

# **BIDDING DOCUMENTS**

## **FOR LEASE OF KAASHIDHUFFARU, KAAFU ATOLL FOR RESORT DEVELOPMENT**

**Ministry of Tourism and Civil Aviation  
Republic of Maldives**



# TABLE OF CONTENTS

<b>SECTION I - INVITATION FOR BIDS (IFB)</b> .....	<b>1</b>
<b>INSTRUCTIONS TO BIDDERS</b> .....	<b>9</b>
A. INTRODUCTION .....	9
1. <i>Background</i> .....	9
2. <i>Definitions</i> .....	9
3. <i>Eligible Bidders</i> .....	11
4. <i>Cost of Bidding</i> .....	11
1. THE BIDDING DOCUMENTS.....	11
5. <i>Composition of the Bidding Documents</i> .....	11
6. <i>Clarification of Bidding Documents</i> .....	12
7. <i>Amendments to Bidding Documents</i> .....	12
2. PREPARATION OF BIDS.....	12
8. <i>Language of Bid</i> .....	12
9. <i>Documents Comprising the Bid</i> .....	12
10. <i>Bid Currency</i> .....	13
11. <i>Bid Security</i> .....	13
12. <i>Period of Validity of Bids</i> .....	14
13. <i>Format and Signing of the Bid</i> .....	14
14. <i>Sealing and Marking of Bids</i> .....	14
3. SUBMISSION OF BIDS .....	15
15. <i>Deadline for Submission of Bids</i> .....	15
16. <i>Late Bids</i> .....	15
17. <i>Modification and Withdrawal of Bids</i> .....	15
4. Opening and Evaluation of Bids.....	15
18. <i>Opening of Bids by the Ministry</i> .....	15
19. <i>Clarification of Bids</i> .....	16
20. <i>Preliminary Examination</i> .....	16
21. <i>Evaluation and Comparison of Bids</i> .....	16
5. AWARD OF CONTRACT.....	19
22. <i>Award Criteria</i> .....	19
23. <i>Government's Right to Annul the Bidding Process</i> .....	19
24. <i>Notification of Award</i> .....	20
25. <i>Contacting the Ministry</i> .....	20
26. <i>Advance Payment</i> .....	20
27. <i>Signing of Contract</i> .....	21
28. <i>Development Concept, Environmental Impact Assessment and Work Plan</i> .....	21
29. <i>Training of Staff</i> .....	21
30. <i>Detailed Drawings/Designs</i> .....	22
31. <i>Payment of Lease Rent</i> .....	22
32. <i>Import Duty</i> .....	22
<b>ANNEX I - SAMPLE FORMS</b> .....	<b>9</b>
<i>Form 1: Bid Form and Rent Schedule</i> .....	25
<i>Form 2: Bid Security Format</i> .....	27
<i>Form 3: Documentary Evidence of Person or Legal Entity</i> .....	29
<b>ANNEX II – DEVELOPMENT GUIDELINES</b> .....	<b>31</b>
<b>ANNEX III - DRAFT LEASE AGREEMENT</b> .....	<b>32</b>
INTRODUCTION.....	41
PARTIES.....	41
BACKGROUND .....	41
1. <i>Definitions</i> .....	42
2. <i>Agreement</i> .....	43
3. <i>Advance Lease Rent Payment</i> .....	44
4. <i>Import Duty</i> .....	44
5. <i>Development Concept, Environmental Impact Assessment and Work Plan</i> .....	44
6. <i>Training of Staff</i> .....	45

7.	<i>Detailed Drawings</i> .....	45
8.	<i>Construction of the Resort</i> .....	46
9.	<i>Inspection during Development</i> .....	47
10.	<i>Alterations</i> .....	48
11.	<i>Inventory</i> .....	48
12.	<i>Commencement of Operation</i> .....	48
13.	<i>Annual Lease Rent</i> .....	49
14.	<i>Undertakings of the Lessee</i> .....	50
15.	<i>Employment in the Resort</i> .....	50
16.	<i>Commitments made by the Lessee</i> .....	51
17.	<i>Insurance</i> .....	51
18.	<i>Redevelopment</i> .....	51
19.	<i>Regular Inspection</i> .....	52
20.	<i>Grant of Right or Interest</i> .....	52
21.	<i>Provision for Impossibility of Performance</i> .....	53
22.	<i>Emergency and Public Purposes</i> .....	54
23.	<i>Handover of the Resort</i> .....	55
24.	<i>Termination by the Lessor</i> .....	56
25.	<i>Termination by the Lessee</i> .....	57
26.	<i>Termination without Cause by the Lessee</i> .....	57
27.	<i>Breach of non-financial nature</i> .....	58
28.	<i>Failure to fulfill the commitments in the Bid.</i> .....	58
29.	<i>Schedules</i> .....	59
30.	<i>Entire Agreement</i> .....	59
31.	<i>Variation</i> .....	59
32.	<i>Waiver</i> .....	60
33.	<i>Notices</i> .....	60
34.	<i>Disputes</i> .....	60
35.	<i>Governing Law</i> .....	60
	FIRST SCHEDULE.....	62
	SECOND SCHEDULE.....	63
	THIRD SCHEDULE.....	64
	FOURTH SCHEDULE.....	65
	FIFTH SCHEDULE.....	66
	SIXTH SCHEDULE.....	67
	SEVENTH SCHEDULE .....	68
	<b>ANNEX IV – SITE PLAN</b> .....	<b>69</b>

## **SECTION I - INVITATION FOR BIDS (IFB)**



## Invitation for Bids

Date: 14 April 2008  
IFB N<sup>o</sup>: MTCA/PCI3-OB/2008

1. The Government of Maldives, represented by the Ministry of Tourism and Civil Aviation (“the Ministry”), hereby announces the bidding for the lease of a designated area in the lagoon adjacent to the island of Kaashidhoo in Kaafu Atoll for the reclamation of land (to be named Kaashidhuffaru) and development of a Tourist Resort with 200 (two hundred) beds thereon.
2. The Ministry now invites sealed Bids from eligible Bidders for the lease and development of the island as Tourist Resort.
3. The islands will be leased for a period of 25 (twenty-five) years pursuant to section 8 of the Law on Tourism (Law No. 2/99). Extension of lease the period will apply pursuant to section 9 of the Law on Tourism (Law No. 2/99).
4. Interested parties may obtain further information, inspect and purchase the Bidding Documents from the 14<sup>th</sup> Day of April 2008 up to the 4<sup>th</sup> Day of May 2008 at the following address:

Ministry of Tourism and Civil Aviation  
1<sup>st</sup> Floor, Ghazee Building  
Ameer Ahmed Magu  
Male’, Republic of Maldives  
Telephone: +(960) 332 3224, Facsimile: +(960) 332 2512  
Email: [info@maldivestourism.gov.mv](mailto:info@maldivestourism.gov.mv), Website: <http://www.tourism.gov.mv>

5. A complete set of Bidding Documents may be purchased on submission of an application form to the address in IFB Clause 4.
6. The application form can be collected from the Ministry or can be downloaded from the website of the Ministry ([www.tourism.gov.mv](http://www.tourism.gov.mv)). The price of a set of Bidding Documents for Maldivian individuals or companies/partnerships registered in the Republic of Maldives with 100% Maldivian ownership shall be Rf 2000 (Two Thousand Maldivian Rufiyaa). The price of a set of Bidding Documents for foreign parties shall be US\$ 300 (Three Hundred United States Dollars) which includes the cost of courier mailing.
7. The application form shall be accompanied by:
  - a) Documentary evidence (Power of Attorney) stating that the person signing the Bid has been duly authorized to bind the Bidder. (This shall not be applicable to individual Bidders signing their own application forms and their own Bids).
  - b) Documentary evidence of person or legal entity. (Copy of national identity card or passport for individuals, or a copy of registration certificate for companies and partnerships).
  - c) Payment for the Bidding Documents as specified in Clause 6 of the IFB.

8. Upon payment for Bidding Documents, a receipt shall be issued which shall include the Bid Serial Number.
9. The Bidding Documents and the Bid Serial Numbers are non-transferable. Payment for the Bidding Documents is non-refundable.
10. Each Bidder shall submit only one Bid.
11. A pre-bid meeting to provide information for interested parties shall be held at 1300 hrs on Monday, 28<sup>th</sup> April 2008. The venue for the meeting shall be announced at a later date.
12. Bids must be delivered before 1300 hrs on Monday, 5<sup>th</sup> May 2008 to the address in IFB Clause 4 or any other venue that the Ministry may announce.
13. Bids will be opened in the presence of Bidders or their representatives who choose to attend the event at 1300 hrs on Monday, 5<sup>th</sup> May 2008 at the office of the Ministry or at any other venue that the Ministry may announce.
14. The venue for the events pursuant to IFB Clause 11, 12 and 13 will be announced through the print and electronic media and posted on the website of the Ministry. No further notification of the time, date and/or the venue for the events will be issued by the Ministry.

**SECTION II - INSTRUCTIONS TO BIDDERS  
(ITB)**



# Instructions to Bidders

## A. INTRODUCTION

### 1. Background

- 1.1. The Government of Maldives, represented by the Ministry of Tourism and Civil Aviation (“the Ministry”), has announced the Bidding for the lease of a designated area in the lagoon adjacent to the island of Kaashidhoo in Kaafu Atoll (“the Lagoon”) as demarcated in the site plan found in Annex IV for the reclamation of the Island (to be named Kaashidhuffaru) and development of a Tourist Resort with 200 (two hundred) beds thereon in accordance with the Development Guidelines found in Annex II.

### 2. Definitions

- 2.1. Unless the context otherwise requires, the following words and expressions shall have the following meanings:

“**Resort**” shall have the same meaning as defined in the Draft Lease Agreement found in Annex III

“**Bidding Documents**” means these bidding documents issued by the Ministry of Tourism and Civil Aviation pursuant to its invitation for Bids under reference MTCA/PCI3-OB/2008 dated 14 April 2008 including the documents specified in Clause 5 of the ITB.

“**IFB**” means the section in the Bidding Documents under the heading of Invitation for Bids.

“**ITB**” means the section in the Bidding Documents under the heading of Instructions to Bidders.

“**Bid Validity Period**” means the Bid validity period defined in Clause 12 of the ITB.

“**Bid Opening Date**” means the date specified for opening of Bids in Clause 13 of the IFB.

“**Bid Serial Number**” means the serial number issued by the Ministry pursuant to Clause 8 of the IFB

“**Bid Closing Date**” means the last date on which a Bid will be accepted by the Government as specified in Clause 12 of the IFB.

“**Bid Closing Time**” means the deadline for submission of Bids on the Bid Closing Date as Specified in Clause 12 of the IFB.

“**Second Highest Evaluated Bid**” means the Bid scoring the second highest points pursuant to Clause 24 of the ITB from amongst the Substantially Responsive Bids

**“Second Highest Evaluated Bidder”** means the Bidder who submits the Bid scoring the second highest points pursuant to Clause 24 from amongst the Substantially Responsive Bids

**“Successful Bidder”** means the Bidder who submits the Highest Evaluated Bid subject to Clause 22 of the ITB.

**“Bidder”** means an individual or legal entity who submits a Bid in accordance with the Bidding Documents.

**“Bid”** means all the documents specified in Clause 9 of the ITB submitted prior to the Bid Closing Time on Bid Closing Date.

**“Amendment”** means amendments brought to the Bidding Documents in accordance with Clause 7 of the ITB.

**“Late Bids”** means Bids submitted after the Bid Closing Time on the Bid Closing Date.

**“Lagoon”** shall have the same meaning as defined in the Draft Lease Agreement found in Annex III

**“Island”** shall have the same meaning as defined in the Draft Lease Agreement found in Annex III

**“Detailed Evaluation”** means the evaluation of Bids pursuant to Clause 21 of the ITB.

**“Substantially Responsive Bids”** means a Bid that has been determined to be substantially responsive pursuant to Clause 20 of the ITB.

**“Application Form”** means the application form to be submitted to purchase a set of Bidding Documents together with all the documents required to be submitted with it.

**“Highest Evaluated Bid”** means the Bid scoring the highest points in the Detailed Evaluation from amongst the Substantially Responsive Bids.

**“Advance Lease Rent Payment”** means the advance lease rent payment to be made by the Successful Bidder in accordance with Clause 26 of the ITB

**“Bid Opening Venue”** means the venue specified in Clause 13 of the IFB or the venue announced in accordance with Clause 14 of the IFB.

**“Notification of Award”** means the notification issued by the Ministry of Tourism and Civil Aviation to the Successful Bidder or the Second Highest Evaluated Bidder as the case may be.

### **3. Eligible Bidders**

- 3.1. This Invitation for Bids is open to individuals, partnerships and companies, local and foreign. Individuals submitting Bids shall be at least 18 (eighteen) years of age on the Bid Opening Date.
- 3.2. Bidders, in the preparation of their Bids, shall not be associated with an employee of the Ministry. All Bidders shall complete the non-association clause in the Bid Form and Rent Schedule.

### **4. Cost of Bidding**

- 4.1. The Bidder shall bear all costs associated with the preparation and submission of the Bid, and the Government of Maldives will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process. However, upon submission of the Bid to the Ministry, the Bid will become the absolute property of the Government, and the Bidder will not have any right whatsoever to claim back any of the documentation or material comprising the Bid.
- 4.2. The Bidding Documents and/or the Bid Serial Number cannot be transferred to another party under any circumstances whatsoever.

## **1. THE BIDDING DOCUMENTS**

### **5. Composition of the Bidding Documents**

- 5.1. The contract terms are prescribed in the Bidding Documents. In addition to the Invitation for Bids, the Bidding Documents include:
  - a) Application Form to be submitted pursuant to Clause 5 of the IFB
  - b) Instructions to Bidders (ITB)
    - i. Bid Form and Rent Schedule: (Annex I Sample Form 1)
    - ii. Bid Security: (Annex I Sample Form 2)
    - iii. Documentary evidence of person or legal entity: (Annex 1 Sample Form 3)
    - iv. Development Guidelines: (Annex II)
    - v. Draft Lease Agreement: (Annex III)
    - vi. Site Plan: (Annex IV)
  - c) Any Amendments issued by the Ministry in accordance with the Bidding Documents.
- 5.2. The Bidder is expected to examine all instructions, forms, terms and conditions in the Bidding Documents. Failure to furnish all information required or to submit a Bid which is not complete in every respect may result in the Bid being determined non-responsive and disqualified.

## **6. Clarification of Bidding Documents**

- 6.1. A prospective Bidder requiring any clarification of the Bidding Documents may notify the Ministry in writing at the address indicated in IFB Clause 4. All requests and clarifications issued by the Ministry shall be in writing. All requests for clarifications shall include the Bid Serial Number.
- 6.2. Prospective Bidders shall submit requests for clarification at least 5 (five) working days prior to Bid Closing Date.
- 6.3. All clarifications shall be sought and/or provided only as specified in Clause 6 of the ITB. The Ministry shall not be responsible for any clarifications sought and/or provided in any other manner of whatsoever nature.

## **7. Amendments to Bidding Documents**

- 7.1. At any time prior to the deadline for submission of Bids, the Ministry, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder may modify the Bidding Documents through Amendment(s).
- 7.2. All or any Amendments made to the Bidding Documents pursuant to Clause 7.1 of the ITB shall be posted on the website of the Ministry ([www.maldivestourism.gov.mv](http://www.maldivestourism.gov.mv)) prior to the deadline for Bid submission.
- 7.3. In order to allow prospective Bidders reasonable time in which to take the amendment(s) into account in preparing their Bids, or for any other reason the Government, at its discretion, may extend the deadline for the submission of Bids.

## **2. PREPARATION OF BIDS**

### **8. Language of Bid**

- 8.1. The Bid prepared by the Bidder, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Government shall be written in the English language with the exception of those in Dhivehi issued by the relevant authorities of the Government of Maldives. Any Bid related documents not in the English language, other than those in Dhivehi issued by the relevant authorities of the Government of Maldives, shall be accompanied by an authenticated English translation, which text shall prevail for the purposes of interpretation of the Bid.

### **9. Documents Comprising the Bid**

- 9.1. The Bid prepared by the Bidder shall comprise solely of the following documentation and shall be submitted before the Bid Closing Time on the Bid Closing Date to the Bid Opening Venue:
  - i. Bid Form and Rent Schedule in accordance with Form 1 in Annex I.

- ii. Bank Guarantee (Bid Security) furnished in accordance with Form 2 in Annex I.
  - iii. Documentary evidence of person or legal entity in accordance with Form 3 in Annex 1.
- 9.2. The Bidder shall complete and submit all the documents in ITB Clause 9.1. Any deviation from the requirements on submitting the above documents may result in the Bid being disqualified.

## **10. Bid Currency**

- 10.1. Bid currency is the United States Dollar.

## **11. Bid Security**

- 11.1. The Bidder shall submit a Bank Guarantee as Bid Security amounting to US\$ 200,000 (United States Dollars Two Hundred Thousand), issued by a reputable financial institution acceptable to the Ministry, in accordance with Form 2 in Annex I of the Bidding Documents, and valid for 60 (sixty) calendar days beyond the Bid Opening Date.
- 11.2. Any Bid not accompanied by a Bank Guarantee as Bid Security in accordance with Clause 11.1 will be determined non-responsive and disqualified by the Ministry.
- 11.3. The Ministry may require the validity of the Bank Guarantee (Bid Security) to be extended, in which case Bidders will be required to submit a Bank Guarantee (Bid Security) with extended validity as requested by the Ministry.
- 11.4. Bank Guarantee (Bid Security) of unsuccessful Bidders, excluding the Second Highest Evaluated Bidder shall be discharged or returned within 30 (thirty) calendar days from the date of Notification of Award by the Ministry to the Successful Bidder.
- 11.5. The Bank Guarantee (Bid Security) of the Second Highest Evaluated Bidder shall be discharged or returned upon the Successful Bidder signing the Lease Agreement.
- 11.6. The Government may forfeit the Bank Guarantee (Bid Security) if the Bidder:
- a) withdraws its Bid during the Bid Validity Period; or
  - b) does not accept Amendments made to or correction of errors in the Bidding Documents in accordance with Clause 7 of the ITB; or
  - c) If the Bidder, having been issued with Notification Award by the Ministry during the Bid Validity Period:
    - a) refuses to accept the award; or
    - b) fails to fulfill the requirements pursuant to Clause 26 of the ITB; or
    - c) fails to sign the Lease Agreement in accordance with Clause 27 of the ITB.
- 11.7. The Successful Bidder's Bank Guarantee (Bid security) will be discharged upon the Bidder signing the Lease Agreement as prescribed in ITB Clause 27.

## **12. Period of Validity of Bids**

- 12.1. Bids shall remain valid for a period of 90 (ninety) calendar days after the Bid Opening Date.
- 12.2. The Ministry may solicit the Bidder's consent to an extension of the Bid Validity Period. The request and the responses thereto shall be made in writing. A Bidder granting the extension will not be required nor permitted to modify the Bid. However, such Bidders may be required to extend the validity of the Bank Guarantee (Bid Security) if so required by the Ministry. The Bids of Bidders who decide not to accept any extension shall be rejected and their Bank Guarantees (Bid Security) shall be returned forthwith.

## **13. Format and Signing of the Bid**

- 13.1. The Bidder shall bind all pages of the Bid in one volume.
- 13.2. The Bid shall be typed or written legibly in indelible ink and shall be signed by the Bidder or a person duly authorized to bind the Bidder to the Bid. All pages of the Bid, except for un-amended printed literature, shall contain the Bid serial number, and shall be initialed by the person signing the Bid.
- 13.3. Any interlineations, erasures or overwriting shall be valid only if they are initialed by the person signing the Bid.

## **14. Sealing and Marking of Bids**

- 14.1. The Bidder shall prepare and submit one original of the Bid in a sealed envelope.
- 14.2. The envelope shall:
  - i. be addressed to the Ministry at the address given in IFB Clause 4.
  - ii. bear the name "Bid for the lease of land to develop an Tourist Resort on *[name of the island and atoll]*", and the statement; "DO NOT OPEN BEFORE *[time]*, *[date]*" to be completed with the Bid Closing Time and the Bid Closing Date.
  - iii. The envelope shall also indicate the name, address and the Bid serial number of the Bidder. The Bid serial number shall be placed at the top right hand corner of the envelope.
- 14.3. If the envelope is not sealed and marked as required by ITB Clause 14, the Ministry will assume no responsibility for the Bid's misplacement or premature opening.

### **3. SUBMISSION OF BIDS**

#### **15. Deadline for Submission of Bids**

- 15.1. Bids must be received by the Ministry at the address specified under IFB Clause 4 or at any other venue that the Ministry may announce, and no later than the Bid Closing Time on the Bid Closing Date.
- 15.2. The Ministry may, at its discretion, extend the Bid Closing Date and/or the Bid Closing Time by Amendment to the Bidding Documents, in which case all rights and obligations of the Ministry and Bidders previously subject to the deadline will thereafter be subject to the deadline as amended.

#### **16. Late Bids**

- 16.1. Bids will not be accepted by the Ministry after the Bid Closing Time on the Bid Closing Date.

#### **17. Modification and Withdrawal of Bids**

- 17.1. The Bidder may modify or withdraw the Bid after the submission of the Bid provided that written notice of the modification, including substitution or withdrawal of the Bid, is received by the Ministry prior to the Bid Closing Time on the Bid Closing Date.
- 17.2. The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and submitted in accordance with ITB Clause 14.
- 17.3. No Bid shall be modified or withdrawn after the Bid Closing Time on the Bid Closing Date.

### **4. Opening and Evaluation of Bids**

#### **18. Opening of Bids by the Ministry**

- 18.1. The Ministry shall open all Bids in the presence of Bidders or their representatives, who choose to attend the event, at the Bid Closing Time on the Bid Closing Date. The Bidders or their representatives who are present shall sign a register evidencing their attendance.
- 18.2. The Bidders' names, Bid modifications or withdrawals, rent and such other details as the Ministry, at its discretion, may consider appropriate, will be announced and or displayed at the Bid opening.
- 18.3. No Bid shall be rejected at Bid opening, except for Late Bids, which shall be returned unopened to the Bidder pursuant to ITB Clause 16.1.

## **19. Clarification of Bids**

- 19.1. During evaluation of the Bids, the Ministry may, at its discretion, ask a Bidder for a clarification. The request for clarification and the response shall be in writing, and no change in any financial aspects of the Bid shall be sought, offered or permitted.

## **20. Preliminary Examination**

- 20.1. The Ministry will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether the required documents have been furnished, whether the documents have been properly signed, and the Bids are generally in order.
- 20.2. Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit value and the total value that is obtained by multiplying the unit value and the variable, the unit value shall prevail and the total value shall be corrected. If there is a discrepancy between words and figures, the amount in words shall prevail.
- 20.3. The Government may waive any minor informality, nonconformity or irregularity in a Bid, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 20.4. Prior to the detailed evaluation, pursuant to ITB Clause 21, the Ministry will determine Substantially Responsive Bids in accordance with the Bidding Documents. For purposes of these Clauses, a Substantially Responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents.

## **21. Evaluation and Comparison of Bids**

- 21.1. The Ministry shall evaluate and compare Substantially Responsive Bids.
- 21.2. The evaluation of a Bid will exclude and not take into account any additional documentation or information other than those specifically requested in the Bidding Documents.
- 21.3. The following merit point system for weighing evaluation factors shall be applied.

### **21.3.1. Net Present Value (NPV) of the total lease rent proposed for the first 10 years - {45 points}**

- a) Lease rent shall be proposed for the first 10 (ten) year period.
- b) Lease rent per bed for any year shall not be less than US\$ 7,500 (United States Dollars Seven Thousand Five Hundred)
- c) Points will be given for the NPV of the total lease rent proposed for the first 10 (ten) year period. The discount rate to be used in calculating the NPV shall be 12% (twelve percent).
- d) The difference between the lease rent proposed per bed per year for any two consecutive years shall not be more than 20% (twenty percent).
- e) The Bidder proposing the lease rent with the highest NPV in accordance with Clause 21.3.1 of the ITB shall be given 50 points.

- f) Points for other Bidders shall be pro-rated accordingly.
- g) The following formula will be used for the purposes of calculating the NPV.

$$\sum_{0}^{n} \frac{i}{(1+r)^n}$$

where;

i = Lease rent for the n<sup>th</sup> year

r = Discount rate

n = Year (starting from 0)

### 21.3.2. Health Insurance - {20 points}

- a) Providing Basic Health Insurance to all staff is not compulsory.
- b) “Basic Health Insurance” for the purposes of this Bid, shall be health insurance coverage with a minimum annual coverage of Rf 30,000 (Maldivian Rufiya Thirty Thousand) per staff. Basic Health Insurance shall be obtained from a registered insurance agency in the Maldives or an internationally recognized agency that is acceptable to the Government of Maldives.
- c) If the Bidder proposes to provide Basic Health Insurance to all staff during the lease period, 20 points will be given.
- d) If the Bidder does not propose to do so, no points will be given for this category.
- e) The proposal to provide Basic Health insurance to all staff during the Lease Period will become part of the Lease Agreement and the Bidder will be required to fulfill the requirements as per the terms and conditions of the Lease Agreement.

### 21.3.3. Human Resource Plan - {35 points}

21.3.3.1. 15 points out of the 35 points allocated for the Human Resource plan shall be given for Localization of staff as follows:

- a) Maximum percentage considered for allocating points for years 1 and 2 will be 65% (sixty five percent).
- b) Maximum percentage considered for allocating points for years 3 and 4 will be 75% (seventy five percent).
- c) Maximum percentage considered for allocating points for years 5 to year 10 will be 85% (eighty five percent).
- d) The Bidder who proposes to employ the maximum percentage of Local Staff for a particular year will be given the maximum points allocated for that particular year as provided in the table below.
- e) “Local Staff” means employees who are nationals of the Republic of Maldives
- f) Points will be allocated for the percentage of Local Staff proposed to be employed in the hotel.

<b>Years</b>	<b>Points allocated per year</b>
Years 1 to 2	2.5 points
Years 3 to 4	2 points
Years 5 to 10	1 point

21.3.3.2. 20 points out of the 35 points allocated for the Human Resource Plan shall be given for training of hotel staff as follows.

- a) Points will be given for the number of staff proposed to be trained.
- b) The maximum number for which points will be given is for training of 50 staff. If the Bidder proposes to train 50 staff in accordance with this Clause, the Bidder shall be given 20 points.
- c) The amount of 50 is calculated considering that the minimum estimated staff requirement for a 200 (two hundred) bed hotel will be 200 (two hundred) staff,
- d) Additional points shall not be given for proposing to train more than 50 staff.
- e) The staff to be trained shall be trained to Undergraduate, Diploma and Certificate level.
- f) The maximum number of courses under each level for which points will be allocated are stated below:

<b>Level of Course</b>	<b>Maximum number of courses for which points will be allocated</b>
Undergraduate Courses	4
Diploma Courses	18
Certificate Courses	28
<b>Total</b>	<b>50</b>

- g) Points allocated for training at each level is provided below:

<b>Level of course</b>	<b>Points allocated per course</b>
Undergraduate Courses	1 point
Diploma Courses	0.5 point
Certificate Courses	0.25 point
<b>Total</b>	<b>20</b>

- h) Training of staff for the purposes of this Bid shall be as follows:
  - i. The fields of training for Undergraduate, Diploma and Certificate level shall be relevant to the operation of a hotel.
  - ii. The categories and fields of training chosen by the Bidder shall be submitted for approval within 180 (one hundred and eighty) calendar days of signing the Lease Agreement.
  - iii. The training institutions shall be internationally or locally recognized and acceptable to the Ministry.
  - iv. If the Ministry requires any changes to be made, the Bidder shall make such changes to the courses.
  - v. 50% of the staff proposed to be trained in each of the levels (ie: undergraduate, diploma and certificate) shall be enrolled in the relevant

training course within 24 (twenty four) months of signing the Lease Agreement. The balance 50% of the staff proposed to be trained shall be enrolled in the relevant training courses within 48 (forty eight) months of signing the Lease Agreement.

vi. All the staff trained under this requirement shall be Maldivian Citizens.

- 21.4. The Bid scoring the highest points pursuant to ITB Clause 21 shall be determined as the Highest Evaluated Bid.
- 21.5. Subject to Clause 21 of the ITB, if more than one Bidder has scored the highest points, the Bidders whose scores are tied shall be allowed to submit a second lease rent proposal in the form provided in the Bid Form and Rent Schedule in Annex I. The total lease rent proposed for the first 10 (ten) years in the second submission shall not be less than the total lease rent proposed in the Bidders initial proposal. The Bidder who then proposes the lease rent with the higher NPV shall be determined to be the Successful Bidder.
- 21.6. Bidders whose scores are tied shall be given three working days to submit a second lease rent proposal pursuant to Clause 21.5 of the ITB. Submission of proposals pursuant to this Clause shall be subject to the terms and conditions of these Bidding Documents. A time and venue for the submission pursuant to this Clause shall be determined by the Ministry and informed to the relevant Bidders 48 (forty eight) hours prior to the deadline for the second submission.

## **5. AWARD OF CONTRACT**

### **22. Award Criteria**

- 22.1. The Government will choose as the Successful Bidder, the Bidder whose Bid has been determined to be the Highest Evaluated Bid from amongst the Substantially Responsive Bids.

### **23. Government's Right to Annul the Bidding Process.**

- 23.1. The Government reserves the right to annul the whole Bidding process and reject all Bids at any time prior to the issuance of the Notification of Award, without thereby incurring any liability to the affected Bidder(s) or any obligation to inform the affected Bidder(s) of the grounds for the Government's action.
- 23.2. No claim, demand, action or legal proceedings shall lie against the Ministry in respect of its action(s) or decision(s) under Clause 23.1 of the ITB or the rejection of any Bid by the Ministry in accordance with the Bidding Documents.

## **24. Notification of Award**

- 24.1. Prior to the Notification of Award, the Ministry will check the information and documentation provided with the Application Form pursuant to IFB Clause 7 to determine their validity. Any incorrect or invalid information or documentation provided may lead to disqualification of the Bid.
- 24.2. Prior to the expiration of the Bid Validity Period, the Government will notify the Successful Bidder in writing, that the Bid has been accepted.
- 24.3. In the event the Successful Bidder fails to or is unable to fulfill the conditions contained in the Notification Award or declines to accept the Notification of Award, the Notification of Award issued to the Bidder shall be deemed terminated.
- 24.4. The Ministry shall then issue Notification of Award to the Second Highest Evaluated Bidder.
- 24.5. Any Notification of Award to the Second Highest Evaluated Bidder, shall be subject to the terms and conditions of these Bidding Documents.
- 24.6. In the event the Second Highest Evaluated Bidder fails to or is unable to fulfill the conditions contained in the Notification Award or declines to accept the Notification of Award, the Ministry shall annul the Bidding process.
- 24.7. Any Bidder whose Bid has been rejected pursuant to this Clause shall indemnify and hold the Ministry harmless from any and all claims, demands and/or action that may arise directly or indirectly from or in connection with the rejection of the Bid by the Government.

## **25. Contacting the Ministry**

- 25.1. Subject to ITB Clause 19, no Bidder shall contact the Ministry or any of its employees on any matter relating to the Bid, from the Bid Closing Time to the time the Ministry issues Notification of Award to the Successful Bidder.
- 25.2. Any effort by a Bidder to influence the Ministry in its decisions on Bid evaluation, Bid comparison, or contract award may result in the rejection of the Bidder's Bid.

## **26. Advance Payment.**

- 26.1. Within 14 (fourteen) calendar days of receipt of Notification of Award by the Ministry and prior to signing of the Lease Agreement, the Successful Bidder shall pay the Ministry the amount equivalent to 15% (fifteen percent) of the total Lease Rent proposed for the first 10 (ten) years by the Bidder. The Second Highest Evaluated bidder issued with Notification of Award pursuant to ITB Clause 24.4 will be given 10 (ten) calendar days to fulfill the requirement stipulate in this Clause.
- 26.2. In consideration of the payment made pursuant to ITB Clause 26.1, the amount paid shall be deducted from each of the quarterly installment due for the first 10 (ten) years pursuant to the Lease Agreement.

- 26.3. In the event the Bidder fails to sign the Lease Agreement in accordance with Clause 27 of the ITB or fails to perform its obligations under the Lease Agreement the payment made pursuant to ITB Clauses 26.1 shall not be refundable.

## **27. Signing of Contract**

- 27.1. At the same time as the Ministry notifies the successful Bidder that its Bid has been accepted, the Ministry will send the Bidder the Draft Lease Agreement provided in the Bidding Documents, incorporating all agreements between the parties, and effecting the necessary and appropriate changes to the Draft Lease Agreement.
- 27.2. The Successful Bidder shall sign the Lease Agreement within 7 (seven) calendar days of fulfilling the requirements of the Clause 26.

## **28. Development Concept, Environmental Impact Assessment and Work Plan**

- 28.1. Within 180 (one hundred and eighty) calendar days of signing the Lease Agreement in accordance with Clause 27.2 of the ITB the successful Bidder shall submit the Development Concept, an Environmental Impact Assessment Report (EIA) and a Work Plan in accordance with the Development Guidelines found in Annex II.
- 28.2. The Government may require changes to be made to the Development Concept, the EIA and/or the Work Plan. If any changes need to be made to the Development Concept, the EIA and/or the Work Plan, the Bidder shall re-submit a revised Development Concept, EIA and/or the Work Plan within 21 (twenty one) calendar days of the notification to change. If major changes are required and deemed necessary to provide a time period beyond 21 (twenty one) calendar days, the Ministry may do so and the Bidder will be required to submit changes before the deadline provided.

## **29. Training of Staff**

- 29.1. Within 18 (eighteen) calendar months of signing the Lease Agreement in accordance with Clause 27.2 of the ITB the successful Bidder shall submit the categories and fields of training in the format acceptable to the Ministry.
- 29.2. To ensure a fair distribution of the training among different categories and fields, the Government may require changes to be made to the categories and fields of training. If any changes are required to be made by the Ministry, the Bidder shall submit a revised categories and fields of training in the same format.
- 29.3. If the Bidder is unable to find the required number of applicants for the training, the Ministry may require the Bidder to announce for applicants under a procedure that will be determined by the Ministry.

### **30. Detailed Drawings/Designs**

- 30.1. Within 90 (ninety) calendar days of the approval of the Development Concept, the EIA and the Work Plan by the Ministry, submitted by the Bidder in accordance with Clause 28 of the ITB, the successful Bidder shall submit for approval by the Ministry, the detailed drawings/designs as specified in Clause 7 of the Draft Lease Agreement in Annex III.

### **31. Payment of Lease Rent**

- 31.1. The successful Bidder will be required to start paying the lease rent within 24 (twenty four) months from the date of signing the Lease Agreement. The number of days utilized by the Ministry for approval of the Development Concept, the Work Plan and the Detailed Drawings will be excluded in computing the 24 (twenty four) months. Computation of the days utilized by the Ministry for approval will commence from the date of completion of all the documents that need to be submitted.

### **32. Import Duty.**

- 32.1. No exemption on import duty will be granted for any goods, materials or machinery of whatsoever nature imported for the purpose of the reclamation of land, construction, development and/or operation of the Resort.

## **ANNEX I - SAMPLE FORMS**



## Form 1: Bid Form and Rent Schedule

Date: -----  
IFB N<sup>o</sup>: MTCA/PCI3-OB/2008

To: Ministry of Tourism and Civil Aviation, Republic of Maldives

Dear Sir/Madam,

Having examined the Bidding Documents including all addenda issued in connection with the Bidding Documents relating to the Invitation for Bids (IFB) No.: MTCA/PCI3-OB/2008, the receipt of which is hereby duly acknowledged, I/we, the undersigned, offer to lease, reclaim land and develop a 200 (two hundred) bed Tourist Resort on the Island and Lagoon for a period of 25 (twenty five) years. The lease rent per bed per annum for the first of 10 (ten) years thus proposed are as follows:

- Year 1 - [ amount in words and figures] per bed per annum
- Year 2 - [ amount in words and figures] per bed per annum
- Year 3 - [ amount in words and figures] per bed per annum
- Year 4 - [ amount in words and figures] per bed per annum
- Year 5 - [ amount in words and figures] per bed per annum
- Year 6 - [ amount in words and figures] per bed per annum
- Year 7 - [ amount in words and figures] per bed per annum
- Year 8 - [ amount in words and figures] per bed per annum
- Year 9 - [ amount in words and figures] per bed per annum
- Year 10 - [ amount in words and figures] per bed per annum

For the subsequent years, the lease rent will be paid in accordance with the Lease Agreement.

If the Bid is awarded we propose/do not propose (*delete as appropriate*) to provide Basic Health Insurance to all staff in accordance with Clause 21.3.2 of the ITB.

If the Bid is awarded we propose to employ the following percentage of local staff in the operation and management of the Resort during the first 10 (ten) years.

Year	Proposed percentage of local staff to be employed
Year 1	
Year 2	
Year 3	
Year 4	
Year 5	
Year 6	
Year 7	
Year 8	
Year 9	
Year 10	

If the Bid is awarded we propose to train the following numbers of staff to the levels stated below as required pursuant to Clause 21.3.3.2 of the ITB.

<b>Level of course</b>	<b>Maximum number of courses</b>
Undergraduate courses	
Diploma Courses	
Certificate Courses	

I/We undertake, if our Bid is accepted, to develop and operate the Resort in accordance with approved detailed drawings prepared on the basis of approved development concept and pay the advance payment in accordance with ITB Clause 26.

I/We agree to abide by this Bid for a period of 90 (ninety) calendar days from the date fixed for Bid opening under IFB Clause 12, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Until a formal Agreement is prepared and executed, this Bid, together with your written acceptance thereof and your Notification of Award, shall constitute a binding contract between us.

I/We confirm that I/we have not in anyway been associated, in the preparation of this Bid, with an employee of the Ministry of Tourism and Civil Aviation, Republic of Maldives.

I/We confirm that I/we have carefully read, understood and agree to all the terms and conditions of the Bidding Documents.

I/We understand that you are not bound to accept the highest or any Bid you may receive.

Date \_\_\_\_\_ 2008.

\_\_\_\_\_  
*[name]*  
*(Identity Card Number and Address*  
*for individual Bidders;*  
*or designation for legal entity)*

\_\_\_\_\_  
*[signature]*

Duly authorized to sign the Bid for and on behalf of \_\_\_\_\_

## **Form 2: Bid Security Format (Bank Guarantee)**

Whereas *[name of Bidder]* (hereinafter called “the Bidder”) has submitted its Bid (Bid Serial Number) dated *[date of submission of Bid]* for the lease of the Lagoon and the Island in Kaafu Atoll for the development of a 200 (two hundred) bed Tourist Resort thereon pursuant to the Invitation for Bids MTCA/PCI3-OB/2008 dated 14<sup>th</sup> April 2008 (hereinafter called “the Bid”);

KNOW ALL PEOPLE by these presents that WE *[name of bank]* of *[name of country]*, having our registered office at *[address of bank]* (hereinafter called “the Bank”), are bound unto the Government of Maldives represented by Ministry of Tourism and Civil Aviation (hereinafter called “the Ministry”) in the sum of United States Dollars Two Hundred Thousand for which payment well and truly to be made to the said Ministry, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

THE CONDITIONS of this obligation are:

A. If the Bidder:

- i. withdraws its Bid during the period of Bid validity specified in Clause 12 of the Instructions to Bidders in the Bidding Documents; or
- ii. does not accept amendments made to or correction of errors in the Bidding Documents in accordance with Clause 7 of the Instruction to Bidders in the Bidding Documents; or

B. If the Bidder, having been notified of the acceptance of its Bid by the Ministry during the period of Bid validity:

- i. refuses to accept the Award; or
- ii. fails to fulfill the requirements pursuant to Clause 26 of the Instructions to Bidders in the Bidding Documents; or
- iii. fails to sign the Lease Agreement in accordance with Clause 27 of the Instructions to Bidders in the Bidding Documents.

We undertake to pay to the Ministry the above amount upon receipt of its first written demand, without the Ministry having to substantiate its demand, provided that in its demand the Ministry will note that the amount claimed by it is owing to the occurrence of any of the above conditions.

This guarantee will remain in force up to and including *[date: 60 (sixty) calendar days after Bid opening]*, and any demand in respect thereof should reach the Bank not later than the above date.

This guarantee shall be governed by and construed in accordance with the laws of the Republic of Maldives.

This guarantee shall supersede all agreements between this Bank and the Bidder in relation to this Bid. If there are any inconsistencies between this guarantee and any other document exchanged between us and the Bidder, the terms of this guarantee shall prevail.

[seal and signature of the bank/financial institution]

## Form 3: Documentary Evidence of Person or Legal Entity

1. Name of Bidder:

*[Indicate whether an individual, partnership, or company]*

2. If the Bidder is an **individual**:

a. Present Address:

b. Permanent Address:

*[Attach copy of passport or other such identification]*

3. If the Bidder is a **Partnership**, state the following information in the format below:

Name of Partnership	Capital outlay	Name and address of the Partners	Occupation of the Partners	% of shares held by each Partner	Date of registration of the Partnership	Date of commencement of business

*[Attach copy of partnership agreement, which has been duly registered with the concerned authorities]*

4. If the Bidder is a **Private Limited Company**, state the following information in the format below:

Name of Company	Place and date of registration	Registration number	Registered address in full	Name and address of shareholders	Number of shares held by each shareholder	Name and address of directors with their designation	Name of Company Secretary	Nominal share capital of the Company	Issued and paid-up capital of the Company

*[Attach copy of certificate of registration of company, articles and memorandum of association and share transfer registration forms (if applicable) which have been registered with the Registrar of Companies or other such authorities as the case may be, in the country of incorporation]*

5. If the Bidder is a **Public Limited Company**, state the following information in the format below:

Name of Company	Place and date of registration	Registration number	Registered address in full	Name and Address of Directors with their designation	Name of Company Secretary	Nominal share capital of the Company	Issued and paid up capital of the Company

*[Attach copy of certificate of registration of company, articles and memorandum of association and share transfer registration forms (if applicable) which have been registered with the Registrar of Companies or other such authorities as the case may be, in the country of incorporation]*



## **ANNEX II – DEVELOPMENT GUIDELINES**



## **Guideline for Development Concept**

### **1. The submission pursuant to ITB Clause 28.1 should include:**

- 1.1 Written description of the development concept or “idea” depicting a particular theme(s), or characteristic(s), or feature(s), and an explanation of how the “idea” is inspired by or blends in with the island’s natural, cultural and historical settings. This may provide brief descriptions of how the main facilities (i.e. rooms, restaurants, spa (if relevant), staff accommodation, conference room, recreational facilities, etc.) relate to the “idea”. If the bidder intends to provide a certain type of exterior and interior finishing to match with the concept idea, it may also be elaborated in the write up.
- 1.2 Site plan of the “Lagoon” and the “Island” showing location and orientation of all buildings and structures, and should be to scale of not less than 1:1,000.
- 1.3 Fully annotated drawings of all buildings showing the layout of furniture, equipment and machinery, to a scale of not less than 1:100.
- 1.4 Bird’s eye view of the island/part of island depicting the proposed facilities in the site plan.
- 1.5 Concept design of public areas facilities proposed.
- 1.6 Concept design of one fully furnished guest room.
- 1.7 Concept design of staff facilities.
- 1.8 Area program, giving quantitative analysis of area utilization.
- 1.9 Costs for the proposed hotel and other facilities.

### **2. The following has to be taken into account while preparing the Development Concept pursuant ITB Clause 28.1.**

- 2.1 Total area allocated for the project is 92.47 hectares.
- 2.2 Total reclaimed land area shall not be more than 22% (20 hectares) of the total area allocated for the project.
- 2.3 Resort shall be developed within the boundary shown in the Site Plan given in Annex IV of this bidding document.
- 2.4 New channel, as shown in the Site Map given in Annex IV, shall be dredged and dredged material shall be used for the resort reclamation purpose.
- 2.5 If required, a harbor shall be developed within the boundary of total area allocated for the project.

## **Guideline for Environmental Impact Assessment (EIA)**

The EIA that has to be submitted pursuant to ITB Clause 29.1 should conform to draft guidelines for EIA as issued by the Ministry of Environment, Energy and Water, a copy of which may be made available by this Ministry on request.

### **Work Plan**

The Work Plan that has to be submitted pursuant to ITB Clause 29.1 should be prepared in accordance with the sample form as provided.

## Format of Work Plan

Island Name:

Activity	Duration m/w/d	Time frame: months after GRANT OF APPROVAL for construction																	
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Approval for construction	-																		
Site clearance																			
Procurement of machinery & equipments																			
Procurement of construction material																			
Commencement of construction work																			
Construction of temporary accommodation																			
Construction of mosque																			
Construction of power plant																			
Construction of incinerator house																			
Construction of office complex																			
Construction of reception area																			
Construction of staff accommodation																			
Construction of staff public area																			
Construction of guest rooms																			
Construction of restaurant																			
Construction of coffee shop																			
Construction of diving school (if applicable)																			
Construction of sports complex																			
Construction of * .....																			
Construction of * .....																			
Install power distribution																			
Install sewage distribution																			
Install water distribution																			
Install furniture and fittings																			
Completion of construction work																			
External landscaping																			
Finishing & clearing																			
Interior furnishing & fitting																			
Inspection	1w																		
Commencement of operation	-																		

\* Note: Add, remove, and re-order activities as appropriate



## **ANNEX III - DRAFT LEASE AGREEMENT**



**AGREEMENT FOR THE LEASE OF KAASHIDUFFARU IN KAAFU  
ATOLL, FOR THE DEVELOPMENT OF A 200 BED TOURIST RESORT**

BETWEEN

THE GOVERNMENT OF MALDIVES REPRESENTED BY THE  
MINISTRY OF TOURISM AND CIVIL AVIATION

AND

.....

Signed under the Maldives Tourism Act, 2/99



## INTRODUCTION

**THIS AGREEMENT** is made on the .....<sup>th</sup> day of ..... 2008 under the Maldives Tourism Act (the “**Act**”) to lease Kaashidhuffaru in kaafu Atoll, for the development of a 200. bed Resort for operation as a tourist Resort under the Act and to provide for the terms and conditions applicable to the lease, its continuance and termination and other relevant matters.

## PARTIES

**THIS AGREEMENT** is made between the **Government of the Republic of Maldives** (hereinafter referred to as the “**Government**”) represented by the **Ministry of Tourism and Civil Aviation** (hereinafter referred to as the “**Lessor**”) on the one part; and ..... a company duly registered and existing under the laws and regulations of the Maldives ( “the **Maldives Law**”) and having its registered office at [\_\_\_\_\_] **OR** [\_\_\_\_\_] a citizen bearing current National Identity Card Number [\_\_\_\_\_] and having permanent residence at [\_\_\_\_\_] (hereinafter referred to as “the **Lessee**” which expression includes heirs, successors-in-title and assigns) on the other part.

## BACKGROUND

**WHEREAS** the Lagoon is state owned whose legal ownership is duly vested in the Government; and

**WHEREAS** the Government is desirous of leasing the Lagoon for the reclamation and development of a 200 bed Resort thereof; and

**WHEREAS** the Government acting through the Lessor, has on the ..... day of ..... 2008 accepted subsequent to its invitation to Bid made on the ..... day of ..... 2008, a Bid ( the “**Bid**”) submitted by the Lessee to lease the Lagoon for the Lease Rent specified in this Agreement and subject to the terms and conditions of the Bid and those that are provided in this Agreement; and

**WHEREAS** the Act requires this Agreement to be concluded to provide for the terms and conditions under which the Island is leased to the Lessee;

**The Parties to this agreement agree as follows:**

## **1. Definitions**

Unless the context requires otherwise, the following words and expressions shall have the following meanings:

“Act” means the Maldives Tourism Act enacted by Law Number 2/99 on 16<sup>th</sup> May 1999 including any Regulations made under the Act and any amendments made to that Act or those Regulations.

“Commencement Date” means the date on which this Agreement is signed by the parties to this Agreement and on which date this Agreement is brought into binding effect between them.

“Commission Date” means the date on which the Ministry of Tourism and Civil Aviation as the Competent Authority gives permission for the commencement of the operation of the Resort for business.

“Compensation” means the compensation payable under and the manner of its calculation specified in section 7 of the Maldives Tourism Act in respect of Resorts that are returned to the Government in the manner provided in that section.

“Competent Authorities” refers to Ministries, Departments, Offices, Agencies, Courts or Quasi Judicial Bodies or other Authorities of the Government of the Maldives having jurisdiction over the matter in question.

“Government” means the Government of the Republic of Maldives duly constituted under the Constitution of the Republic of Maldives and includes all its representative authorities, agencies and persons.

“Resort” means all the buildings, installations, structures, facilities, machinery, equipment, tools, furniture, fixture and fittings, cutlery and crockery and linen forming part of or are directly associated with the operation and management of the Resort.

“Just Compensation” means the compensation payable under and the manner of its calculation specified in section 14 of the Maldives Tourism Act in respect of Resorts that are returned to the Government in the manner provided in that section.

“Island” means the land formed by reclamation of the Lagoon in accordance with the Development Guidelines which shall be called Kaashidhuffaru in Kaafu Atoll which includes the dry land formed by reclaiming and the area of the Lagoon surrounding that land

“Lagoon” means the area of the lagoon adjacent to the island of Kaashidhoo in Kaafu Atoll as demarcated and labeled as “proposed tourism zone” in the site plan attached hereto as the Seventh Schedule.

“The Lease Rent” means the annual lease rent payable to the Lessor by virtue of Clause 13 of this Agreement.

“Maldives Law” means all the Laws and Regulations and Government Practices having the force of law in the Maldives and enforced or ought to be enforced as such in the Courts of Law in the Maldives. It shall also include all amendments or replacements made to Laws and Regulations.

“This Agreement” means this Lease Agreement, including its Schedules.

“Year” means each successive period of 12 (twelve) calendar months commencing from the date of signing this Agreement.

## **2. Agreement**

- i. In consideration of payment by the Lessee of the Lease Rent specified in this Agreement and fulfillment by the Lessee of all the terms and conditions contained in this Agreement to be observed and performed on its part, the Lessor hereby leases to the Lessee the Lagoon and Island to be reclaimed for a period of 25 (twenty five) years effective as of the Commencement Date for the purpose of developing, operating and managing an airport transit Resort on the Island during that period. The Lessee shall ensure that the reclamation, construction, development and operations of the Resort are conducted in accordance with the relevant laws and regulations of the Competent Authorities of the Government of Maldives
- ii. The Lessee shall at its own cost, reclaim land in the Lagoon to form the Island. Any and all land reclaimed pursuant to this Agreement shall at all times belong to and be the absolute property of the Government.
- iii. The Lessee shall have vacant possession and quiet enjoyment of the Island during the period of this Agreement. The Lessee shall command total responsibility for the

operation, management, control and maintenance of the Resort on that Island during that period.

- iv. There shall not be any interference with the guarantees provided in paragraphs iiiii of this Clause except as may be stipulated in this Agreement.
- v. In case of any conflict or discrepancy between this Agreement and the Schedules to this Agreement pursuant to Clause 29, the express provisions of this Agreement shall prevail. In case of any conflict or discrepancy between any two parts of the same document, be it this Agreement or the Schedules, the spirit of this Agreement or that document whichever is applicable or reasonable to follow under the circumstances shall prevail.

### **3. Advance Lease Rent Payment.**

- i. Within 14 (fourteen) calendar days of receipt of Notification Award as specified in Clause 25 of the ITB in the Bidding Document, the Lessee shall have paid to the Lessor, the amount equivalent to 15% (fifteen percent) of the total Lease Rent proposed for 10 (ten) years as specified in the Bid Form included in the Second Schedule. In the event the Bidder fails to perform its obligations under this Agreement the payment made shall not be refundable.

### **4. Import Duty.**

- i. No exemption on import duty will be granted for any goods, materials or machinery of whatsoever nature imported for the purpose of reclamation of land in the Lagoon and/or the construction of the Resort.

### **5. Development Concept, Environmental Impact Assessment and Work Plan**

- i. Within 180 (one hundred and eighty) calendar days from the Commencement Date the Lessee shall submit the Development Concept, an Environmental Impact Assessment Report (EIA) and a Work Plan.
- ii. The Government may require changes to be made to the Development Concept, the EIA and/or the Work Plan. If any changes need to be made to the Development Concept, the EIA and/or the Work Plan, the Bidder shall re-submit a revised Development Concept, EIA and/or the Work Plan within 21 (twenty one) calendar days of the notification to change. If major changes are required and deemed

necessary to provide a time period beyond 21 (twenty one) days, the Lessor may do so and the Bidder will be required to submit changes before the deadline provided.

## **6. Training of Staff**

- i. Within 18 (eighteen) calendar months from the Commencement Date the Lessee shall submit the categories and fields of training in accordance with Clause 29 of the Instruction to Bidders in the Bidding Documents.
- ii. To ensure a fair distribution of the training among different categories and fields, the Lessor may require changes to be made to the categories and fields of training categories and fields of training. If any changes are required to be made by the Ministry, the Lessee shall submit a revised categories and fields of training in the same format.
- iii. The training institutions shall be internationally or locally recognized and acceptable to the Ministry.
- iv. If the Lessee is unable to find the required number of applicants for the training, the Ministry may require the Lessee to announce for applicants under a procedure that will be determined by the Ministry.
- v. 50% of the staff proposed to be trained in each of the levels (ie: undergraduate, diploma and certificate) shall be enrolled in the relevant training course within 24 (twenty four) calendar months of signing the Lease Agreement. The balance 50% of the staff proposed to be trained shall be enrolled in the relevant training courses within 48 (forty eight) calendar months of signing the Lease Agreement.
- vi. Upon being requested by the Lessor, the Lessee shall produce written proof, to the satisfaction of the Lessor, that the required number and levels of training are being undertaken.
- vii. All the staff trained under this requirement shall be Maldivian Citizens.

## **7. Detailed Drawings**

- i. The Lessee shall, within 90 (ninety) calendar days of approval of the Development Concept, the EIA and the Work Plan by the Government submit the following detailed drawings to the Lessor for its approval:

- a) Site plan (hard copy and soft copy in AutoCAD format) showing the location of the Resorts and the adjacent sites, buildings and all building lines (scale not less than 1:1000).
- b) architectural detailed drawing (scale not less than 1:200) with technical specifications:
  - i) site and layout plans showing the total site area, built up area, open area and percentage, building lines, sewer mains, electricity, water supply and drainage;
  - ii) floor plans with furniture and machinery layout;
  - iii) sections with finishes;
  - iv) roof plans;
  - v) elevations; and
  - vi) other architectural details such as handrails to describe the building
- c) structural detailed drawings (scale not less than 1:200) with technical specifications:
  - i. foundation details;
  - ii. roof details;
  - iii. flooring and supporting structural details;
  - iv. other structural details to describe the structure of the buildings; and
  - v. soil investigation report
- d) building services drawings with technical specifications;
  - i) electrical layouts;
  - ii) plumbing layouts; and
  - iii) other mechanical and information / communication network details
- e) details of power distribution including single line diagram of engine control and distribution panels and network;
- f) details of water supply and sewage systems including distribution network diagrams;
- g) details of fire safety and fire fighting systems;
- h) all detailed drawings/designs should adhere to existing statutory requirements and regulations such as, building, electrical, fire and public health regulations.

## **8. Construction of the Resort**

- i. The Lessee shall reclaim land in the Lagoon, construct and develop the Resort on the Island in accordance with the Development Concept submitted by the Lessee found in the Sixth Schedule, approved detailed drawings and the Work Plan found in the Fifth Schedule within a maximum period of 36 (thirty six) months from the date of grant of approval by the Government for construction of the Resort. This period of 36 (thirty six) months shall be referred to as the Construction Period.

- ii. Where the Lessee fails to construct and develop the Resort within the Construction Period, the Lessor may at its own discretion exercise any one or more of the 2 (two) options:
  - a) impose liquidated damages;
  - b) terminate this Agreement.
- iii. The Lessor shall not exercise any of the options mentioned in paragraph (ii) of this Clause where there are reasonable grounds to believe that the Lessee failed to construct and develop the Resort within the Construction Period due to war, civil war, civil commotion, storm, tempest, flood, inevitable accident or other irresistible force or event beyond the Lessee's control and which the Lessee could not have prevented even with reasonable diligence.
- iv. If the Lessee is faced with a circumstance mentioned in paragraph (iii) of this Clause, the Lessee shall promptly notify the Lessor in writing of the existence of such event and its likely duration and its known cause(s). As soon as practicable thereafter, the Lessor shall evaluate the circumstance and if it finds that the circumstance so warrants it, grant an extension to the Construction Period. Any such extension granted by the Lessor shall be deemed to be a modification of the relevant Clauses of this Agreement.
- v. Where liquidated damages are levied on the Lessee for failure to construct or develop the Resort in accordance with the Development Concept and the EIA found in the Sixth Schedule, the approved detailed drawings and/or the Work Plan found in the Fifth Schedule or within the Construction Period, those damages will be calculated in United States Dollars for each day of delay based upon the following formula:

*National Average Occupancy of the relevant period of the previous year multiplied by the Bed Capacity multiplied by the Tourism Tax Rate*

## **9. Inspection during Development**

- i. The Lessor or its representative shall have the right to inspect the process of construction and development of the Resort and ascertain the work's conformity to Work Plan and the Development Concept found in the Fifth and Sixth Schedules respectively and the approved detailed drawings and the relevant Maldives Law.
- ii. In any such inspection, all reasonable facilities and assistance, including access to drawings and relevant data, shall be granted at no charge to the Lessor or its representative.

- iii. If the process of construction and development of the Resort fails to conform to the Work Plan and the Development Concept in the Fifth and Sixth Schedules respectively and the approved detailed drawings or the Maldives Law, the Lessee shall, at its own cost, make alterations necessary to ensure conformity with them. However the Construction Period will not be extended to accommodate time taken to complete those alterations.
- iv. The Lessor may conduct several inspections in respect of a single Resort, at different points of time falling within its Construction Period. Rights available to the Lessor under paragraphs (i), (ii) and (iii) of this Clause shall in no way be limited hindered or waived by reason of the fact that there has been any previous inspection or inspections in respect of the same Resort.

## **10. Alterations**

- i If the Lessee requests in writing, the Lessor may, at its discretion, approve alterations or amendments to any one or more of the documents submitted under Clause 7 of this Agreement or the facilities and services of the Resort as proposed in the Development Concept found in the Sixth Schedule. However all such alterations or amendments will be approved if they fall within the context and scope of this Agreement.

## **11. Inventory**

- i Within 30 (thirty) days from the date on which the operation of the Resort is commenced (the "Commission Date"), the Lessee shall furnish to the Lessor an inventory of all movable and immovable items forming part of or are directly associated with the operation and management of the Resort. The inventory shall be verified by the Lessor and countersigned by the Lessee and attached to this Agreement as the Fourth Schedule. This Schedule shall be adjusted from time to time during the currency of this Agreement to reflect any additions and/or omissions to the then current inventory of the Resort and all variations to the Schedule shall be verified by the Lessor and countersigned by the Lessee.

## **12. Commencement of Operation**

- i. The Lessee shall commence operation of the Resort within the time period as specified in the Work Plan in the Fifth Schedule.

- ii. The maximum period allowed for completion of construction and commence operation of the Resort will be 36 (thirty six) months from the date of approval of the detailed drawings by the Government.

### **13. Annual Lease Rent**

- i. The Lessee shall pay to the Lessor the Lease Rent as follows:
  - a) During the first 10 (ten) years, computed from 18 (eighteen) months from the Commencement Date as provided in the Bid Form and Rent Schedule found in the Second Schedule or from the Commission Date, which ever happens earlier (number of days utilized by the Lessor for approval of the Development Concept, the EIA and the Detailed Drawings will be excluded in computing the 18 (eighteen) months. Computation of the days utilized by the Lessor for approval will commence from the date of completion all the documents that need to be submitted.); and
  - b) Subject to Clause 13 (i)(a), Lease rent shall be paid regardless of whether the Resort has commenced operation.
  - c) The Lease Rent shall be paid in quarterly installments in advance before the commencement of the quarter for which such payment is due.
  - d) In consideration of the advance Lease Rent payment made by the Lessee as specified in Clause 3 of this agreement, the amount paid shall be deducted from each of the quarterly installments due for the first 10 (ten) years in equal installments.
  - e) If the Lease Rent or any installment or part of it is in arrears the Lessee shall pay liquidated damages. The damages will be determined at the rate of 0.5% of the amount outstanding in arrears, calculated on a daily basis, for each day of delay. The damages shall be paid in addition to the full payment of all amounts of the Lease Rent in arrears.
- ii. The Lease Rent for the succeeding 10 (ten) year period(s) or parts thereof shall be determined by the Lessor, in consultation with the Lessee, at least 6 (six) months before the relevant period.
- iii. In holding consultations and determining the Lease Rent as mentioned in paragraph (ii) of this Clause, the Lessor shall take into account, *among other things*, the following factors:
  - a) The tourist market situation prevailing in the Maldives at the relevant time;
  - b) The average occupancy rate of Tourist Resorts and Resorts of similar standard and concept, during the 10 (ten) years immediately preceding the date of review.

- c) The average rent of Resorts and resorts in the respective region and with similar standards and bed capacity, including projected increase in average rent of Resorts and resorts in the region and projected inflationary increases.

#### **14. Undertakings of the Lessee**

- i. the Lessee shall during the currency of this Agreement:
- ii. duly settle with the appropriate agencies, Government or private, all charges, rates and taxes levied in respect of the Island and/or the Resort;
- iii. maintain the Island and the Resort in good order, repair and condition, reasonable wear and tear excepted;
- iv. keep the Island and the Resort in a clean and sanitary state, free from noxious weeds and pests, and conform to relevant Maldives Law;
- v. preserve the flora and fauna of the Island;
- vi. endeavor to conserve and improve the environmental condition of the Island and the Resort and maintain the natural beauty of the Island and the Resort;
- vii. not cause any trees to be felled, destroyed or damaged except with written approval of Competent Authorities;
- viii. provide reasonable terms and conditions of employment to all its staff in accordance with relevant Maldives Law. The accommodation, benefits and amenities provided to staff shall not be at a standard lower than those provided for in this Agreement, the Development Concept and in the Maldives Law or regulations and standards decided by Competent Authorities.
- ix. not demolish, remove or alter any building, installation or structure specified in the Inventory without the approval of the Lessor.

#### **15. Employment in the Resort**

- i The Lessee shall at all times provide reasonable terms and conditions of employment to all its staff in accordance with the laws and regulations relating to employment in the Republic of Maldives and according to commitments made by the Lessee in the Bid Form and Rent Schedule included in the Second Schedule. Facilities, benefits and

amenities provided to such staff shall be at a standard not lower than that provided for in this Agreement, the Development Concept and in the relevant regulations made by the Lessor or any other Government body or bodies.

## **16. Commitments made by the Lessee**

- i The Lessee shall fulfill all the commitments made by the Lessee in the Bid Form and Rent Schedule included in the Second Schedule.

## **17. Insurance**

- i. The Lessee shall, during the currency of this Agreement, insure and keep insured the Island and the Resort to their full reinstatement value. The reinstatement value shall include fees of architects and surveyors, Lease Rent for one year, cost of demolition and site clearance. The insurance shall cover for loss or damage by fire, storm, flood and other risks as may be notified by the Lessor. The insurance shall be obtained from an insurer acceptable to the Lessor.
- ii. The Lessee shall pay punctually all premiums and make any other payments necessary to maintain the Insurance Policy mentioned in paragraph (i) of this Clause, and shall not do anything which might invalidate the insurance. Upon being requested by the Lessor, the Lessee shall produce the policy of such insurance and receipt of the last premium paid.
- iii. All sums received from insurance shall be laid out and expended in rebuilding or repairing or otherwise reinstating the Island and/or the Resort or payment of the Lease Rent as the case may be.

## **18. Redevelopment**

- i. Where the Lessee is desirous of redevelopment of the Resort or any part of it after the Commission Date, such redevelopment shall be carried out with prior approval of the Lessor and in conformity with the plans approved in writing by the Lessor and other Competent Authorities. The Lessor may not approve any redevelopment that may be contradictory to or that may defeat the Development Concept found in the Sixth Schedule.
- ii. Every redevelopment shall be reflected in the Inventory found in the Fourth Schedule.

- iii. Whenever any new building or installation is constructed or installed after the Commission Date, the Lessee shall:
  - a) notify the Lessor of the commencement of the work;
  - b) allow agents of the Lessor to inspect the work in progress;
  - c) comply with any written instructions from the Lessor to require conformity with the approved plans; and
  - d) notify the Lessor of the date of completion and commission of the building or installation.

## **19. Regular Inspection**

- i. After giving an advance notice of 24 (twenty four) hours to the Lessee the Lessor may cause a Representative to enter upon the Island and the Resort at all reasonable hours in order to view and examine the physical state and condition of the Island and the Resort and the items listed in the Inventory. Where the Lessee is informed in writing of any requirement for repair or replacement subsequent to such an inspection, the Lessee shall within a reasonable period, cause such repair or replacement to be effectively made.
- ii. During the inspection mentioned in paragraph (i) of this Clause, the Lessor may call for information or data, or access to books of accounts and records and require copies or extracts of documents or records to be taken. The Lessee shall in every such instance accord the necessary assistance with speed and diligence.
- iii. The right of the Lessor in relation to inspection as mentioned in paragraphs (i) and (ii) of this Clause extends to all Competent Authorities as well.
- iv. Where there are reasonable grounds to believe that the Lessee has acted or is acting in contravention of any relevant Maldives Law and/or this Agreement, then the Lessor or the Competent Authorities may enter upon the Island and the Resort without having to give the advance notice mentioned in paragraph (i) of this Clause.

## **20. Grant of Right or Interest**

- i. The Lessee may, from the Commencement Date, grant any right, interest or possession of the Island or the Resort under this Agreement to any party by way of sale, assignment, transfer, sublease or management contract or any other similar device, or if the Lessee is a legal entity, transfer of shares of the entity.

- ii. The Lessee shall in the exercise of options provided in paragraph (i) of this Clause be subjected to written approval of the Lessor and any conditions that may be stipulated by the Lessor. And the approval of the Lessor shall always be subjected to the rights and interests of the Lessor not being adversely affected.
- iii. The Lessee shall have the right even before the Commission Date to enter into agreements, that are usually entered into in the ordinary course of business to enhance the business prospects of the Resort when it becomes commissioned, provided always that the duration of such agreements shall not exceed the currency of this Agreement. That right includes conclusion of sale of rights to proposed beds, allotment of proposed rooms, lease of proposed Island.
- iv. The Lessee shall in the exercise of options provided in paragraph (iii) of this Clause be subjected to written approval of the Lessor and any conditions that may be stipulated by the Lessor. And the approval of the Lessor shall always be subjected to the rights and interests of the Lessor not being adversely affected.
- v. The Lessee shall have the right prior to the Commission Date and within the currency of this Agreement to mortgage, hypothecate or otherwise encumber the interests in the Island and/or the Resort.
- vi. The Lessee shall in the exercise of options provided in paragraph (v) of this Clause be subjected to written approval of the Lessor and any conditions that may be stipulated by the Lessor. And the approval of the Lessor shall always be subjected to the rights and interests of the Lessor not being adversely affected and Lessee undertaking to release the Island and Resort from every encumbrance prior to the expiry or earlier termination of this Agreement.

## **21. Provision for Impossibility of Performance**

- i. Where the Island or the Resort or any essential part thereof suffers total destruction due to war, civil war or civil commotion or storm, tempest, flood, inevitable accident or other irresistible force or event beyond the Lessee's control the term of this Agreement shall be deemed temporarily suspended from the date of destruction until the date of resuming operation of the Resort and the operation of the Resort shall remain fully suspended during that period.
- ii. Where the Island or the Resort or an essential part thereof suffers partial destruction due to war, civil war or civil commotion or storm, tempest, flood, inevitable accident

or other irresistible force or event beyond the Lessee's control the operation of the Resort shall be suspended in part.

- iii. Occurrence of an event as mentioned in paragraph (i) or (ii) of this Clause, or the Lessee not having insured to cover for one year Lease Rent as specified under Clause 17 of this Agreement shall not release the Lessee of its obligation to pay the Lease Rent as specified in this Agreement. However, the Government may grant extensions to the due dates for the payment of the Lease Rent. It shall be the responsibility of the Lessee to have properly insured for such risk as specified in this Agreement.
- iv. Where damage as specified in paragraph (i) or (ii) of this Clause occurs to the Island and/or the Resort, the Lessee shall give written notice of such damage to the Lessor as soon as practicable. And within 7 (seven) days after the receipt of that notice, the Lessor shall cause an inspection of the Island and/or the Resort and inform the Lessee in writing of its analysis.
- v. The Lessee shall only be entitled to the benefits outlined in paragraphs (i) and (ii) of this Clause in respective circumstances if the Lessor concludes the inspection in favor of the claim of the Lessee or where paragraph (vi) of this Clause applies, if the Court of Law finds in favor of the claim of the Lessee.
- vi. If the Lessor is not agreeable to the fact that such damage has been caused to the Island and/or the Resort as may be claimed by the Lessee, the Lessee shall be entitled to refer the matter to the relevant Court of Law.
- vii. Where the Lessee refers the matter to a Court of Law, the parties shall to the best of their endeavors take all necessary steps to expedite the business of that Court.

## **22. Emergency and Public Purposes**

- i. In a situation of emergency the Lessor may with or without notice suspend this Agreement and take over the Island and the Resort.
- ii. The period of such suspension shall be excluded from the computation of the term of this Agreement.
- iii. The existence, continuance and cessation of the emergency referred to in paragraph (i) of this Clause shall be determined solely by the Lessor and any instructions issued by the Lessor in this regard shall be adhered to by the Lessee.

- iv. Where the Island is required for the defense of the Maldives, the Lessor shall be entitled to terminate this Agreement and take possession of the Island and the Resort without any prior notice.
- v. Where the Island is required for a public purpose, the Lessor shall be entitled to terminate this Agreement and take possession of the Island and the Resort after giving two years written notice.
- vi. In the event of termination of this Agreement under this Clause, Just Compensation shall be paid by the Lessor to the Lessee for the investment made on the Island.
- vii. Where Just Compensation is paid by the Lessor under this Agreement it may deduct such sums of money due to it from the Lessee in respect of the Island and/or the Resort under this Agreement.

### **23. Handover of the Resort**

- i. The Lessee undertakes to yield up possession of the Island and the Resort to the Lessor in good operational condition and repair and at the standard at which it was operating upon the expiry or earlier termination of this Agreement.
- ii. Where the Resort is handed back to the Lessor on expiry of the term of this Agreement, or where this Agreement is brought to an end other than at the request of the Lessee or on breach of Agreement by the Lessee, Compensation shall be paid to the Lessee within two years from the date of handing the Resort back to the Lessor.
- iii. During the last six (6) months of this Agreement or in the event of earlier termination at any time before termination becomes effective, the Lessor shall inspect the Island and the Resort to examine that all the items in the Inventory are in good operational condition.
- iv. If any item is found to be damaged, missing or defective the Lessor may require the repair, replacement, payment of cost or compensation, for the damaged, missing or defective item. The Lessee shall oblige with any such requirement made by the Lessor. However, in demanding payment of cost or compensation, the Lessor shall take into account reasonable wear and tear of the item or depreciated value of the item. This does not include damage or defect caused by the Lessee's misuse or neglect to properly maintain and upkeep any such item.

## 24. Termination by the Lessor

- i. Without prejudice to any other rights which the Lessor may have under this Agreement or in law, the Lessor may terminate this Agreement, in any of the following circumstances:
  - a) if the Lessee fails to pay the Lease Rent specified in paragraph (i) of Clause 13 when it has fallen due or if the Lessee fails to pay liquidated damages imposed in consequence of default in paying Lease Rent as specified in paragraph (e) of Clause 13 ; or
  - b) if the Lessee fails to pay the payment pursuant to paragraph (ii) of Clause 133 of this Agreement when it has fallen due; or
  - c) if the Lessee fails to complete the construction or development of the Resort within the specified or extended Construction Period as specified in Clause 8; or
  - d) if the Lessee fails to comply with the notices referred to in paragraph (i) and/or (ii) of Clause 27 of this Agreement; or
  - e) if the Lessee fails to comply with the notices referred to in paragraph (i), (ii) and/or (iii) of Clause 28 of this Agreement; or
  - f) if the Lessee becomes bankrupt or is wound up whether voluntarily or compulsorily or otherwise, than for purposes of amalgamation or reconstruction.
- ii. Where the Lessor intends to terminate this Agreement in any of the circumstances provided in paragraph (i) of this Clause, it will serve a written notice of termination specifying the reason for such termination.
- iii. Where such a notice of termination is served as provided in paragraph (ii) of this Clause, this Agreement will stand terminated on the expiry of the seventh (7th) day of that notice.
- iv. Once the Agreement is terminated, the Lessor may enter upon and take possession of the Island and the Resort. The Lessor may keep a representative on the Resort during the period of the notice and the Lessee shall provide full board accommodation to the representative without any charge;
- v. Where the Agreement is terminated, the Lessee shall have the right to remove, sell or otherwise dispose of all such tools, machinery, equipment, goods and materials not forming part of the Inventory found in the Fourth Schedule. If the Lessee has not removed any such items within a reasonable time then the Lessor may remove and sell those items.

- vi. The Lessor shall pay to the Lessee the sum of the proceeds of the sale referred to in paragraph (v) of this Clause, less the cost of removal and sale of such items and sum of any money due to the Lessor by the Lessee including any loss caused to the Lessor due to the default of the Lessee which in the first instance led to the termination of the Agreement.
- vii. In the event of any such termination, the Lessor shall make its best effort to cause any subsequent Lessee who takes the Island and Resort on lease to accept an assignment of all contracts made by the erstwhile Lessee in relation to the management and operation of Resort or any facilities of the Resort. The Lessor may not cause such an assignment to take place if it involves any financial detriment to the subsequent Lessee.

## **25. Termination by the Lessee**

- i. Without prejudice to any other rights which the Lessee may have under this Agreement or in law, if the Lessor refuses or persistently neglects to perform and observe any term or condition of this Agreement the Lessee may serve a written notice to the Lessor asking for its compliance. If the Lessor fails to comply with the notice and rectify the default and fails to offer any valid reason within 60 (sixty) days from the date of that notice, then the Lessee may serve a written notice of termination of this Agreement specifying the reason for termination.
- ii. Where such a notice of termination as provided in paragraph (i) of this Clause is served, this Agreement will stand terminated on the expiry of the 60<sup>th</sup> (sixtieth) day of that notice
- iii. It is expressly agreed that no such notice as provided in paragraph (i) of this Clause shall be given for frivolous or vexatious purposes.
- iv. Once the Agreement is terminated the provisions contained in paragraphs (iv), (v), (vi) of Clause 24 shall come into operation as if they were reproduced here in their entirety.

## **26. Termination without Cause by the Lessee**

- i. The Lessee may terminate this Agreement without cause upon giving written notice of termination to the Lessor. Where such a notice of termination is served, this Agreement will stand terminated on the expiry of the 180<sup>th</sup> (one hundred and eightieth) day of that notice.

- ii. Even where such a notice of termination is served, this Agreement will not be considered to have been terminated on the date appointed for the expiry of the notice if any of the following circumstances existed on that day:
  - a) If there is any obligation to be fulfilled or liability to be settled by the Lessee under this Agreement or in law; or
  - b) If the Resort is in want of good operational condition and repair;
  - c) If the Island and/or the Resort are subject to any form of encumbrance.

## **27. Breach of non-financial nature**

- i. Except where the Lessee has defaulted in respect of the provisions contained in Clause 13 paragraphs (i) and Clause 16 Paragraph (i) , where there is any non-performance, non-observance, infringement or violation by the Lessee of any other term or condition of this Agreement, the Lessor shall not terminate the Agreement in the first instance but impose upon the Lessee a penalty of an amount not exceeding US\$ 25,000 (Twenty Five Thousand United States Dollars) as liquidated damages and give up to thirty (30) days notice in writing to the Lessee to remedy the default.
- ii. If the Lessee fails to comply with the notice referred to in paragraph (i) of this Clause, the Lessor shall impose upon the Lessee a further penalty of an amount not exceeding US\$ 100,000 (Hundred Thousand United States Dollars) as liquidated damages and if the Lessee fails to comply with the notice given under paragraph (i) of this Clause for a further period of up to fifteen (15) days, the Lessor may invoke its right of terminating this Agreement under Clause 24.

## **28. Failure to fulfill the commitments in the Bid.**

- i. If the Lessee fails to fulfill the commitments made in the Bid, the Lessor shall not terminate the Agreement in the first instance but impose upon the Lessee a penalty of an amount not exceeding US\$ 50,000 (Fifty Thousand United States Dollars) as liquidated damages and may give up to 30 (thirty) days notice in writing to the Lessee to fulfill the commitments.
- ii. If the Lessee fails to comply with the Notice referred to in paragraph (i) of this Clause, the Lessor shall impose upon the Lessee a further penalty of an amount not exceeding US\$ 100,000 (One Hundred Thousand United States Dollars) as liquidated damages and may give up to an additional 30 (thirty) days notice in writing to the Lessee to fulfill the commitments.

- iii. If the Lessee fails to comply with the notice referred to in paragraph (ii) of this Clause, the Lessor shall impose upon the Lessee a further penalty of an amount not exceeding US\$ 200,000 (Two Hundred Thousand United States Dollars) as liquidated damages and if the Lessee fails to comply with the notice given under paragraph (ii) of this Clause for a further period of up to 15 (fifteen) days, the Lessor may invoke its right of terminating this Agreement under Clause 24.

## **29. Schedules**

- i. The following Schedules and their contents shall be deemed to be an integral part of this Agreement and shall be construed accordingly. Unless the context requires otherwise, any reference to this Agreement shall include a reference to each of them; and any reference to any one of them shall be deemed to be a reference to this Agreement.
  - a) First Schedule: Instructions to Bidders found in the Invitation to Bid issued by the Lessor
  - b) Second Schedule: Bid Form and Rent Schedule found in the Bid submitted by the Lessee
  - c) Third Schedule: Notification of Award issued by the Ministry
  - d) Fourth Schedule: Items forming part of the Resort (Inventory)
  - e) Fifth Schedule: Work Plan
  - f) Sixth Schedule: Development Concept and the EIA submitted by the Lessee
  - g) Seventh Schedule: Site map of the Island

## **30. Entire Agreement**

- i. This Agreement embodies the entire agreement between the Lessor and the Lessee with respect to the subject matter and operates to nullify any earlier oral or written agreements, understandings, negotiations, or representations on the subject matter of this Agreement.

## **31. Variation**

- i. No part of this Agreement including the Schedules and their contents as listed in Clause 29 shall be varied except by mutual agreement of both parties executed in writing.

### **32. Waiver**

- i. The non exercise of a right given to the Lessor under this Agreement shall not be considered as a waiver of that right nor shall a waiver duly granted by the Lessor on one occasion be taken as a waiver applicable on a different occasion.

### **33. Notices**

- i. All notices required to be given under this Agreement or communications that need to be exchanged under this Agreement or with reference to Maldives Law shall be deemed to be sufficiently served or delivered to the relevant party if sent by registered post to the address of that party as set out in this Agreement and/or such other address as may be duly informed by that party to the other in writing.

### **34. Disputes**

- i. Any disputes arising from or in relation to or connected with the Agreement shall first be attempted to be resolved amicably through discussions between the parties. Where a dispute remains unresolved even after a reasonable period has lapsed, it shall be referred to the relevant Courts of Law or Authorities of the Maldives.
- ii. This Agreement does not exclude the parties from referring a matter in dispute to arbitration in accordance with any Arbitration Act or rules that may be enacted in the Maldives on the subject matter.

### **35. Governing Law**

- i. This Agreement shall be subject to, construed in accordance with and governed by Maldives Law. The relevant Courts of Law and Authorities of the Maldives shall have the exclusive jurisdiction to entertain, hear and decide disputes arising from or in relation to or connected with the Agreement.

**Having read and understood the terms of this Agreement and intending to honour them and to be bound by them,** the Parties have signed this Agreement at the Ministry of Tourism and Civil Aviation in Male' in four identical and original counterparts on the date specified at the outset.

.....  
.....  
Ministry of Tourism & Civil Aviation,  
for and on behalf of the Lessor

.....  
.....  
For and on behalf of the Lessee

**WITNESSES:**

.....  
.....

.....  
.....

.....  
.....

.....  
.....

FIRST SCHEDULE

Instructions to Bidders found in the Invitation to Bid issued by the Ministry

Reference to Clause 29

End of Schedule

## SECOND SCHEDULE

Bid Form and Rent Schedule found in the Bid submitted by the Lessee

Reference to Clause 29

End of Schedule

THIRD SCHEDULE

Notification of Award issued by the Ministry

Reference to Clause 29

End of Schedule

## FOURTH SCHEDULE

Items forming part of the Resort (Inventory)

Reference to Clause 29

End of Schedule

FIFTH SCHEDULE

Work Plan

Reference to Clause 29

End of Schedule

## SIXTH SCHEDULE

Development Concept and EIA submitted by the Lessee

Reference to Clause 29

End of Schedule

SEVENTH SCHEDULE

Site map of the Island






Reference to Clause 29

End of Schedule

## **ANNEX IV – SITE PLAN**



## LEGEND

-  EXTEND OF TOURISM ZONE
-  PROPOSED RESORT DEVELOPMENT AREA
-  PROPOSED NEW CHANNEL FOR THE RESORT/ISLAND
- LOCAL PICNIC RECREATIONAL ISLAND AS A COMMUNITY FACILITY
-  HISTORICAL SITE (KURUHINA THARAAGANDU)
-  MARSHY AREA (APPROXIMATE)

### NOTES/ COMMENTS

6. OVER WATER ROOMS, RESTAURENT, BARS ETC ARE ALLOWED.  
VARY, IF REQUIRED.



## MINISTRY OF HOUSING AND URBAN DEVELOPMENT

7th Floor, MTCC TOWER, BODUTHAKURU FAANU MAGU, MALE' 20-06, REPUBLIC OF MALDIVES.  
TEL: 3337717, 3325785, FAX: 3328999, email: mail@mhud.gov.mv

PROJECT:

K. KAASHIDHOO DEVELOPMENT  
PLAN

CONTENTS:

SITE PLAN  
- PROPOSED TOURISM ZONE

DWG NO: 1 of 1

SURVEYED BY:

SCALE

DRAWN BY: YR

DATE : 10th April 2008

CHECKED BY: AA