsible for the execution and completion of the Infrastructure Works and shall assume (subject to the terms of this Agreement) all costs and the risks of the Infrastructure Works in accordance with this Agreement.

15.3 The Infrastructure Works shall comply with the provisions of Clause 7.3.1 and the Design.

15.4 The Completion Tests

15.4.1 The Concessionaire shall give to the Authority and the Independent Engineer no less than five (5) Business Days' notice of the date when it proposes to:

- (a) undertake any of the tests and trials (the "IW Completion Tests") required to be undertaken pursuant to Clause 15 to demonstrate that the Infrastructure Works have been completed so as to meet the requirements of the Development Master Plan and the Design; and
- (b) issue a notice to the Authority stating that the IW Completion Tests have been successfully completed and the Infrastructure Works are Complete.

15.4.2 The Authority and the Independent Engineer shall be entitled to attend any IW Completion Test. To the extent that any IW Completion Test is not successfully completed the Concessionaire shall be required to give the Authority no less than three (3) Business Days' notice of the date upon which such IW Completion Test is to be repeated and the provisions of this Clause shall apply to such repeat tests. In the event that the Authority does not attend any IW Completion Test (or repeat thereof) notified pursuant to this Clause, the Concessionaire's records in relation to the outcome of such test shall be conclusive.

15.5 IW Completion Certificate

15.5.1 Within five (5) Business Days of receipt of a notice issued pursuant to Clause 15.4.1(b) the Authority shall:

- (a) issue a certificate (a "Work Completion Certificate") certifying that the Infrastructure Works are complete; or
- (b) if the Authority is not satisfied that the Infrastructure Works are Complete or has not passed the Work Completion Test, refuse to issue the IW Completion Certificate in which case the Authority shall notify the Concessionaire of all the work that in the Authority's reasonable opinion requires to be done or effected by the Concessionaire to make the Infrastructure Works complete and of any of the IW Completion Tests that remain to be passed, and if the Authority fails to take either of the actions referred to in this Clause

15.5 within five (5) Business Days then the IW Completion Certificate for the Infrastructure Works shall be deemed to be issued by the Authority on the date when the Concessionaire gave notice pursuant to Clause 13.4.2.

- 15.6 Any dispute, difference, controversy or claim of any kind arising between the Parties as regards matters dealt with in Clause 13.4 or 15.5 may be referred to the Dispute Resolution Procedure as set out in Clause 42.

16.0 DEVELOPMENT MANAGEMENT SERVICES

- 16.1 The Development Management Services shall be undertaken in accordance with the standards set out in Clause 7.3.1. The Concessionaire shall commence the Development Management Services from the Commencement Date.
- 16.2 The Concessionaire shall be responsible for the execution and completion of the Development Management Services and shall assume (subject to the terms of this Agreement) all costs and all risks of the Development Management Services in accordance with this Agreement.
- 16.3 The Authority acknowledges the Concessionaire shall not be responsible for any liability or costs arising in relation to the Existing Contracts but shall manage such Existing Contracts on behalf of the Authority or the Relevant Governmental Authority for the duration of the Contract Period.
- 16.4 The Concessionaire may, during the Contract Period, dispose or apportion any part(s) of the Reclaimed Land to any Person (including to the Concessionaire), subject at all times to compliance by the Concessionaire with the Development Master Plan and the Design, as well as the written approval of the Authority.
- 16.5 The Concessionaire may by written notice at any time after the commencement of the Reclamation Works call upon the Authority to grant or procure the grant of:
- 16.5.1 a sublease in favour of a Person nominated by the Concessionaire; or:
- 16.5.2 Statutory right title to any part of the reclaimed land to the Concessionaire or any other person named by them.

- 16.6 The Authority undertakes to take all action and procure from any Relevant Governmental Authority (including the FHA) all action required to give effect to the provisions of 16.5.1 and 16.5.2.
- 16.7 The Concessionaire shall procure the Developments throughout the Contract Period in accordance with the Development Master Plan.
- 16.8 The Concessionaire shall exclusively manage the Reclaimed Land throughout the Contract Period.

17.0 APPROVALS

17.1 Applications for Concessionaire Approvals

17.1.1 The Concessionaire shall make or cause to be made to the Relevant Governmental Authority, all applications as required and appropriate (whether initial or renewal applications) for all requisite permits, licenses and/or consents that only the Concessionaire is able to obtain and shall pursue all such applications.

17.1.2 The Concessionaire shall ensure

(a) the information supplied in the applications is complete and accurate and shall satisfy the substantive and procedural requirements of Applicable Law applied in a non-discriminatory manner.

(b) all applications are accompanied by the applicable fee; and

17.1.3 The Authority shall

(a) Provide and shall procure from any other relevant Governmental Authority, the provision of all reasonable assistance to the Concessionaire in respect of all applications for Concessionaire Approvals.

(b) not unreasonably delay and/or delay the grant of any such Concessionaire's Approval.

17.2 Status of Applications

17.2.1 The Concessionaire shall at least quarterly provide to the Authority, reports listing its schedule for submitting application forms or renewal application forms for Concessionaire Approvals, the status of any such applications then outstanding, notifications of the grant, renewal or denial of any such application and notifications of any violations of any Concessionaire's Approval. Each report shall include copies of all applications and notifications discussed in the report. The first section of each report shall also summarize any problems regarding any Concessionaire's Approval or application relating thereto and which may adversely affect the Concessionaire's performance under this Agreement.

17.2.2 If a Concessionaire's Approval once granted has expired or lapsed, the Concessionaire shall submit a report pursuant to this Clause within seven (7) Business days of becoming aware of such expiry or lapse to the Authority.

17.3 Onerous Conditions

17.4 To the extent any Relevant Governmental Authority attaches any Onerous Condition discriminatory to the concessionaire to an Approval, the Concessionaire shall be entitled to a Compensation Event.

17.5 For the purposes of this Agreement, an "Onerous Condition" means any condition or requirement of an Approval that would:-

17.5.1 impose any condition attaching to the method of working that the Concessionaire could not, acting in accordance with Good Industry Practice, have anticipated at the time of submission of the unsolicited proposal to the Relevant Governmental Authority; or

17.5.2 require any change to the nature or extent of the Concessionaire Services or the materials that the Concessionaire utilize in any aspect of the Concessionaire Services.

18.0 COVENANTS

18.1 Authority

The Authority shall facilitate and pursue all approvals required by the Concessionaire to permit Relevant Governmental Authorities to waive import duties, levies or any other charges on the importation of equipment and other materials by the Concessionaire in connection with the implementation of the Project or otherwise for the execution of this Agreement. Provided that no condition that is either required by law, Federal Government Policy Circulars, other provisions of the Agreement, due process or due diligence shall be waived by either party without the written consent of either party duly obtained.

18.2 The Authority covenants;

18.2.1 That the Concessionaire shall peacefully and quietly hold, occupy, use and enjoy the Concession Rights throughout the duration of this Agreement.

18.2.2 That in the event the Concessionaire suffers any claim, causes of action, damages or losses which may accrue and arise from the acts or omissions of any employee, official or agent of the Authority or the FHA having a right of use of the Land prior to the Commencement Date, the Authority shall indemnify, defend, and hold harmless the Concessionaire from and against any and all such claims subject to approval of the Authority.

18.2.3 To assist and pursue approval from the Relevant Government Authorities of all approvals or waivers required by the Concessionaire for the implementation of the Project or for the execution of this Agreement.

18.2.4 To respond to any request from the Concessionaire within no more than 30 days failing which the Authority shall notify the concessionaire of its inability to meet its request within the agreeable period and seek further extension of not more than 30 days in obtaining the necessary governmental approvals or waivers.

18.3 Concessionaire

The Concessionaire covenants to monitor the exact dimensions of the Land and to periodically notify the other Parties accordingly.

19.0 REPRESENTATIONS AND WARRANTIES

19.1 The Authority hereby represents and warrants to the Concessionaire that-

19.1.1 The Authority has full power and authority to execute and deliver this Agreement

19.1.2 The Authority has full power and authority to perform its obligations hereunder;

(a) the execution, delivery and performance of this Agreement on behalf of the Authority has been duly authorized by all requisite action on the part of the Authority and will not violate the Laws of Nigeria; and

(b) this Agreement has been duly executed and delivered by the Authority.

19.1.3 This Agreement constitutes a legal, valid and binding obligation on the Authority and enforceable against it in accordance with its terms.

19.1.4 No filing or registration with, no notice to and no permit, authorization, consent or approval of any Person is required for the execution, delivery or performance of this Agreement by the Authority, save for any Authority's Approvals or Concessionaire's Approvals.

19.1.5 The Authority is not in default under any Agreement or Instrument of any nature whatsoever to which it is a party or by which it is bound in any manner that would have a material adverse effect on its ability to perform its obligations hereunder or the validity or enforceability of this Agreement.

19.1.6 There is no action, suit, proceeding or investigation pending, which if determined would have a Material Adverse Effect on its ability to perform and or inhibit the Concessionaire's rights under this Agreement or to Authority's knowledge, is threatened against it.

19.1.7 The Authority shall not interfere with the administration and management of the Land and Reclaimed Land throughout the duration of this Agreement.

19.2 The Authority hereby represents and warrants on behalf of the FHA, that the FHA has full legal and beneficial title to the Land and full legal right and power to lease the Land to the Concessionaire in accordance with this Agreement.

20.0 CONCESSIONAIRE

The Concessionaire hereby represents and warrants to Authority that:-

20.1.1 The Concessionaire is a limited liability company, duly organized and validly existing under the Laws of Nigeria, and has all requisite corporate power to own or lease and operate property interests and to carry on its business in accordance with its Memorandum and Articles of Association;

20.1.2 The Concessionaire has full corporate power to execute and 'deliver this Agreement and to perform its obligations hereunder;

20.1.3 The execution, delivery and performance of this Agreement by the Concessionaire has been duly authorized by all requisite corporate action on the part of the Concessionaire, and no other proceedings on the part of the Concessionaire or any other Person are necessary for such authorization;

20.1.4 The fulfillment of its obligations under this Agreement will not violate any Applicable Law or any applicable order of any Relevant Government Authority;

20.1.5 This Agreement has been duly executed and delivered by the Concessionaire;

20.1.6 This Agreement constitutes a legal, valid and binding obligation of the Concessionaire, enforceable against it in accordance with its terms;

20.1.7 to the best of its knowledge, after reasonable inquiry, no filing or registration with, no notice to and (save in respect of the Concessionaire Approvals) no permit, authorization, consent or approval of any Person is required for the execution, delivery or performance of this Agreement by the Concessionaire;

20.1.8 the Concessionaire is not in default under any agreement or instrument of any nature whatsoever to which it is a party or by which it is bound in any manner that would have a material adverse effect on its ability to perform its obligations hereunder or the validity or enforceability of this Agreement;

20.1.9 There is no action, suit, proceeding or investigation pending or threatened (i) for the dissolution of the Concessionaire, or (ii) against the Concessionaire, which, if adversely determined, would have a material adverse effect on its ability to perform its obligations hereunder or the validity or enforceability of this Agreement; and

20.1.10 it has the necessary skill, experience, resources, qualifications and capabilities to perform its obligations hereunder.

21.0 TIME FOR COMPLETION AND EXTENSION OF TIME

21.1 The Concessionaire shall as far as practicable use reasonable endeavors to implement and complete the Reclamation Works and Infrastructure Works by the applicable Target Completion Dates set out in the Programme of Work.

21.2 In the event the Concessionaire becomes aware at any time that there has been or is likely to be an Event of Delay, the Concessionaire shall as soon as practicable give a Delay Notice' to the Authority. The Delay Notice shall specify the event that has or is likely to occur that will or may result in delay and shall specify:-

21.2.1 whether in the Concessionaire's reasonable opinion the Event of Delay is a Compensation Event, an event of Force Majeure, a Change in Law or any other event without the reasonable control of the Concessionaire (any such event being an "Event of Delay");

21.2.2 When the Event of Delay occurred or is likely to occur and the extent of the anticipated delay; and

21.2.3 Concessionaire's proposals to mitigate the extent of the delay.

21.3 The Concessionaire shall give the Authority updates of the effect of the Event of Delay every month.

21.4 The Concessionaire shall use reasonable endeavors (which, for the avoidance of doubt shall not require additional cost or expense) to mitigate the delay caused by any Event of Delay,

21.5 If the Event of Delay is a Compensation Event, an event of Force Majeure or a Change in Law or any other event not within the reasonable control of the Concessionaire and the progress of the Reclamation Works or Infrastructure Works has been delayed as a result of such event, the affected Target Completion Date(s) shall be extended by such time as is necessary to take account of the delay arising from the event. The Concessionaire shall be entitled to any extension to the applicable Target Completion Date(s) only to the extent provided for in this Clause.

21.6 If the delay arises as a result of an act or omission or negligence on the part of the concessionaire, the Authority shall be entitled to certain claim that is commensurate with any loss or damage suffered by the Authority to be treated as compensation event under this Agreement.

22.0. COMPENSATION EVENTS

22.1 For the purpose of this Agreement, the following shall constitute Compensation Events:-

22.1.1 Breach by the Authority of any provisions of this Agreement;

22.1.2 Breach by the Concessionaire of any of the provisions of this Agreement;

22.1.3 Contamination or pollution on/under or in the Land not caused by the Concessionaire or any Concessionaire Related Party;

22.1.4 The construction or marketing of any Competing Infrastructure within the Non-Compete Period;

22.1.5 Any action, challenge or other proceedings by any Person in a Court of Law relating to the Authority's obligation:-

- (a) as a consequence of which the carrying out of the Project (or any part of it) is materially delayed; or
- (b) which prevents or delays the Concessionaire from disposing of or otherwise dealing in any part of its interest in the Reclaimed Land, and
- (c) any event deemed to be a Compensation Event pursuant to this Agreement.

22.2 The Concessionaire shall as soon as reasonably practicable after the occurrence of a Compensation Event:-

22.2.1 Advise the Authority of the occurrence of such event and its assessment of the effect of such event; and

22.2.2 Provide to the Authority all information and documents which it reasonably determines to be necessary to enable the Authority to assess the financial impact of such event ("CE Assessment Information").

22.3 The Concessionaire shall take all reasonable steps to mitigate the financial impact resulting from a Compensation Event. The Authority shall reasonably assist the Concessionaire in its efforts to mitigate any such financial impact.

22.4 As soon as practicable, after the Concessionaire has provided the CE Assessment Information to the Authority, the Authority and the Concessionaire shall meet to discuss:-

22.4.1 whether a Compensation Event has occurred;

22.4.2 if a Compensation Event has occurred, the nature of the Compensation Event;

22.4.3 the financial impact of such event on the Concessionaire:
and

22.4.4 the steps the Concessionaire has taken or is to take pursuant to Clause 22.5

22.5 In the event that a Compensation Event occurs, the Concessionaire shall be entitled, without prejudice to any other remedy of the Concessionaire, to compensation from the Authority sufficient to put the Concessionaire in the same economic position it would have been in had such Compensation Event not occurred.

22.5.1 In the event that a Compensation Event occurs, the Authority shall be entitled, without prejudice to any other remedy of the Authority, to compensation from the Concessionaire sufficient to put the Authority in the same economic position it would have been in had such Compensation Event not occurred.

22.6 For the avoidance of doubt, the Concessionaire shall, where the Compensation Event has a continuing effect, be entitled to make more than one demand in relation to each Compensation Event (but without double counting).

23.0 CHANGE IN LAW

23.1 In this Agreement "Change in Law" means any of the following events after the Execution Date:-

23.1.1 adoption, promulgation, modification, reinterpretation or repeal of any Applicable Law by a Relevant Governmental Authority or any order, directive, guideline, policy having force or coming into effect and shall include any change in the interpretation or implementation of Applicable Law or any Approval; or

23.1.2 the imposition by any Relevant Government Authority of any material condition in connection with the issuance, renewal or modification of any Approval which renders the performance by the Concessionaire of any of the terms of this Agreement impossible or unabated: or

23.1.3 any of the exemptions from Applicable Law, regulatory approvals, taxes or exchange controls agreed with the Authority cease to be in full force and effect; or

23.1.4 any Approval previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Concessionaire or if granted for a limited period, being renewed on terms different from those previously stipulated which renders the performance by the Concessionaire of any of the terms of this Agreement impossible or economically unviable; or

23.1.5 the imposition of guidance, directions, practices, standards or other requirements issued by any Relevant Government Authority with which the Concessionaire is required necessarily to comply to carry out the works comprising the Project on the terms of this Agreement.

23.2 Where there is a Change in Law which produces or may produce directly or indirectly an adverse financial impact on the Project (including, for the avoidance of doubt, circumstances where the Change in Law affects the economic position of the Concessionaire whether through delays, increased costs of undertaking the Reclamation Works or Infrastructure Works, reduction in Revenues, profits or cash flow) such Change in Law shall be a "Change In Law Event."

23.3 The Concessionaire shall take all reasonable steps to mitigate the financial impact resulting from a Change in Law Event. The Authority shall reasonably assist the Concessionaire in its efforts to mitigate any such financial impact.

23.4 The Concessionaire shall as soon as reasonably practicable after the occurrence of a Change in Law Event:-

- 23.4.1 advise the Authority of the occurrence of such event and the steps taken by it to mitigate any adverse financial impact resulting from such event and its assessment of the effect of such event; and
- 23.4.2 provide to the Authority all information and documents which it reasonably determines to be necessary to enable the Authority to assess the financial impact of such event ("Assessment Information").
- 23.5 As soon as practicable, after the Concessionaire has provided the Assessment Information to the Authority, the Authority and the Concessionaire shall meet to discuss.
- 23.5.1 whether a Change in Law Event has occurred;
- 23.5.2 if a Change in Law Event has occurred, the nature of the Change in Law Event;
- 23.5.3 the financial Impact of such event on the Concessionaire; and
- 23.5.4 the steps the Concessionaire has taken or is to take pursuant to Clause 23.3 .
- 23.6 In the event that a Change in Law Event occurs, the Concessionaire shall be entitled without prejudice to any other remedy of the Concessionaire, to compensation from the Authority sufficient to put the Concessionaire in the same economic position it would have been in, had such Change in Law Event not occurred. Compensation payable to the Concessionaire by the Authority shall be paid by the Authority within forty (40) Business Days of the loss, cost or expense being suffered or incurred by the Concessionaire.
- 23.7 For the avoidance of doubt, the Concessionaire shall be entitled to make more than one demand in relation to each Change in Law Event (but without double counting)

24.0 CONCESSION FEE TO THE AUTHORITY

- 24.1 The Concessionaire shall pay to the Authority, the Concession Fee from the Revenue received by the Concessionaire under this Agreement] as follows:-

24.1.1 During the Concession Term the Concessionaire shall pay:-

(a) Ground Rent of N150m per annum payable in arrears on the last Business Day of each year, such amount to be paid into an account nominated by the Authority and:

(b) Premium of N25.765billion payable in equal installments on a pro rata basis on the last Business Day of each calendar year into the Special Concession Account, nominated by the Authority.

(c) Where the number and price of plots realized from the land or reclaimed land is above the benchmark of N15m per plot, the premium and ground rent payable to the Authority shall be adjusted to reflect the new cost and price regime during the concession period, provided that:-

- i. any review of the project cost shall be jointly carried out by the parties, and
- ii. Profit sharing is based on the 70:30 for NFDCL and FHA respectively in accordance with FEC approval herein before mentioned. (Schedule 4)

24.2 The Ground Rent and premium shall be reviewed on every five years anniversary of the day upon which the Concession Term commences and any revised amount shall be such that is agreed in writing between the Parties in accordance with Clause 4.1.

24.3 The statutory fees payable to Infrastructure Concession Regulatory Commission (ICRC) shall be borne by both parties as maybe agreed.

25.0 CONCESSIONAIRE REVENUE

25.1 The Concessionaire shall be entitled to levy and collect Revenue from Persons/users of the- Reclaimed Land and Developments pursuant to and in accordance with this Agreement and in the manner described in the Financial Model set out in Schedule 4.

25.2 Such Revenue shall include Revenue generated from the following:-

25.2.1 Special allocation to industries;

25.2.2 Mini Stadium;

- 25.2.3 Buildings;
 - 25.2.4 Plots of land;
 - 25.2.5 Sale of buildings'.
 - 25.2.6 Leases to gas supply companies;
 - 25.2.7 Advertising;
 - 25.2.8 Private Developers;
 - 25.2.9 Recreational Facilities;
 - 25.2.10 Mega Shopping Malls, Supermarkets, Shops;
 - 25.2.11 Schools, places of worship and hotels
 - 25.2.12 Motor Parks
 - 25.2.13 Toll Gates
- 25.3 The Concessionaire shall be solely responsible for identifying, implementing and collecting Revenue from the Developments.

26.0 MONITORING AND SUPERVISION

- 26.1 The Authority shall through its Authorized Representative and the ICRC, inspect and/or monitor the Land, the Reclaimed Land and any aspect of the Concession Services during the Concession Period, provided any such monitoring and supervision does not interfere, delay, hinder or otherwise obstruct the implementation of the Project.
- 26.2 Any inspection referred to in Clause 26.1 shall be undertaken at reasonable times agreed with the Concessionaire and only following reasonable prior written notice to the Concessionaire.

27.0 ACCOUNTS AND AUDITS

- 27.1 The Concessionaire shall at the end of each accounting year forward a copy of its audited accounts to the Authority for their information

- 27.2 The Concessionaire shall appoint and have, during the subsistence of this Agreement, as its Statutory Auditors, a firm of Chartered Accountants duly licensed to practice in Nigeria.
- 27.3 The Authority and the Concessionaire may jointly appoint INDEPENDENT AUDITORS at any time during the Concession Period.
- 28.0 **INDEPENDENT ENGINEER**
- 28.1 The Parties shall jointly appoint an Independent Engineer in accordance with the provisions of Clause 2.4.1.
- 28.2 The Independent Engineer shall report to the Authority and the Concessionaire on a regular basis (being no less than at least once every calendar month during the provision of the Transitional Services, Reclamation Works and infrastructure).
- 28.3 Any fees, costs and/or expenses reasonably and properly incurred by the Independent Engineer during the provision of the Independent Engineer's services ("IE Costs") shall be reimbursed by the Concessionaire paying 50% of any invoice to the Independent Engineer and the Authority paying or procuring the payment of the remaining 50% directly to the Independent Engineer. The Independent Engineer shall issue separate Invoices to the Concessionaire and the Authority for their respective proportion of the IE Costs and payment shall not be due until 30 days following receipt of the invoice and all supporting information requested by the Concessionaire or the Authority in respect of the services to which the invoices relates.
- 28.4 The parties may terminate the appointment of the Independent Engineer at any time subject to appointment of a replacement Independent Engineer.
- 28.5 The provisions of Clause 28.4 shall apply if at any time the Parties dispute any matter concerning the Independent Engineer.
- 28.6 The Independent Engineer shall monitor the quality of the Reclamation Works and Infrastructure Works and be reporting to the Parties any failure to meet the requirements of Clause 7.3.1 and/or the Design and/or the Development Master Plan. The Independent Engineer shall have no power to issue instructions to the Concessionaire or its sub-contractors, agents or employees (of any tier). In the event that the Independent Engineer identifies any failure to meet Clause 7.3.1, the Design or the Development Master Plan, the Independent Engineer shall,

within five (5) business days notify the Authority and the Concessionaire of such failure and the Concessionaire shall notify the Authority and the Independent Engineer of the steps that it shall take to appropriately rectify such non-compliance. .

- 28.7 The Authority and the Concessionaire warrant that they shall not obstruct or hinder the Independent Engineer from carrying out its duties and obligations, which shall be carried out fairly and impartially as between the Authority and the Concessionaire.

29.0 PROJECT COST CONSULTANT

- 29.1 The Parties shall jointly appoint a Project Cost Consultant in accordance with the provisions of Clause 2.4.1.
- 29.2 The Project Cost Consultant shall report to the Authority and the Concessionaire on a regular basis (being no less than at least once every calendar month during the provision of the Transitional Services, Reclamation Works and infrastructure).
- 29.3 Any fees, costs and/or expenses reasonably and properly incurred by the Project Cost Consultant during the provision of the Project Cost Consultant's services ("PC Costs") shall be reimbursed by the Concessionaire paying 50% of any invoice to the Project Cost Consultant and the Authority paying or procuring the payment of the remaining 50% directly to the Project Cost Consultant. The Project Cost Consultant shall issue separate invoices to the Concessionaire and the Authority for their respective proportion of the PC Costs and payment shall not be due until 30 days following receipt of the invoice and all supporting information requested by the Concessionaire or the Authority in respect of the services to which the invoices relates
- 29.4 The parties may terminate the appointment of the Project Cost Consultant at any time subject to appointment of a replacement Project Cost Consultant.
- 29.5 The provisions of Clause 28.4 shall apply if at any time the Parties dispute any matter concerning the Project Cost Consultant.

- 29.6 The Authority and the Concessionaire warrant that they shall not obstruct or hinder the Project Cost Consultant from carrying out its duties and obligations, which shall be carried out fairly and impartially as between the Authority and the Concessionaire.

30.0 ENVIRONMENT, HEALTH AND SAFETY

- 30.1 The Concessionaire shall at all times comply with the terms of the Environmental Impact Study together with all Applicable Laws and shall take additional steps, as reasonably necessary or required in accordance with Good Industry Practice to protect the environment, promote safety and undertake appropriate remedial measures.
- 30.2 The Concessionaire shall promptly notify the Authority of any environmental accidents or emergencies and shall report periodically, but at least annually, on remediation programme and emergency response plans for environmental impact in the course of the execution of the Project.
- 30.3 In the event of an environment accident, the Concessionaire shall develop and implement an environmental management plan in accordance with the Laws of Nigeria and issue a report to the Authority at least weekly, assessing the environmental damage and updating the status of the remediation programme until the completion of such remediation.
- 30.4 The parties hereby acknowledge that the canal which runs through the FESTAC Phase I to FESTAC Phase II (as identified on the plan contained at Schedule 3) constitutes a serious environmental health hazard and safety challenge and the Concessionaire shall have no liability or responsibility whatsoever in respect of the existing or former use of such canal. The Authority shall be solely responsible for ensuring such canal does not adversely affect the provision of the Concession Services under this Agreement and to the extent such canal has an impact on the performance of the Concession Services, the Concessionaire shall be entitled to a Compensation Event in accordance with the terms of this Agreement.

31.0 INSURANCE

- 31.1 The concessionaire shall, in accordance with all Applicable Laws take out or procure the maintenance of comprehensive insurance cover in respect of their liabilities under this Agreement.

32.0 LIABILITY

32.1 Indemnity by Concessionaire

The Concessionaire shall indemnify and keep indemnified and hold the Authority harmless against all Losses arising out of or in connection with:-

32.1.1 death or personal injury to any person whether located on the Land or otherwise which occurs during the performance of the Transition Services, Reclamation Works, Infrastructure Works and/or the Development Management Services;

32.1.2 a breach by the Concessionaire of any of the provisions of this Agreement, Applicable Law in the course of, or caused by, the performance of the Transition Services, Reclamation Works, Infrastructure Works and/or the Development Management Services;

32.1.3 any actual or alleged infringement of any Intellectual Property Rights caused by the performance of the Transition Services, Reclamation Works, Infrastructure Works and/or the Development Management Services or the use of any process, work, material, matter, thing or method used or designed or specified for use and/or supplied by the Concessionaire; and

32.1.4 any compliance or non-compliance (as the case may be) with any labour and/or tax related obligations as set out in this Agreement and/or in any Applicable Law to the extent that the Loss is caused by or due to any negligence (including gross negligence), breach of statutory duty omission or default of the Concessionaire or any Concessionaire Related Party.

32.2 Insofar as permitted by Applicable Law and subject always to the exceptions stated in Clause 31, the maximum aggregate amount of compensation payable by the Concessionaire to the Authority in respect of liability under this Agreement shall be determined by Arbitration.

32.3 Nothing in this Agreement shall limit or exclude liability (whether in contract, tort for breach of statutory duty or any other legal basis) of the Concessionaire in respect of any liability which cannot be limited or excluded under Applicable Law. :-

32.4 Liability of the Authority

32.4.1 The Authority shall indemnify and keep indemnified and hold the Concessionaire and the Concessionaire Related Parties harmless against all Losses arising out of or in connection with all the obligations of the Authority under the Agreement, including:-

- (a) personal injury to or the death of any person whomsoever;
- (b) a breach by the Authority of any Applicable Law in the course of, or caused by, the performance of its obligations under this Agreement;
- (c) any loss or damage arising from a claim by a third party;
- (d) any loss, injury or damage whatsoever to any property real or personal; and
- (e) any actual or alleged infringement of any Intellectual Property Rights or the use of any process, work material, matter or thing supplied by the Authority, to the extent that any such loss, injury, death or damage is due to any negligence (including gross negligence), breach of statutory duty, omission or default of the Authority and any Authority Related Party (other than the Concessionaire and any Concessionaire Related Party).

32.5 If it is considered that either Party is liable to the other (whether in contract or tort for breach of statutory duty or otherwise at law) under this Agreement, in no event shall a Party be liable for any Loss which in any manner relates to special damages, indirect losses or damages or consequential damages caused in any manner whatsoever, or any other damages which are not direct damages flowing from a breach of that Party's duty in terms of this Agreement.

32.6 Neither the Authority nor the Concessionaire shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made before the expiry of the Concession Term.

33.0. TRANSFER OF THE PROJECT

33.1 At the end of the Concession Term (whether following any extension agreed under Clause 6.1.3 or otherwise) ("Handover Date") and subject to 33.2, the Concessionaire shall (unless agreed otherwise with the Authority):

33.1.1 surrender to the Authority or any person designated by the Authority, its remaining interest under the Land Lease.

33.1.2 assign to the Authority or any person designated by the Authority at the Handover Date all unexpired Guarantees, Contracts and Warranties subsisting in relation to the Project:

33.1.3 hand over to the Authority or any person designated by the Authority all documents including drawings, manuals and records relating to Development Management Services: and

33.1.4 hand over to the Authority or any person designated by the Authority all Concessionaire's Approvals granted to the Concessionaire in respect of the Project: and

33.1.5 The Concessionaire shall remove from the Reclaimed Land any and all equipment and assets that are not handed over to the Authority.

33.2 At the Handover Date, the Authority undertakes to pay to the Concessionaire all outstanding claims payable by the Authority to the Concessionaire under this Agreement.

34.0. FORCE MAJEURE

34.1 A Party who is delayed or unable to perform its obligations in accordance with this Agreement in whole or in part as a consequence of an event of Force Majeure (an "Affected Party") shall be relieved from the obligation to perform to the extent that it is unable to perform such obligation as a consequence of the event of Force Majeure or the effects thereof.

34.2 Notwithstanding the foregoing, the Affected Party shall.-

34.2.1 make all reasonable efforts to prevent, minimize and thereafter mitigate any delays or costs occasioned by any event of Force Majeure, including recourse to alternative acceptable sources of services, equipment and materials

34.2.2 use all reasonable efforts to ensure resumption of normal performance of this Agreement after the impact of the event of Force Majeure has ceased and perform their obligations hereunder to the maximum extent practicable; and

34.2.3 bear their respective costs and neither Party shall be required to pay to the other Party any costs arising out of an event of Force Majeure.

34.3 If an event of Force Majeure occurs, the affected Party shall notify the other as soon as reasonably practicable and in any event within ten (10) Business Days after the occurrence of the event. The notification shall comprise details of the suspected Force Majeure and the measures and efforts exerted by the affected Party to mitigate and overcome the effects of the occurrence of the Force Majeure.

34.4 "Force Majeure" * any of the following events or 'circumstances or combination of events or circumstances:-

34.4.1 acts of God;

34.4.2 Contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;

34.4.3 fire, explosion, lightning, severe weather, landslides, earthquakes, meteorites and tsunamis or other natural disasters;

34.4.4 epidemic, plague or quarantine;

34.4.5 blockade, embargo, any closing of borders. roads, rail links, airports, harbors, docks or other assistance to or adjuncts of the transport, shipping or navigation of, to or within a place;

34.4.6 strikes, go slows, lock outs or other industrial action or labour disturbances which affect the Project (but excluding any strikes within the workforce or employ of the affected Party);

34.4.7 war (whether declared or not), hostilities (whether war be declared or not), act of foreign enemies, civil war, invasion, embargo, revolution or armed conflict on a national scale;

34.4.8 criminal damage, terrorism or sabotage;

34.4.9 riot, civil commotion, insurrection, stage of siege or the declaration or maintenance of martial law;

34.4.10 accident, breakage of facilities, plant or equipment, structural collapse or chemical contamination caused by a Person not being the Affected Party or any of its respective employees or agents, and not being due to defects of or in the Reclamation Works or Infrastructure Works; and

34.4.11 boycott or political agitation or any protest against the carrying out of the Reclamation Works or Infrastructure Works.

34.5 In no circumstances shall Force Majeure include any delay in performing or failure to perform by any supplier, sub-contractor or other person (or whom the Concessionaire is responsible (unless such failure is caused by Force Majeure).

34.6 If the Force Majeure or its consequences continue such that either Party is unable to comply with its material obligations or exercise its material rights hereunder for a continuous period of at least thirty-six (36) months, such Party shall be entitled to terminate this Agreement - by giving a notice to the other Parties whereupon this Agreement will terminate on the date that is thirty (30) days after notice.

35.0 CONCESSIONAIRE'S DEFAULT

35.1 The occurrence of each of the following events, shall, to the extent such event is not attributable to:-

35.1.1 The occurrence of an event of Force Majeure for which the Concessionaire is entitled to relief pursuant to Clause 34 or

35.1.2 The occurrence of a Compensation Event, constitute a "Concessionaire's Default"

(a) an Event of Insolvency occurs in respect of the Concessionaire and the Event of Insolvency is not cured within one hundred and

eighty (180) Business Days of the Concessionaire receiving notice from the Authority requiring that it be cured; or

(b) the Concessionaire is unable to achieve Financial close within the stipulated period of One Hundred and Eighty (180) days of Commencement of the Agreement, it shall be further extended by a period of One Hundred and Eighty (180) days. Failure to achieve Financial Close within Three Hundred and Sixty (360) days shall be a Concessionaire's Default.

(c) the failure of the Concessionaire to perform any other of its material obligations under this Agreement not otherwise mentioned in this Clause 35.1 where the following conditions are satisfied:-

(i) the failure constitutes a material breach of this Agreement; and

ii) the Concessionaire fails to remedy such material breach within one hundred and eighty (180) Business days of receipt of written notice from the Authority specifying such breach and requiring the Concessionaire to remedy the same; Provided, however, that If such material breach cannot be remedied within such period of ninety (90) Business Days with the , exercise of all reasonable efforts on the part of the Concessionaire, the Concessionaire shall be granted such additional remedy period as is reasonably required for the Concessionaire to effect such remedy, such additional period not to exceed an additional sixty (60) Business Days; and

(c) if any of the material representations and warranties given by the Concessionaire under this Agreement is incorrect and the same cannot be remedied within ninety (90) Business Days of receipt of a written notice from Authority specifying the breach and requiring its remedy.

35.2 If a Concessionaire's Default has occurred and the Authority wishes to terminate this Agreement it shall serve a termination notice on the Concessionaire (the "Termination Notice"). The Termination Notice shall specify the Concessionaire's Default that has occurred, giving reasonable details, and this Agreement will terminate on the day falling one hundred and twenty (120)

Business Days after the date the Concessionaire receives the Termination Notice, unless:

- 35.2.1 the Concessionaire either puts forward a rectification programme within sixty (60) Business Days; or the Concessionaire rectifies the relevant Concessionaire's Default within - ninety (90) Business Days of the date of service of the Termination Notice (such periods to run concurrently)
- 35.3 Where the Authority serves a Termination Notice in accordance with Clause 35.2 and the Concessionaire either:-
 - 35.3.1 commence the process of rectifying the default within 90 business days of the date of service of the termination notice in accordance with rectification programme proposed in accordance with Clause 35.2.1, the termination notice will be deemed to be revoked; or
- 35.4 Where the Authority serves a Termination Notice in accordance with Clause 35.2 and the Concessionaire fails to:-
 - 35.4.1 rectifies the Concessionaire's Default within fifty (50) Business Days of the date of service of the Termination Notice; or
 - 35.4.2 rectifies the Concessionaire's Default in accordance with the rectification programme proposed in accordance with Clause 35.2.1. The Termination Notice will be deemed to be revoked and this Agreement will continue.

35.5 Authority's Default

The occurrence of each of the following events shall, to the extent not attributable to the occurrence of an event of Force Majeure for which the Authority is entitled to relief pursuant to Clause 34.1, constitute an "Authority's Default":-

- 35.5.1 an Event of Insolvency occurs in respect of the Authority or an order or resolution is passed for the dissolution of the Authority; or
- 35.5.2 the Authority fails to:-

- (a) grant the Concession Lease to the Concessionaire or its nominee; or
- (b) approve the grant of any sub-lease or any other relevant legal title to any person nominated by the Concessionaire;
- (c) register the Concession Lease free from any encumbrance within thirty (30) Business Days of execution of the Concession Lease, and in either case fails to remedy such breach within twenty (20) Business Days of receiving a notice from the Concessionaire requiring the Authority to remedy the breach;

35.5.3 if any of the material representations and warranties given by Authority under this Agreement is incorrect and the same cannot be remedied within sixty (60) Business Days of receipt of a written notice from the Concessionaire specifying the breach and requiring its remedy;

35.5.4 the failure of the Authority to perform any other of its material obligations under this Agreement and the Authority fails to remedy such material breach within forty (40) Business Days of receipt of written notice from the Concessionaire specifying such breach and requiring the Authority to remedy the same;

35.5.5 a change in Law makes it illegal or impossible for the Concessionaire to perform any material part of its obligations in accordance with the requirements of this Agreement.

35.6 If the Authority's Default has occurred and:-

35.6.1 the Concessionaire wishes to terminate this Agreement, it shall serve a termination notice (the "Concessionaire Termination Notice") on the Authority specifying the Authority's Default that has occurred, giving reasonable details, and this Agreement will terminate on the day falling thirty (30) Business Days after the date the Authority receives the Concessionaire's Termination Notice pursuant to this Clause unless the Authority shall have rectified the Authority's Default within such thirty (30) Business Day period;

35.6.2 the Concessionaire does not wish to terminate this Agreement and the Authority undertakes that it shall seek to agree with the Concessionaire within thirty (30) Business Days of the Concessionaire's Termination Notice (or such longer period as may be agreed between the Parties) a package of alternative remedies as the Parties may agree, Provided that if the Authority and the Concessionaire shall be unable to agree on an alternative package of remedies within thirty (30) Business Days

(or such longer period as shall be agreed between the Parties) that is acceptable to the Concessionaire and the Lenders, and the Concessionaire shall then want to terminate this Agreement, it shall serve a Concessionaire's Termination Notice on the Authority and this Agreement shall terminate on the date falling thirty (30) Business Days after the service of such notice.

35.7 If either Party issues a Notice to the other Party pursuant to this Clause 34, either Party shall, on the same day, deliver a copy of such Notice to the Lenders.

35.8 Consequences of Termination

35.8.1 Consequences of Termination in General

(a) termination of this Agreement shall be without prejudice to any right or remedy of either Party against the other accruing or accrued prior to such termination, including any right to claim damages for any antecedent breach of this Agreement or accruing after termination in respect of those Clauses which are expressly or impliedly to continue after termination of this Agreement and any right to claim damages or other reliefs in relation thereto.

(b) save as set out in Clause 35, the Concessionaire shall not be entitled to any payment or any other remedy as a consequence of termination of this Agreement. For the avoidance of doubt, the Authority shall in no circumstances be entitled to compensation as a consequence of termination of this Agreement.

35.8.2 termination of this Agreement for any reason (including, for the avoidance of doubt, as a consequence of Force Majeure) shall have no impact whatsoever on Concessionaire Lease or any other Sub Leases or any other title granted by the Authority to nominees of the Concessionaire that have already been granted in relation to the Land or any part of it to the Concessionaire or any Person.

35.9 For the avoidance of doubt, neither Party shall be entitled to terminate this Agreement except as expressly set out in this Agreement.

36.0 TERMINATION COMPENSATION

36.1 Compensation for Concessionaire's Default

In the event of termination for Concessionaire's Default, the compensation payable to the Concessionaire pursuant to this Agreement shall be zero provided Clause 35.8.1 (b) shall apply.

36.2 Compensation for Authority's Default

36.2.1 In the event of termination for the Authority's Default the Authority shall pay to the Concessionaire an amount equal to the extent of the development duly quantified by both Parties after due valuation and consideration to quality of materials used, wear and tear inclusive and upon the Site being taken up by another Concessionaire. The Parties agree that this represents a genuine loss that will be incurred as a consequence of termination for Authority's Default. For the purpose of this Clause 36, the "Project Cost" shall be the cost and expense incurred by the Concessionaire in carrying out the Project as set out in Schedule 4.

36.3 Compensation for Termination for Force Majeure

On termination of this Agreement in accordance with Clause 34.6, the Authority shall pay to the Concessionaire the aggregate of the all outstanding debt standing to the credit of the Concessionaire into any bank account held by the Concessionaire.

36.4 All amounts payable by the Authority pursuant to this Clause 36 shall be paid as follows:-

36.4.1 in the case of Authority's Default, compensation shall be paid within ninety (90) Business Days of the Termination Date; and

36.4.2 in the case of termination for Force Majeure, compensation shall be paid within one hundred and eighty (180) Business Days of the Termination Date.

36.4.3 The amounts payable pursuant to this Clause 36 shall be according to acceptable approved interest rates by the Federal Government.

36.5 The provisions of this Clause 36 shall survive termination of this Agreement for any cause.

37.0. EXPROPRIATION

37.1 The Authority shall ensure that there will be no Expropriation at any time of:-

37.1.1. the Concessionaire or all or any part of the Concessionaire's assets;

37.1.2 the Reclaimed Land or the Developments or any part of them;

37.1.3 the interests in the Concessionaire of the parties named as Shareholders from time to time of the Concessionaire under the Shareholders Agreement; or

37.1.4 the Concessionaire's contractors or subcontractors or all or any part of the contractor's or subcontractor's assets that are dedicated to the Project where the Expropriation of such assets may have a material impact on the ability of the Concessionaire or the Construction Contractor to carry out the Reclamation Works, and a breach by the Authority of its obligations under this Clause shall be deemed as Authority's Default for the purpose of this Agreement.

37.2 In the event of any Expropriation of the Land or Reclaimed Land or any part thereof) the Authority shall pay to the Concessionaire within thirty (30) Business Days of a written demand to do, the aggregate of:

37.2.1 the value of the expropriated land calculated at the prevailing market rate on the date of expropriation and

37.2.2 an amount equal to the loss incurred or likely to be incurred as a consequence of any reduction in market value of any remaining Land as a result of such Expropriation.

38.0 WAIVER AND SOVEREIGN IMMUNITY

38.1 The failure by either Party to enforce, in any instance any of the terms and conditions of this Agreement or insist upon strict performance by the other Party of any of the provisions of this Agreement shall not constitute or be deemed a waiver of that Party's rights thereafter to enforce each and every term and condition of this Agreement and shall not establish any custom or relinquish any rights under this Agreement as to any subsequent failure of performance.

38.2 The Authority unconditionally and irrevocably agrees that the execution and performance by it of this Agreement constitutes a commercial transaction. To this extent the Authority or any of its properties or assets in any Jurisdiction has right to immunity under any applicable law, convention or rule of any arbitral body. The application of this Clause is limited to the Site of this Concession from:-

38.2.1 set-off or counterclaim:

38.2.2 any legal or arbitration action, suit or proceeding;

38.2.3 the giving of relief in any legal or arbitral action, suit or proceeding;

38.2.4 the jurisdiction of any competent court or arbitration body;

38.2.5 service of process or matters in relation to arbitration upon It;

38.2.6 attachment prior to judgment or arbitration ruling, attachment in aid of execution or other attachment;

38.2.7 execution or any other process for the enforcement of any judgment or arbitration ruling; or

38.2.8 other legal or arbitration process on the grounds of sovereign immunity or otherwise, the Authority hereby expressly, separately, irrevocably and unconditionally waives such rights to immunity for itself and Its properties and assets in respect of its obligations arising under this Agreement and related documentation and consents to the giving of any relief in any legal or arbitral action, suit, proceeding (whether brought or made against it in Nigeria or in any foreign jurisdiction) and execution or any other form of process for the enforcement of any judgment or award against it or its property or assets. This waiver is intended to be effective with respect to Authority's obligations arising under this Agreement and the other Project Documents to which it is a party or will become a party or in respect of the Project.

38.2.9 The Authority does not hereby waive such immunity from exemption or attachment/fifa/garnishee in respect of;

- (i) Property including houses, land, bank accounts used by a consular or diplomatic mission.
- (ii) Authority's property under the control of military authority or defence agency (involving the security of the country)

- (iii) Property of the Authority located anywhere in the Federal Republic of Nigeria and dedicated to a public, governmental use, distinct from property intended for use for commercial purposes.

39.0 CONFIDENTIAL INFORMATION

- 39.1 Each Party shall, from time to time, require or acquire Confidential Information, necessary for the purposes of the performance of their obligations under this Agreement.
- 39.2 Neither the Authority, nor the Concessionaire shall disclose the same to each other except as required to advance their rights and obligations hereunder.
- 39.3 Each Party shall use and rely upon any Confidential Information provided hereunder at its own risk.
- 39.4 Each Party shall use Confidential Information solely and exclusively to fulfill its rights and obligations hereunder and shall not use Confidential Information for any other purpose whatsoever.
- 39.5 The receiving Party shall not, directly or indirectly, in any manner whatsoever, at any time whatsoever, disclose Confidential Information to any other party whatsoever, except that the receiving Party may disclose Confidential Information to its advisors, affiliates, directors, officers, employees, agents, consultants or representatives or lenders, provided that the receiving Party takes all reasonable steps to ensure that each of any such parties are bound by equivalent terms to the terms and conditions of this Clause 39, including but not limited to the provision not to disclose any Confidential information to any party whatsoever.
- 39.6 The obligations of each Party under Clause 39 do not apply in the following circumstances:-
- 39.6.1 information required to be disclosed or retained by each other by the laws of any applicable jurisdiction, including but not limited to any law, order, subpoena or document discovery request, provided that prior written notice is given to the disclosing Party, to the extent permitted under any Applicable Law, as soon as

possible in order to afford the disclosing Party an opportunity to seek a protective order;

- 39.6.2 information which enters the public domain other than through any breach of the terms and conditions of this Agreement by the receiving Party;
- 39.6.3 information lawfully made available to the receiving Party by another Party free to make such disclosure without breach of any legal obligation;
- 39.6.4 information already in the possession of the receiving Party at the time of its receipt of the same from the disclosing Party, except to the extent that it has been unlawfully appropriated; and
- 39.6.5 information developed by the receiving Party independent of Confidential information received from the disclosing Party.
- 39.7 If the receiving Party acquires any knowledge that any party to whom it has given Confidential Information has violated the confidentiality or proprietary rights of the disclosing Party regarding any Confidential Information, the receiving Party shall forthwith notify the disclosing Party of the same in writing.
- 39.8 The receiving Party may copy, duplicate or re-create Confidential Information strictly and exclusively for purposes related to fulfilling their rights and obligations hereunder and any such copy, duplicate or re-creation shall be subject to this Clause 39.
- 39.9 The receiving Party shall take all reasonably necessary steps, including but not limited to actions by instruction, agreement or otherwise, to ensure that every other party in receipt of Confidential Information pursuant to Clauses 39.5 and 39.7 comply with the confidentiality terms and conditions of this Agreement.

40.0. AUTHORISED REPRESENTATIVES

40.1 The Authorized Representatives shall be:-

40.1.1 Managing Director for the Authority -

40.1.2 Managing Director for the Concessionaire

40.2 Alternate Authorized Representatives shall be nominated and confirmed by each of the Parties within twenty (20) Business Days following the date hereof pursuant to the notice provisions contemplated herein.

40.3 Every Authorized Representative and Alternate Authorized Representative may take any action required or permitted by this Agreement and may execute any document required or permitted to be executed under this Agreement or otherwise act on behalf of their Party in exercising all of their Party's rights and obligations under this Agreement including but not limited to receiving of instructions from and making and receiving of payments to and from the other Party, as applicable.

40.4 Either Party may change its Authorized Representative or its Alternate Authorized Representative without the prior written consent of the other Party by providing written notice to such Party pursuant to the notice provisions herein.

41. STEP-IN RIGHTS

41.1 If the Authority reasonably believes that it needs to take any action in connection with the project deliverables because a serious and urgent risk arises (to the health or safety of persons or properties or to the environment, or to the national security) and or to discharge a statutory duty, then the Authority shall be entitled to take action in accordance with the following provisions:

41.2 If pursuant to Clause (41.1) the Authority wishes to take action, it shall as soon as practicable after reaching its determination to do so notifies the Concessionaire in writing of the:-

- i) action it wishes to take
- ii) reasons for taking such action
- iii) date it wishes to commence such action
- iv) time period ("**the step in period**") which it reasonably believes will be necessary for such action, which must be a fixed period not unreasonably long.

41.3 Following the service of such notice, the Authority shall take such action as notified under Clause (41.2) and the Concessionaire shall give all reasonable assistance required by the Authority to take such action

Provided that the:-

- i) exercise of the step in right shall not relieve the Concessionaire of its rights, duties and obligation under the Agreement;
- ii) exercise of the step in right shall not constitute a takeover of the project or any part thereof;
- iii) Concessionaire shall be indemnified for all losses, damages, costs and expenses it incurs as a result of the exercise of such step in right by the Authority.

42. DISPUTE RESOLUTION PROCEDURE

42.1 Any Dispute between the Parties shall be resolved pursuant to the Dispute Resolution Procedure set out in the following Clauses .

42.2 REFERENCE TO SENIOR REPRESENTATIVES

If any dispute or difference arises between the parties in connection with or arising out of this Agreement (in this Agreement comprising a "Dispute" and including any dispute as to the termination or invalidity of the Agreement or any provision of it and including any dispute in relation to any act, decision or omission of the Authority) it shall first be referred to the Managing Director (or like position) of each party and the nominated directors shall endeavor to resolve the Dispute amicably. If the Dispute cannot be resolved within ten (10) Business Days of the matter being referred to the Managing Directors then either Party shall have the right to refer the Dispute to mediation in accordance with Article 42.3(Mediation) and 42.4 (Arbitration) respectively.

42.3 MEDIATION

42.3.1 If any Dispute cannot be settled by the Parties in accordance with Article 42.2 (Reference to Senior Representatives), then the Parties agree firstly to attempt to settle it by mediation in accordance with the Centre for Dispute Resolution ("CEDR") Model Mediation Procedure.

42.3.2 To initiate mediation, a Party must give notice in writing ("ADR Notice") to the other Party requesting mediation. A copy of the request should be sent to CEDR.

42.3.3 If the Dispute is not resolved within forty two (42) Business Days (or such other period as the Parties may agree) of the giving of the ADR Notice, or if one of the Parties refuses to participate in the mediation process, either Party may require that the Dispute be referred to and finally resolved in accordance with Clause 42.4 (Arbitration).

42.4 ARBITRATION

42.4.1 If the parties fail to resolve any Dispute pursuant to either Clause 42.2 (Reference to Senior Representatives) and Clause 42.3 Mediation), then either Party may give to the other party formal notice in writing that a Dispute exists, specifying its nature, the point(s) in issue and its intention to initiate the Arbitration proceedings pursuant to Clause 42.4.3 (Arbitration). If the parties fail to resolve such Dispute by further consultation within a period of twenty one days (21) from the date upon which such notice of Dispute has been given, the Dispute shall be referred to- arbitration pursuant to Clause 42.4 (Arbitration).

42.4.2 For the avoidance of doubt, if any Dispute is referred to mediation pursuant Clause 42.3 (Mediation) hereunder neither Party shall refer such Dispute to arbitration until either: -

- (a) the Dispute is not resolved within the period stipulated in Clause 42.2 (Reference to Senior Representatives) above, or
- (b) one party refuses to participate in the mediation process pursuant to Clause 42.3 (Mediation) above.

42.4.3 If the conditions of Clause 42.4 (Arbitration) above are satisfied or the matter has not, pursuant to Clause 42.3 (Mediation), been referred to mediation and such party provides the other party a notice of intent to seek arbitration, the dispute or difference shall exclusively and finally be settled by arbitration of location independent of the Parties under the rules of the UNCITRAL ("UNCITRAL").

42.4.4 The schedule of fees and costs applicable to the arbitration shall be those of the UNCITRAL and the arbitrator shall be nominated by UNCITRAL. The arbitrator shall have a command of the English language and shall not be or have been affiliated in any way with either party hereunder or any branch, parent or subsidiary thereof. In 'addition, the arbitrator shall not be a citizen of or originate

from Nigeria. The arbitration tribunal, including all staff, all witnesses, and attending non-parties, shall be legally bound by Agreements and/or Orders to prevent the disclosure of any information which may be disclosed to them in connection with arbitration proceedings conducted hereunder.

42.4.5 All arbitration proceedings shall take place in Nigeria. All documentation and oral proceedings shall be conducted in the English language. Each party shall have the right through power of subpoena to require the production of documents and confront and cross examine witnesses, and all evidence shall be given by the parties and their witnesses on oath or affirmation. Furthermore, each party hereto shall have the right to have all necessary parties joined during any arbitration proceeding hereunder.

42.4.6 Any award of the arbitration tribunal shall include the reasons for such award. Monetary awards shall be made in Nigerian Naira. Each party shall bear its own share of the expenses of the arbitration proceedings.

42.5 RELATED DISPUTES

42.5.1 In the event that the (i) arbitrator has already been appointed under the agreement in respect of a Dispute and (ii) a dispute (a "Related Dispute") has arisen between (i) the Concessionaire and any other contractor appointed by or on behalf of the Concessionaire in respect of the Project or (ii) the Authority and either another Contractor appointed by or on behalf of the Authority (In each case a "Related Party"), (iii) the Related Dispute concerns the same or substantially the same subject matter as the Dispute referred to arbitration under the Agreement referred to in (i) above, then either party (in each case the "Requesting Party") may require; by notice to the arbitrators and the relevant Related Party, that the Related Dispute be dealt with by the appointed arbitrator in a consolidated arbitration no later than seven (7) Days after the confirmation of the arbitrators appointment by the UNCITRAL. In the event of such consolidation; the parties will comply with such adjusted timetable for the consolidated arbitration as the arbitrators may direct.

42.5.2 In the event that (i) the arbitrator has already been appointed to arbitrate a Related Dispute under a Contract between either the Authority or the Concessionaire (as the case maybe) and a Related Party and (ii) a Dispute has arisen under this Agreement and (iii) such Dispute under this Agreement concerns the same or substantially the same subject matter as the Related Dispute, and the Requesting Party desires that the Dispute under this Agreement be dealt with by the arbitrator(s) appointed in the Related Dispute. Then in such case the other party ("Non Requesting Party") shall allow the

Dispute under this agreement to be dealt with by way of consolidation by the arbitrator in the Related Dispute. Provided always that the Non Requesting Party shall be entitled not to allow such consolidation solely on the grounds that the Non Requesting Party objects to the identity of the arbitrator(s) already appointed on the basis that the Non Requesting Party has reasonable grounds to believe that any decision of such arbitrator(s) will not be fair and impartial. In the event of such consolidation, the parties will comply with such adjusted timetable for the consolidated arbitration as the arbitrators(s) may direct.

42.5.3 The arbitrator shall have full power to open up, review and revise any decision, opinion, instruction, determination, certificate or valuation of the Concessionaire, the Authority or their representatives related to the dispute.

42.5.4 Neither party shall be limited in the proceedings before such arbitrator to the previous evidence or arguments on any matter whatsoever relevant to the dispute. Arbitration may be commenced prior to or after completion of the Concessionaire Services under this Agreement. Provided that the obligations of the Authority and the Concessionaire shall not be altered by reason of the arbitration being conducted during the progress of the services.

42.6 ARBITRATION AWARDS TO BE BINDING

42.6.1 The parties hereto undertake to carry out any award of the arbitrators relating to such dispute without delay, and waive their right to any form of appeal or recourse to a court of law or other judicial authority, insofar as such waiver may be validly made. Awards relating to any dispute shall be final and binding on the Parties to such dispute as from the date they are made.

42.6.2 Any arbitration pursuant to the Agreement shall be an international arbitration and the award shall be regarded as a foreign award relating to a dispute arising out of a commercial, legal relationship, to which the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 applies, and shall not be deemed to be a domestic arbitration under English Law or any other Country.

42.7 SERVICES TO CONTINUE

Notwithstanding any reference to mediation or arbitration hereunder: -

42.7.1 the Parties shall continue to perform their respective obligations under this Agreement unless the Parties otherwise agree; and

42.7.2 each Party shall pay to the other Party any monies due and owing to the party under this Agreement.

42.8 SURVIVAL

The dispute resolution provisions contained in this Clause shall survive the termination of this Agreement.

43.0. INTELLECTUAL PROPERTY

43.1 The Authority hereby grants to the Concessionaire an irrevocable, royalty-free, non-exclusive license, including the right to grant sub-licenses on the same terms as such license, to use, copy, amend, reproduce and/or adapt Intellectual Property Rights in the Phase I documents and all materials embodying such rights to the fullest extent, as permitted under this Agreement and for the purposes of the Project. The Authority grants this license for the purposes of implementation of the Project only.

43.2 The Concessionaire acknowledges that all intellectual Property Rights subsisting in the Design, the Development Master Plan and all other documents created by or on behalf of the Concessionaire for the purposes of performing the Concessionaire Services shall vest absolutely with the Concessionaire. These aforementioned rights are the exclusive property of the Concessionaire.

43.3 The license on intellectual property right granted by the Authority to the concessionaire including phase 1 documents and all materials embodying such rights as well as the Design, the Development Master Plan, and all other documents created for the purpose of executing this Concession Agreement shall be handed over to the Authority or its designated representative in accordance with Clause 33.1 of this Agreement.

44.0. COSTS AND EXPENSES

Each Party shall bear the fees of its professional advisers and disbursements incurred in connection with the negotiation and preparation of this Agreement.

45.0 PUBLIC ANNOUNCEMENTS

- 45.1 Any public announcement that describes the Agreement or the subject matter of the Agreement shall not be released without the consent of the other Party to this Agreement duly sought and obtained in writing.
- 45.2 If anyone of the Parties wishes to issue a public announcement concerning this Agreement or the subject matter thereof, It shall first provide the other with a copy of the proposed announcement for information.

46.0 AMENDMENTS

All additions, amendments and variations or addendum to this Agreement shall be binding only if in writing and signed by the duly authorized representatives of the Parties hereto. Where the consent of the Lenders is a condition of any amendment coming into effect, the Concessionaire undertakes to use its commercially reasonable efforts to obtain such necessary consents from the Lenders.

47.0 ASSIGNMENT AND SECURITY

No Party may assign its Interest in this Agreement without the prior approval of the other Party (such approval not to be unreasonably withheld), provided that the Concessionaire may assign this Agreement by way of security for the purpose of obtaining finance in respect of the operations in accordance with this Agreement. And subject to any ceiling interest rate approved for Federal Government Projects as elucidated in Clause 5.1.

- 47.1.1 The Concessionaire shall duly inform the Authority of the terms and condition of the loan Agreement where the Concession is being used as collateralized security for the financing of the Project.

47.1.2 The CONSENT of the Authority in respect of 47.1.1. above shall be sought and obtained by the Concessionaire. This shall not be unreasonably withheld.

48.0. EXPENSES OF PARTIES

All expenses incurred by or on behalf of any Party, including all fees and expenses of agents, representatives, counsel and accountants employed by such Party in connection with the preparation of this Agreement and the consummation of the transactions contemplated by this Agreement, shall be borne solely by the Party who shall have incurred such expenses, and the other Party shall have no liability in respect thereof, except as otherwise agreed.

49.0 CHOICE OF LAW AND LANGUAGE

Any dispute arising from this Agreement shall be construed in accordance with the Laws of Nigeria and English shall be the official language to be used in the interpretation of the laws.

50.0 WAIVER

No waiver of any default by a Party in the performance of any of the provisions of this Agreement shall:-

50.1.1 operate or be construed as a waiver of any other or further default or defaults whether of a like or different character; or

50.1.2 be effective unless in writing duly executed by a duly authorized representative of such Party, neither the failure by a Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement nor time or other indulgence granted by a Party to the other Party shall act as a waiver of such breach nor as an acceptance of any variation, or as the relinquishment of any such right or any other right hereunder.

51.0. COUNTERPARTS

This Agreement may be executed in three (3) or more counterparts, all of which will be considered one and the same Agreement and each of which will be deemed an original

52.0 SEVERABILITY

If any term or provision of this Agreement is held by a court or other authority of competent jurisdiction to be invalid, void, unenforceable or against the public policy, the rest of this Agreement will remain in full force and effect and will in no way be adversely affected; Provided that, the severance of such term or provision does not render the performance of a Party's material obligations impracticable or impossible

53.0 RELATIONSHIP OF PARTIES

This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the FGN and the Concessionaire to impose any partnership obligation or liability upon any Party. No Party shall have any right, power, or Authority to enter into any agreement or undertaking for, to act on behalf of, to act as or be an agent or representative of, or to otherwise bind, the other Parties.

54.0 THIRD PARTIES

This Agreement is intended solely for the benefit of the Parties and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, or confer any right or suit or action on any Person not a Party to this Agreement.

55.0 NOTICES

55.1 Any notice (including any approval, consent or other communication) in connection with this Agreement must be in writing and signed by or on behalf of the Party giving it and shall be:-

55.1.1 Sent by email to the relevant email address to the addressee which is specified in Clause 56.2; and/or

55.1.2 delivered by hand or sent by pre-paid recorded delivery, recognized international courier service, registered post or first class pre-paid post (airmail if overseas) to the address of the addressee which is specified in Clause 55.2 and shall be marked for the attention of the person so specified (in each case subject to any further notice delivered from time to time in accordance with the provisions of this Clause 55.

55.2 The relevant details of each Party at the date of this Agreement are:-

55.2.1 **AUTHORITY**

Address: No.26 Julius Nyerere Crescent, Off ECOWAS Secretariat Road, Asokoro District, Abuja,

Telephone:

Email:

Attention: Managing Director or Nominated Representative

55.2.2 **CONCESSIONAIRE**

Address: -12 Nairobi Street, Off Parakou Crescent, Wuse 2, Abuja.

Telephone: - 09-8748485, 0833031090

Email: - nfpdcl@gmail.com, goodyegbuji2001@yahoo.com

Attention: **MANAGING DIRECTOR**

55.3 In the absence of evidence of earlier receipt, any notice shall take effect from that time that it deemed to be received:-

55.3.1 in the case of hand delivery, upon delivery at that address; or

55.3.2 in the case of a letter sent by registered mail, pre-paid recorded delivery, recognized international courier service or first class pre-paid post, on the third (3rd) day after posting or, if posted to or from a place outside Nigeria, the seventh (7th) day after posting; and

55.3.3 in the case of emails in the absence of a delivery error message at the expiration of twenty four (24) hours after the time it was sent.

55.4 Any notice received or deemed to be received in accordance with Clause 55.3 above on a day which is not a Business Day or after 5.00p.m. on any Business Day according to local time in the place of receipt, shall be deemed to be received on the next Business Day.

55.5 A Party may notify the other Party in writing if the relevant address specified in Clause 55.2 is no longer appropriate for the service of notices in accordance with this Clause.

56.0 CURRENCY

All amounts due and payable under this Agreement shall be expressed and paid in Nigerian Naira.

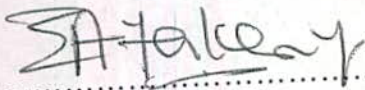
57.0 ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the Parties relative to the subject matter of the Agreement and neither any correspondence or any other document exchanged prior to the date hereof nor any statement, warranty, representation or agreement, whether oral or written, expressed or implied, statutory or otherwise, made with respect to the subject matter of this Agreement during negotiations or otherwise shall be binding on any Party unless clearly incorporated into this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have hereunto set their hands and caused their common seals to be affixed the day and year first above written.

SIGNED, SEALED AND DELIVERED BY:

The Hon. Minister of Lands, Housing
and Urban Development for and on behalf
of the Government of the Federal
Republic of Nigeria



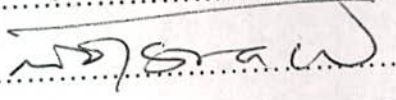
Hon. (Mrs.) Akon Etim EYAKENYI

In the presence of:

Name: IBRAHIM, OYEDEJI NURENI

Address: LEGAL UNIT, FMLH&UD

Status: DEPUTY DIRECTOR (LEGAL)

Signature: 

SIGNED, SEALED AND DELIVERED BY:

The Managing Director
Federal Housing Authority


Engr. David Igbazua KPUE

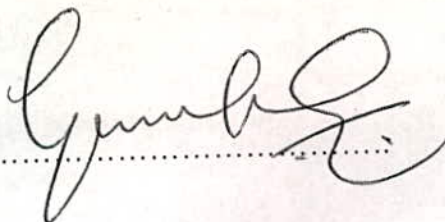
In the presence of:

Name: UMAR S. GOWO

Address: FED. HOUSING AUTHORITY

Status: DEP. GEN. MANAGER (LEGAL)

Signature:.....



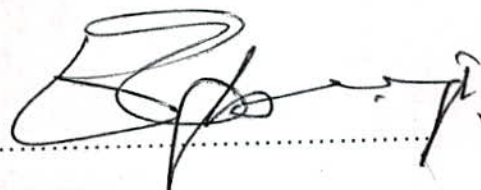
THE COMMON SEAL of the within named
NEW FESTAC PROPERTY DEVELOPMENT
COMPANY LIMITED was hereunto affixed

In the presence of:



Director

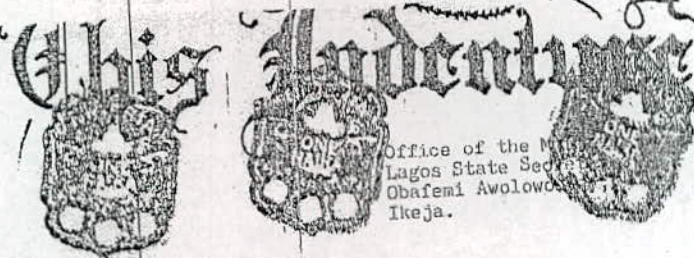
Sir Isaac CHUKS



Secretary

Engr. Goody EGBUJI

SCHEDULE 1 TITLE TO LAND



Office of the Military Governor,
Lagos State Secretariat,
Obafemi Awolowo Road,
Ikeja.

The Military Administrator,
Federal Housing Authority,
Badagry Expressway,
Festac Town,
Lagos.

In consideration of the decision of the Federal Military Government to build a Festival Town for the purpose of providing housing accommodation for the Nigerian populace and compensation paid by the Federal Housing Authority for the land described hereunder and for the economic crops, buildings and/or unexhausted improvements on the land as at the date of the acquisition of the land by the Lagos State Government, the Military Governor of Lagos State of Nigeria hereby grants for public purposes and in particular for housing development to the Federal Housing Authority a Federal Government Corporation established under Federal Housing Authority Decree No. 40 of 1973 ALL THAT parcel of land along Badagry Expressway and lying between Amuwo-Odofin Scheme, Trade Fair Complex and the Military Cantonment known and referred to as Festival Town in the Badagry Local Government Area of Lagos State of Nigeria containing an area of approximately 2024.60 Hectares more particularly delineated and shown verged RED on Survey Plan No. LS/D/BG 63 annexed hereto

Term:

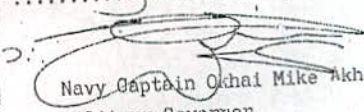
For as long as the Federal Housing Authority or Federal Government of Nigeria requires the land from 1st January 1974.

NIL

Condition:

NIL

Witnessed this day of May 1988.


Navy Captain Okhai Mike Akhigbe
Military Governor
Lagos State of Nigeria.

Commissioned by Lagos State Government

D E F L C A L
 THE INSTRUMENT WAS DELIVERED TO ME FOR
 REGISTRATION BY OFFICE OF THE MILITARY GOVERNOR
 OF BEAUFORT PROVINCE, N. N. KESSE
 AT 10:00 O'CLOCK IN THE FORE NOON
 THIS 23RD DAY OF MAY 1928
 W. H. J. J. J.
 DEPUTY ASST. REGISTRAR



42611

THIS INSTRUMENT IS REGISTERED AS NO. 74
 AT PAGE 74 IN VOLUME 1828 OF THE
 LAGOS REGISTRY IN THE OFFICE AT LAGOS
 W. H. J. J. J.
 REGISTRAR

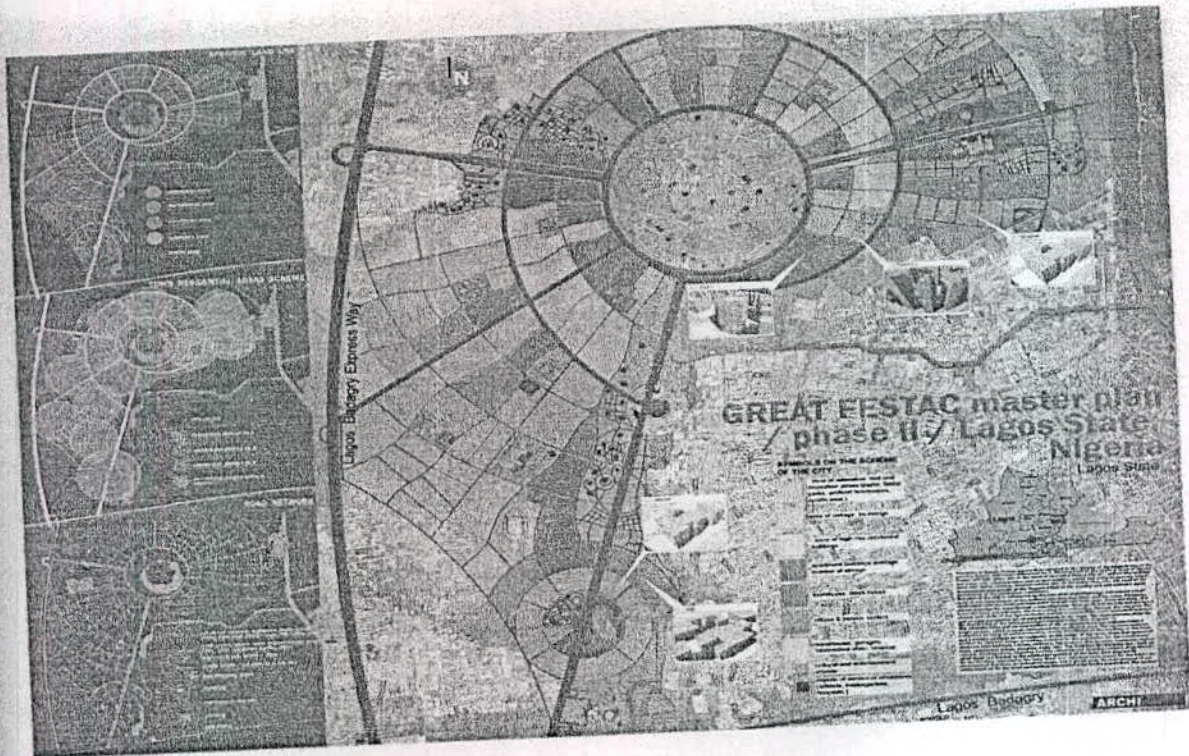
W. H. J. J. J.

[Signature]

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SCHEDULE 2

DEVELOPMENT MASTER PLAN

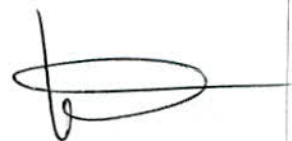


SURVEY OF THE CONCESSION AREA



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ANNEX IV

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THE PRESIDENCY
INFRASTRUCTURE CONCESSION REGULATORY COMMISSION
13, Suleiman Barea Crescent, Aso Villa, Abuja, Nigeria; Tel: +234-9-8750286-7; email: info@icrc.gov.ng

ICRC/HQ/MIN/26/125

The Permanent Secretary
Federal Ministry of Lands,
Housing and Urban Development
Mabushi, Garki
Abuja.

Dear Sir,

1st June, 2011

RE: SELECTION OF CONCESSIONAIRE/DEVELOPER FOR THE RECLAMATION AND DEVELOPMENT OF
FESTAC PHASE II, LAGOS

Permanent Secretary Sir, your letter PS/FMLHUD/GC/88/16 dated 11th May 2011 on the above subject matter refers.

The Commission has noted the legacy proposal on the above subject; the competitively advertised procurement process and approval by a previous President and Commander-in-Chief of the Armed Forces of Nigeria. We make the following additional suggestions:

1. That the project remains absolutely self-financing without recourse to government financing.
2. That in due course an agreed financial model based on the cash flow submissions of the proposed concessionaire be developed and agreed prior to the concession contract being signed.
3. The proposed concessionaire should be required to reach financial closure in a manner and time frame to be clearly spelt out in the concession contract. This should be a condition precedent in the concession contract so that the concessionaire has ample time and opportunity to demonstrate that the financial capacity to execute the project is available.
4. The Ministry should procure, via a competitive process, an internationally reputable project cost consultant to independently review all cost elements during project execution. Such independently verified costs as recommended by the cost consultant should be accepted and incorporated into the project financial model as in 2 above for determination of long term revenues accruing to government and the concessionaire.
5. The use of an independent engineer mutually acceptable to both parties for the review of technical progress and resolution of technical issues should be included in the concession contract.
6. The draft concession contract with respect to the project should be reviewed in line with the ICRC Act/National PPP Policy and endorsed by the ICRC prior to sending it to the Federal Ministry of Justice.

Please accept the assurances of my highest regards.

Aminu Diko
(ED Contract Compliance Centre)
For: Director General

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SCHEDULE 5 PROGRAMME OF WORK

FESTAC PHASE II PROJECT DEVELOPMENT

ID	Task Name	Duration	Start	Finish	2010	2012	2014	2016	2018	2020	2024	2028	2032	2036	2040	2044
1	FESTAC PHASE 2 PROJECT	0 days	Thu 4/11/13	Thu 4/11/13												
2	APPROVALS FROM FED. GOVT	365 days	Thu 4/11/13	Tue 6/10/14												
3	Concession Award Letter	0 days	Thu 4/11/13	Thu 4/11/13												
4	Acceptance Letter written	1 day	Thu 4/11/13	Thu 4/11/13												
5	Drafting of Concession Agreement	14 mons	Fri 4/12/13	Tue 6/10/14												
6	Concession Agreement Completed	0 days	Tue 6/10/14	Tue 6/10/14												
7	PRELIMINARY WORKS 1	286 days	Wed 6/11/14	Sat 5/9/15												
8	Surveying	3 mons	Wed 6/11/14	Tue 9/9/14												
9	Topography	2 mons	Wed 6/11/14	Sat 8/9/14												
10	Geotechnical	3 mons	Wed 6/11/14	Tue 9/9/14												
11	Sand Search	1 mon	Wed 6/11/14	Thu 7/10/14												
12	Environmental Impact Assessment	6 mons	Fri 7/11/14	Thu 1/8/15												
13	Feasibility Studies	6 mons	Fri 1/9/15	Sat 5/9/15												
14	Business Plan (Bankable)	4 mons	Fri 1/9/15	Sat 5/9/15												
15	PRELIMINARY WORKS 2	1040 days	Wed 6/11/14	Thu 10/5/17												
16	Concept Master plan design	4 mons	Wed 6/11/14	Thu 10/9/14												
17	Site Preparation & Mobilisation	2 mons	Wed 6/11/14	Sat 8/9/14												
18	Bush Clearing	6 mons	Mon 8/11/14	Sat 2/7/15												
19	Degrooving	6 mons	Mon 8/11/14	Sat 2/7/15												
20	Deforestation	6 mons	Mon 8/11/14	Sat 2/7/15												
21	Removal of Waste	36 mons	Mon 8/11/14	Sat 8/5/17												
22	Canal Treatment	2 mons	Mon 8/7/17	Thu 10/5/17												
23	Lagos State Approval of Concept Design	1716 days	Wed 6/11/14	Tue 12/3/19												
24	PROJECT PHASE 1	390 days	Wed 6/11/14	Tue 9/8/15												
25	EGOLIMA DISTRICT	3 mons	Wed 6/11/14	Tue 9/9/14												
26	Carry out Due Diligence on Festac phase 2	2 mons	Wed 6/11/14	Sat 8/9/14												
27	Check Encroachments on the Land	2 mons	Wed 6/11/14	Sat 8/9/14												
28	Prepare Egolima layout around 6th Avenue axis	2 mons	Wed 6/11/14	Sat 8/9/14												
29	Establish Barrier to stop further Encroachment	9 mons	Mon 8/11/14	Sat 5/9/15												
30	Off Plan Sale of freehold land in Egolima layout	6 mons	Wed 6/11/14	Tue 12/9/14												

Task	Milestone	External Tasks
Split	Summary	External Milestone
Progress	Project Summary	Deadline

Project: FESTAC PHASE 2 PROJECT
Date: Mon 6/16/14

PREPARED BY: NEW FESTAC PROPERTY DEVELOPMENT CO LTD

FESTAC PHASE II PROJECT DEVELOPMENT

ID	Task Name	Duration	Start	Finish	2010	2012	2014	2016	2020	2024	2028	2032	2036	2040	2044	2046
31	Establish proper Infrastructural Networks	9 mons	Wed 12/10/14	Tue 9/8/15												
32	DREDGING ACTIVITY	1560 days	Wed 12/10/14	Tue 12/3/19												
33	Reclamation & Sand Filling	24 mons	Wed 12/10/14	Tue 12/6/16												
34	Sale of Imperial City Plots	60 mons	Wed 12/10/14	Tue 12/3/19												
35	Compaction	24 mons	Wed 12/10/14	Tue 12/5/17												
36	Plot Demarcation	3 mons	Wed 12/6/17	Tue 3/6/18												
37	DETAILED DESIGN	1248 days	Wed 12/10/14	Tue 12/4/18												
38	Sand Filling Consolidation	24 mons	Wed 12/7/16	Tue 12/4/18												
39	Architectural	3 mons	Wed 12/10/14	Tue 3/10/15												
40	Civil	3 mons	Wed 12/10/14	Tue 3/10/15												
41	Mechanical	3 mons	Wed 12/10/14	Tue 3/10/15												
42	Electrical	3 mons	Wed 12/10/14	Tue 3/10/15												
43	Structural	3 mons	Wed 12/10/14	Tue 3/10/15												
44	PROJECT PHASE 2)	936 days	Wed 12/5/18	Tue 11/30/21												
45	INFRASTRUCTURE DEVELOPMENT	936 days	Wed 12/5/18	Tue 11/30/21												
46	Roads	36 mons	Wed 12/5/18	Tue 11/30/21												
47	Bridges	36 mons	Wed 12/5/18	Tue 11/30/21												
48	Culverts	36 mons	Wed 12/5/18	Tue 11/30/21												
49	Drainages	36 mons	Wed 12/5/18	Tue 11/30/21												
50	Water	36 mons	Wed 12/5/18	Tue 11/30/21												
51	Electricity	36 mons	Wed 12/5/18	Tue 11/30/21												
52	Sewage Facility	36 mons	Wed 12/5/18	Tue 11/30/21												
53	PROJECT PHASE 3	1560 days	Wed 12/1/21	Tue 11/24/26												
54	CONSTRUCTION & DEVELOPMENT	1560 days	Wed 12/1/21	Tue 11/24/26												
55	Recreational Areas	60 mons	Wed 12/1/21	Tue 11/24/26												
56	Low density buildings	60 mons	Wed 12/1/21	Tue 11/24/26												
57	medium density buildings	60 mons	Wed 12/1/21	Tue 11/24/26												
58	High density buildings	60 mons	Wed 12/1/21	Tue 11/24/26												
59	Schools	60 mons	Wed 12/1/21	Tue 11/24/26												
60	Churches	60 mons	Wed 12/1/21	Tue 11/24/26												

Task

Project, FESTAC PHASE 2 PROJECT

Date: Mon 6/16/14

Milestone

Summary

Project Summary

External Tasks

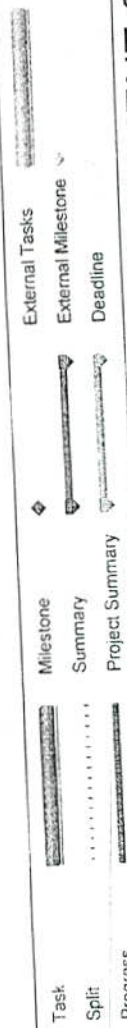
External Milestone

Deadline

PREPARED BY: NEW FESTAC PROPERTY DEVELOPMENT CO LTD

FESTAC PHASE II PROJECT DEVELOPMENT

ID	Task Name	Duration	Start	Finish	2010	2012	2014	2016	2018	2020	2022	2024	2026	2028	2030	2032	2034	2036	2040	2044	2046
61	Mosques	60 mons	Wed 12/1/21	Tue 11/24/26																	
62	Parks	60 mons	Wed 12/1/21	Tue 11/24/26																	
63	PROJECT PHASE 4	6240 days	Wed 11/25/26	Tue 10/30/46																	
64	MANAGEMENT	6240 days	Wed 11/25/26	Tue 10/30/46																	
65	De-mobilisation from site	12 mons	Wed 11/25/26	Tue 11/23/27																	
66	Facility management	228 mons	Wed 11/25/26	Tue 10/30/46																	
67	Hand over	0 mons	Tue 10/30/46	Tue 10/30/46																	
68	Project completed	0 days	Tue 10/30/46	Tue 10/30/46																	



Project: FESTAC PHASE 2 PROJECT
Date: Mon 6/16/14

PREPARED BY: NEW FESTAC PROPERTY DEVELOPMENT CO LTD

SCHEDULE 6

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SCHEDULE 7

APPROVAL OF THE FEDERAL EXECUTIVE COUNCIL (FEC)



HONOURABLE MINISTER

FEDERAL MINISTRY OF LANDS, HOUSING & URBAN DEVELOPMENT
Headquarters, Mabushi - Abuja

LH/PJV/NFDC/FHA/1011/187

8th April 2013

The Managing Director/CEO
New Festac Property Development Company Limited,
12 Nairobi Street, Off Paraku Crescent,
Wuse II, Abuja.

Dear MA,

CONCESSION OF THE RECLAMATION AND INFRASTRUCTURAL
DEVELOPMENT OF FESTAC PHASE II, LAGOS

This is to convey to you the approval of the Federal Executive Council (FEC) for the Concessioning of the Reclamation and Infrastructural Development of Festac Phase II, Lagos to M/S New Festac Property Development Company Limited.

2. This Concession is for a 30 (thirty) year period, at a premium of N25, 765,000,000 (Twenty five billion, seven hundred and sixty five million naira) plus a ground rent of N150, 000,000 (One hundred and fifty million naira) per annum with 3 (three) years moratorium period. However, the premium and ground rent will be subject to review at such intervals as may be prescribed in the relevant clauses of the Concession Agreement to be entered into.

3. Please convey your acceptance or otherwise of this offer within two weeks from the date of this letter.

4. Congratulations and please accept the assurances of my best wishes.

Ms A. I. Pepple, CFR
Honourable Minister

**SCHEDULE 8
ACCEPTANCE OF APPROVAL**



RC. 857051

NEW FESTAC PROPERTY DEVELOPMENT COMPANY LTD
#12, Nairobi Street, Off Parakou Crescent, Wuse II, Abuja. Tel/Fax: 09-8748485

FTECL/COR/FMLHUD/Vol.II/211

April 11, 2013

The Honourable Minister
Federal Ministry of Lands, Housing &
Urban Development
Mabushi
Abuja.

Dear Sir,


ACCEPTANCE OF CONCESSION OF RECLAMATION AND
INFRASTRUCTURAL DEVELOPMENT OF FESTAC PHASE II, LAGOS:
RE: YOUR LH/PJV/NFDC/FHA/1011/187

Your letter Ref.No.LH/PJV/NFDC/FHA/1011/187 dated 8th April, 2013 on the above subject matter refers.

We most respectfully accept the offer as your proposed subject however to the detailed clauses and stipulations of the Concession Agreement to be entered into.

Accept the assurances of our highest esteem.

Yours faithfully,
FOR: NEW FESTAC PROPERTY DEV. CO. LTD.


Brian Drohan
Chief Operation Officer

SCHEDULE 9

REVIEW PROCEDURE

1. Immediately following the Execution Date, the Authority and the Concessionaire shall agree categories of documents which are to be submitted for review and comment in accordance With this Review Procedure. The Concessionaire shall thereafter submit any documents within the agreed categories in accordance with this Review Procedure.
2. Except as otherwise provided in this Agreement or as may be agreed between the Parties, as soon as possible but in any event within 10 (ten) Business Days of receipt of any document(s) Submitted by the Concessionaire pursuant to paragraph 1, the Authority shall either
 - 2.1.1 Return to the Concessionaire one copy of any document submitted to the Authority with no comments or queries endorsed thereon; or
 - 2.1.2 Shall return one such copy along with any comments or queries which it may have thereon.
3. If the Authority fails to take any such action within the said period, then such submitted documents shall be deemed to have been returned to the Concessionaire with no comments or queries endorsed thereon.
4. The Concessionaire shall within 5 (five) Business Days of receipt of any comments or queries on any documents, amend such documents in order to implement and accommodate the Authority's comments or queries and resubmit such documents for review under this Review Procedure save that the period for review by the Authority shall be 5 (five) Business Days.
5. The Authority shall only comment or raise any query on any document submitted for review (whether or not the comment or query is raised by the Authority in the first instance) if:
 - 5.1.1 The document is not in accordance with this Agreement; or

5.1.2 The document does not comply with Good Industry Practice; or

5.1.3 the Concessionaire has not established to the reasonable satisfaction of the Authority that:

- (a) Any comments made by the Authority on any prior submission are not comments of which the Concessionaire is required to take account under this Agreement; or
- (b) Any document upon which the Authority has raised a query is in accordance with this Agreement and complies with Good Industry Practice.

5. Neither the submission of any document nor its review, nor the making of comments or the raising of queries thereon, nor suggestions or recommendations on the same by the Authority, nor any failure by the Authority to do so, shall prejudice or affect any of the Concessionaire's obligations or liabilities with respect to the Concession Services and the Concessionaire shall check and verify that any such comments or queries, suggestions and recommendations are proper and correct and will not give rise to a breach of this Agreement before acting on them.
6. For the purposes of this Schedule "documents" shall mean the drawings, designs, plans, manuals, records, reports, papers, photos, typographical arrangements, models, and other materials. In whatever form, including but not limited to hard copy and electronic form, supplied by or on behalf of the Concessionaire under or in connection with this Agreement.

SCHEDULE 10

FINANCIAL CLOSE

Financial Close shall be taken to have been achieved One Hundred and Eighty (180) days of commencement of the Agreement if;

- (a) the financial documents providing for financial assistance by the Lenders have become effective.
- (b) the Concessionaire has access to the funds.

Where the Concessionaire is unable to achieve financial close within the time stated herein, the time shall be further extended by another One Hundred and Eighty (180) days.

