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BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA

ORIGINAL APPLICATION NO.80/2024/EZ

IN THE MATTER OF:-

SUBHAS DATTA

...APPLICANT

Versus

STATE OF WEST BENGAL & ORS.

...RESPONDENTS

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Date: 03/03/2025



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EASTERN ZONE BENCH, KOLKATA

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REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENT NO.8

I, Suden Tshering Bhutia S/o Late. Sonam Tshering aged about 54 years, currently posted as Secretary, Gorkhaland Territorial Administration, Lal Kothi Secretariat Building, Lal Kothi, Darjeeling, West Bengal – 734101, do hereby solemnly affirm and state as under:



That I am posted as Secretary with the Respondent No.8 and am well aware of the facts and circumstances of the case as derived from the records and as such competent to depose this affidavit.

2. That I state that I have gone through the contents of the OA filed by the Applicant which was subsequently supplied to the Respondent No.8 and having understood the contents thereof my reply to the same is as under.
3. That at the outset I deny the allegations made in the OA save and except those specifically admitted or borne out of record.

PRELIMINARY SUBMISSIONS:

1. That it is submitted that the Gorkhaland Territorial Administration (hereinafter referred to as GTA or Respondent No.8), a statutory body, came into being pursuant to coming into force (12.03.2012) of the Gorkhaland Territorial

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Administration Act, 2011 (West Bengal Act XX of 2011). The object of the establishment of the GTA as provided in the said Act is as under:

“WHEREAS the objective is to establish an autonomous self-governing body to administer the region so that the socio-economic, infrastructural, educational, cultural, and linguistic development is expedited and the ethnic identity of Gorkhas established, thereby achieving all round development of the people of the region;”



That with the passing of the said Act, the earlier Darjeeling Gorkha Hill Council Act 1988 was repealed and in terms of Section 32 all assets and properties owned and controlled by the erstwhile Darjeeling Gorkha Hill Council (DGHC), vested in the GTA.

3. That it is submitted that the major source of economy of the people of Darjeeling is based on the inflow of tourists.
4. That it is submitted that it is the top most flat portion of Tiger Hill which is under the control and management of the GTA. It is submitted that this is a very small area of about 0.72 acres. It is submitted that this part of Tiger Hill is also an insignificant part of the catchment area of the north and south Senchal Lake. There are no streams below the Tiger Hill which falls into the lakes. The lakes are fed by around 32 streams which are situated far from and towards West of the Tiger Hill.

PARAWISE REPLY:-

1. That the averments as made in para 1-9 of the OA are matter of record.

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2. That with respect to the averments and allegations made in para 10 and 11 of the OA, CONCRETISATION OF TOP MOST FLAT AREA OF TIGER HILL, it is submitted that the observatory (pavilion) at the top most flat area of Tiger Hill has been in existence since 1950s or even before. The same was earlier under the Darjeeling Improvement Fund (DIF) and was subsequently handed over to the West Bengal Tourism Department. Subsequently, the same was transferred to the DGHC. Upon formation of GTA, the pavilion and the adjoining area vested in the GTA. As has been stated above, tourism is a big source of economy of Darjeeling. Tiger Hill is a major source of attraction of the tourists visiting Darjeeling and during peak season, tourists ranging upto 3000 visit the same to watch sunrise. With the increase in the number of inflow of tourist, in 2015, it was decided to remodel the said pavilion. The contract for the same was awarded to one M/s Divya Shakti Construction Co with the date of commencement of works being 03.03.2016. The proposed pavilion would have at the Ground Level, fourteen (14) steps gallery for the tourists which will accommodate about 700 people at a time. The basement behind will accommodate 2 big rooms for GTA Tourism Dept Office, a big space for electrical installations and Sanitary facilities for visitors. The First Floor will have seven (7) steps gallery for VIP's which will accommodate about 300 people at a time. The Second Floor would have a cafeteria accompanied with a photo gallery open to sky, and a tubular truss along with CGI/polycarbonate sheet for roof on its top. While the original size of the building was 31.115m X 17.835m X 17.60m, the size of the revised building is to be



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27.353m (length) X 17.85m (width) X 18.835 (height). However, because of various impediments including local agitation between May 2017 – September 2017, lockdowns during the two phases of Covid-19, design issues, dispute with the contractor, fund issues, the present litigation, etc., the work has not been completed. With respect to the allegation of concretization of topmost area, it is submitted that the surface adjoining the pavilion was already concretized when it came into the possession of GTA. At the end of the concretized surface there existed a slope leading to the drain alongside the road. However, it was found that because of this slope the main pavilion was getting affected. Thus, towards slope protection the flat concretized area was extended further by about 10-11 feet. Further, GTA is ready and willing to comply with whatever further directions that may be passed by this Hon'ble Tribunal in this regard.

Copy of photograph of the old building and new proposed building, layout are annexed herewith and marked as **ANNEXURE R/1 (Colly)**.

3. That with respect to the averments and allegations made in para 12 of the OA, MOBILE CONNECTIVITY TOWERS AT TIGER HILL, it is submitted that there exist two Mobile Towers at the Tiger Hills, one belonging to the BSNL and the other to Indus Towers. The BSNL tower is not in the area belonging to the GTA. The erstwhile DGHC had entered into an agreement with the Indus Towers Ltd. in 2010 for the purpose of this tower. It is pertinent to mention here that between June, 2017 to July, 2022 no elected body of GTA existed and the affairs of GTA were managed directly by the State Government. It is submitted that subsequently on

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27.10.2022, a further agreement was entered into between the GTA and the Indus Tower Ltd. granting lease from 01.10.2021 to 30.09.2026, vide **ANNEXURE R/2**. It is submitted that subsequently upon receipt of the letter dated 29.04.2024 from the Divisional Forest Officer, a letter dated 02.05.2024 was immediately sent to the Indus Tower Ltd. terminating the lease wef 02.06.2024 and directing it to dismantle the tower and remove all accessories. However, in response thereto a letter dated 10.05.2024 was received from the Indus Towers Ltd. pointing out that the power to terminate the lease agreement lay exclusively only with the lessee. It is submitted that this was clearly because of an oversight at the time of execution of the lease. Thereafter by a letter dated 10.05.2024, the Indus Towers was directed to re-locate the tower to an alternate location within GTA owned area outside the jurisdiction of the Department of Forest. It is submitted that when no action in this regard was taken by Indus Towers Ltd., again vide letter dated 12.02.2025, they were asked to come for a personal meeting on 18.02.2025. It is submitted that discussions in this regard to resolve the issue is continuing. It is however submitted, that the Respondent No.8 is ready and willing to abide by any directions or orders that may be passed by this Hon'ble Tribunal with respect to both the towers.

Copy of communications with the Indus Towers Ltd is annexed herewith and marked and **ANNEXURE R/3 (Colly)**.

4. That with respect to the averments made in para 13 of the OA, it is stated that there is no new settlement or habitation existing on the hill top of Tiger Hill which is under the

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management and administration/jurisdiction of GTA. It is submitted that just towards the entrance of the same, there is a small temporary room for the use of the caretaker. It is further submitted that attached to the said room there is a toilet which is fitted with septic tank.

5. That with respect to the averments made in para 14 of the OA, it is stated that no big public convenience has been set up by the GTA. It is submitted that just below the Hill top, there is a small public convenience unit having two separate toilets, one for women and the other for men. It is submitted that the same existed at the time when the topmost part of Tiger Hill was handed over to GTA. It is submitted that proper hygiene and cleanliness of the same is maintained and a small ramp for disabled has been provided. It is submitted that the said toilet is connected to septic tank. In this regard it is submitted that GTA proposes to also build soak-pit but since the area of the same would fall under the jurisdiction the Forest Department, efforts are being taken to move proposal and get requisite permission from them. The nearby bustee to which reference has been made in the para under reply does not come within the jurisdiction of GTA.

6. That with respect to the averments made in para 15 of the OA, it is stated that the whole of the topmost portion of Tiger Hill, under the management of GTA is plastic free. No plastic waste is allowed there. Proper dustbins have also been provided. The area under the management of GTA is regularly swept and cleaned.

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7. That with respect to the averments made in para 16 of the OA, it is stated that the Nature Interpretation Centre having been referred to in the para under reply belongs to the Forest Department.
8. That with respect to the averments made in para 17-19 of the OA, it is stated that there is no space on the topmost part of Tiger Hill under the management of GTA where any vehicle can be parked or facility of parking can be provided. It is submitted that the approach and exit to the Tiger Hill top is one way. All cars, taxis or other vehicles carrying visitors come and stop at the entrance of Tiger Hill top, the visitors disembark and the vehicles go to the parking maintained by the Forest Department or the Senchal Devi Mata Temple.
9. That with respect to the averments made in para 20 of the OA, it is stated that the structure referred to in the para under reply is not a GTA property.
10. That with respect to the averments made in para 21 of the OA, it is stated that the area referred to in the para under reply does not belong to GTA.
11. That with respect to the averments made in para 22 of the OA, it is stated that GTA is abiding by and following the guidelines issued in this regard. As with respect to construction and mobile tower is concerned, submissions have been made above which is not being repeated for sake of brevity. Further, GTA is ready and willing to comply with whatever further directions that may be passed by this Hon'ble Tribunal in this regard.

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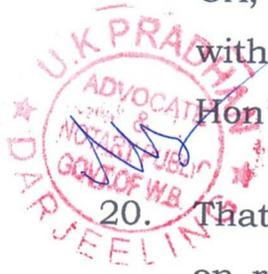
12. That with respect to the averments made in para 23 of the OA, as has been stated above, the area under the GTA at the Tiger Hill top is very small and there is no scope for organic farming, rain-water harvesting, eco-friendly transport system etc. It is submitted that GTA is ready and willing to comply with whatever further directions that may be passed by this Hon'ble Tribunal in this regard.
13. That with respect to the averments made in para 24-25 of the OA, it is submitted that such committee is to be constituted by the Forest Department. It is submitted that if any such committee is constituted and GTA is made a part/member of such committee, GTA is ready and willing to provide all necessary assistance to such committee.
14. That with respect to the averments made in para 26 of the OA, it is submitted that preparation of zonal master plan does not come under the jurisdiction of GTA.
15. That with respect to the averments made in para 27 of the OA, it is submitted that preparation of tourism master plan does not come under the jurisdiction of GTA.
16. That with respect to the averments made in para 28-29 of the OA, as has been submitted above, the water needs of the people of Darjeeling are catered through the 3 lakes which have been built for this purpose. As has also been submitted above, the area on Tiger Hill top is so small and as it would require fresh construction, building any rain water harvesting system is not feasible.



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- 17. That with respect to the averments made in para 30 of the OA, it is submitted that GTA is ready and willing to comply with whatever further directions that may be passed by this Hon'ble Tribunal in this regard.
- 18. That with respect to the averments made in para 31 of the OA, it is submitted that the same is matter of record.
- 19. That with respect to the averments made in para 32 of the OA, it is submitted that GTA is ready and willing to comply with whatever further directions that may be passed by this Hon'ble Tribunal in this regard.



20. That the contents of this affidavit are true and correct based on record. The Respondent No.8 reserves its rights to add, amend or supplement the instant reply-affidavit if there is sufficient reason for the same or if the Respondent No.8 is so directed by this Hon'ble Tribunal.

[Handwritten signature]
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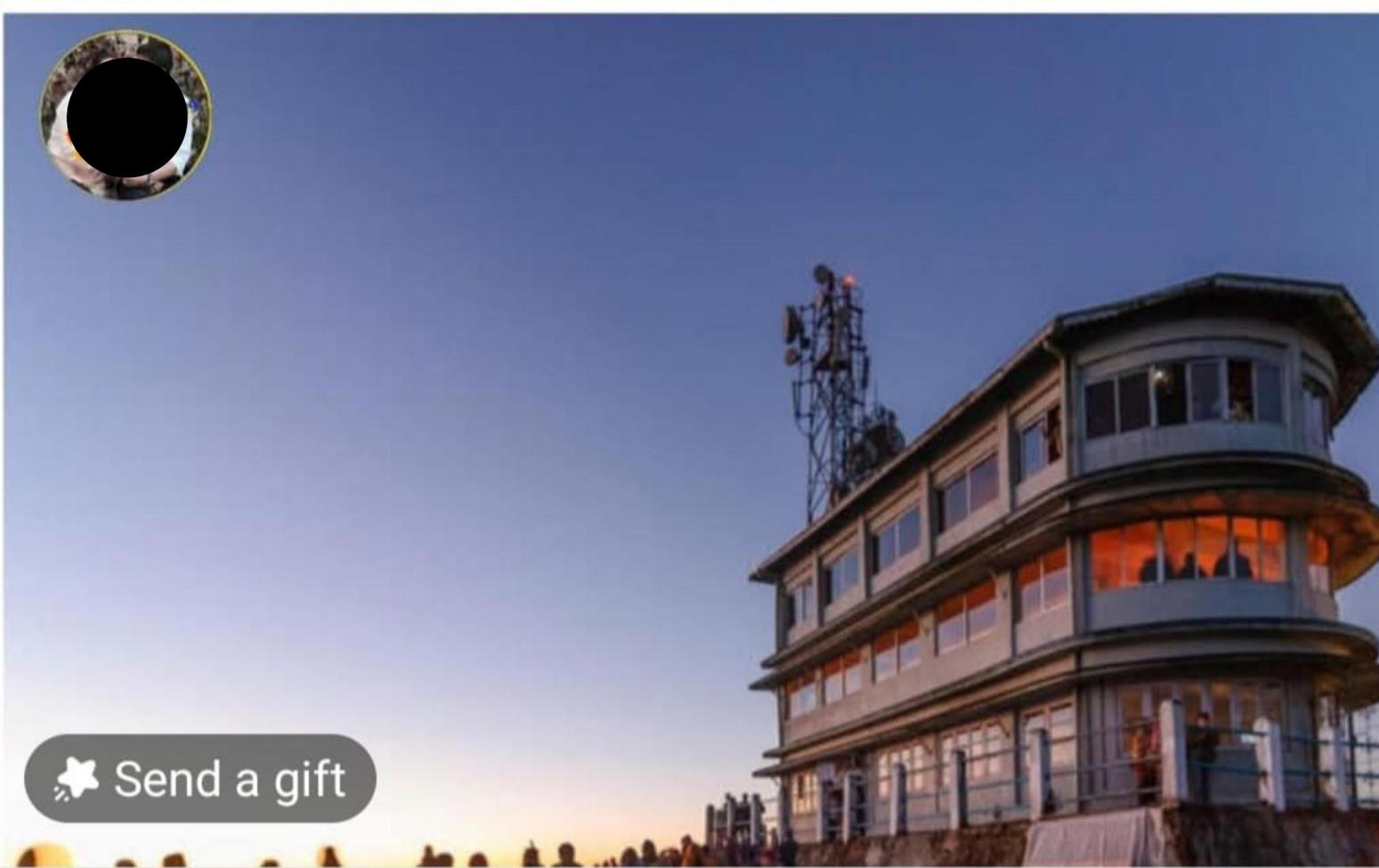
VERIFICATION:

Verified at Darjeeling on this 3rd day of March, 2025 that the contents of the above affidavit are true and correct as derived from the records and nothing material is concealed therefrom.

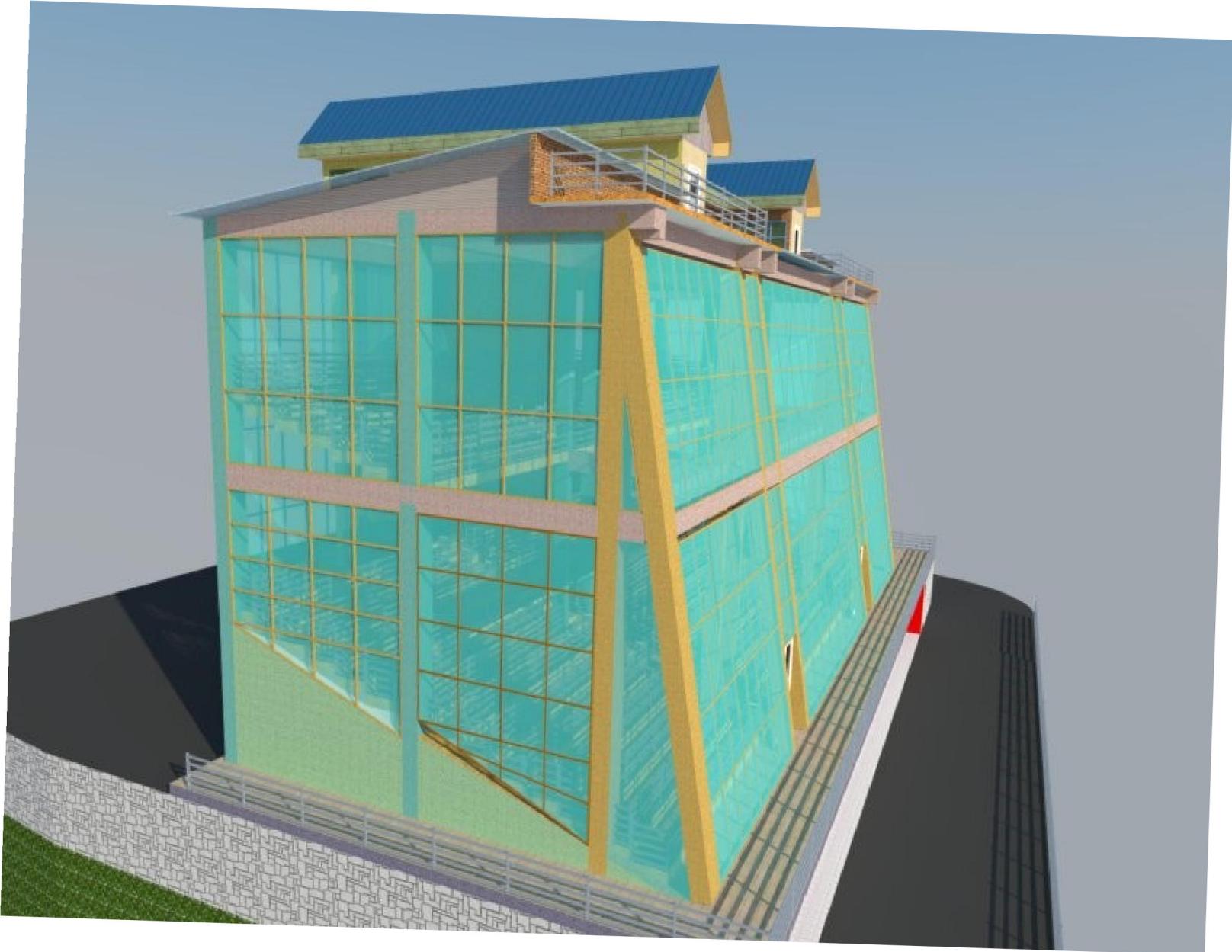
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[Handwritten signature] 3/3/25
U.K. Pradhan, Notary Public
Govt. of West Bengal

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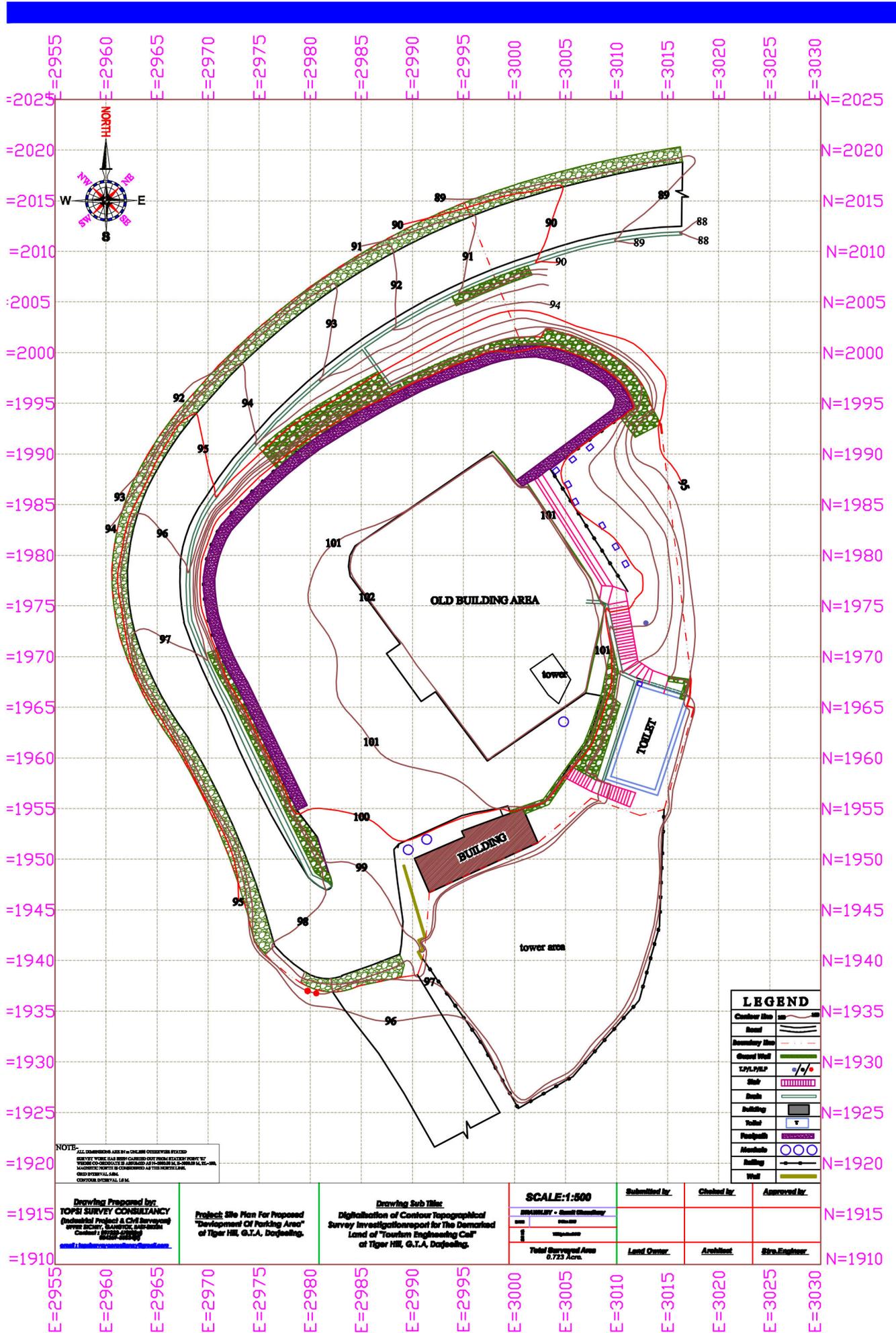
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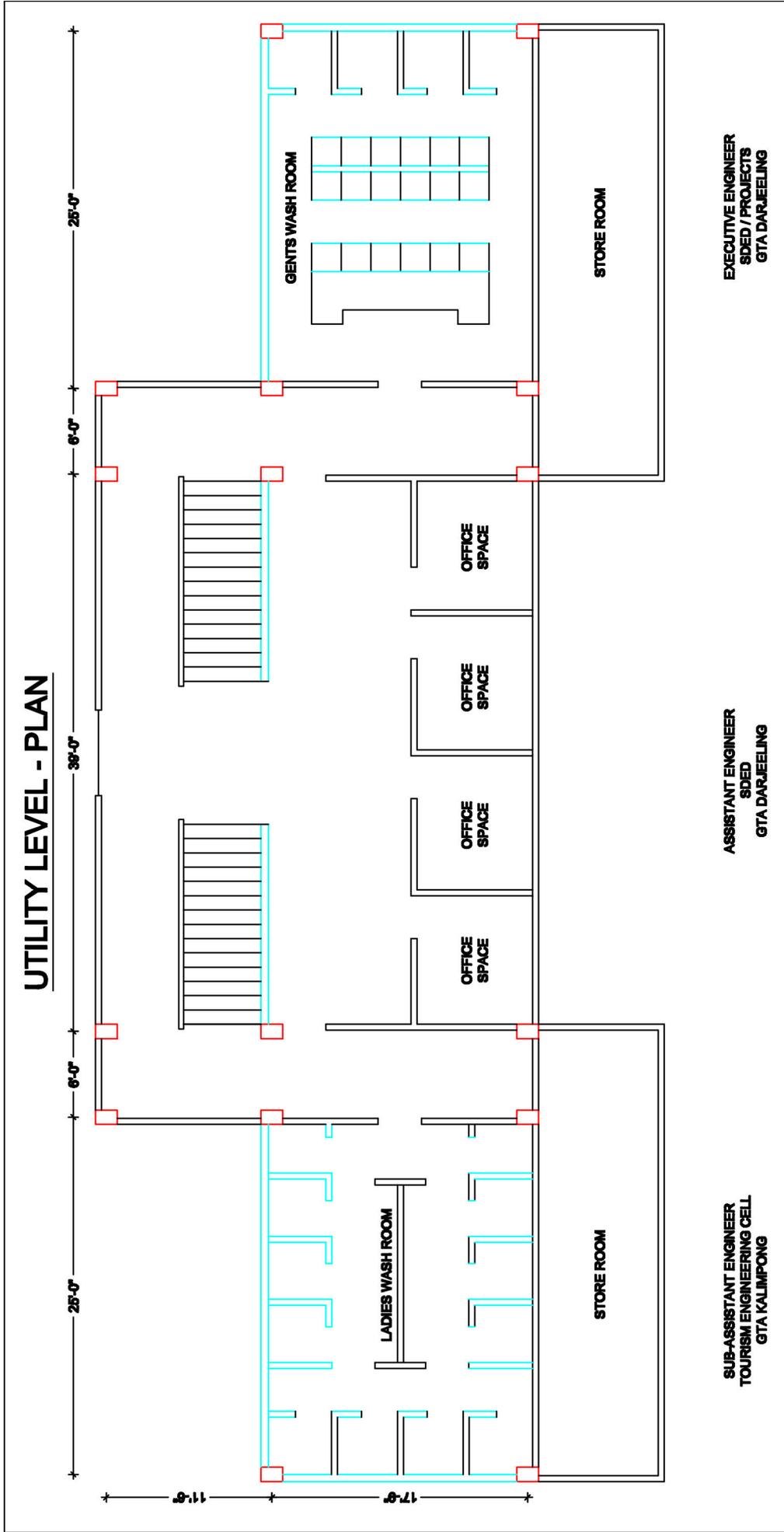


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पश्चिम बंगाल WEST BENGAL

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AGREEMENT

(Darjeeling 03 IN-1064473)

THIS AGREEMENT is made at Kolkata on this 27th October 2022. *R*

BY AND BETWEEN

D
 Executive Director.
 Tourism Department
 G.T.A.



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In view of the provisions relating to GST, the Lessor(s) shall adhere to and shall comply with requirements under the GST related laws and shall issue invoices, under the GST laws and regulatic and in a timely manner and such invoice should reach Lessee within the prescribed time under t GST laws, failing which Lessee shall have a right to adjust, set off, deduct or withhold any loss of in tax credit due to late submission of Invoice, from any of the Invoice payable by Lessee or can recovered from the Lessor(s). In case of non-applicability of GST provisions upon Lessor or no registration under the GST law, the Lessor(s) shall provide its confirmation in the form of undertakir the format of which may be provided by lessee.

2. The Licensee shall:

- 2.1 Pay the License fee on yearly basis in advance every Year.
- 2.2 Take the electricity connection from the Licensor's meter through a separate meter installed sole for that purpose only, or the Licensee may install electricity meter in its name and pay the mont electric charge to the CESC directly for the usage of the said meter. The Licensor shall forward tl electricity bills to the Licensee on monthly basis, based on the said sub meter reading and sh. also provide the Licensee a copy of the latest/corresponding electricity bill for the main mete Further the Licensee may continue to use the electricity connection if the Licensee has obtained its name.
- 2.3 Pay the aforesaid Licensee fee to the Licensor in the name of "**Department of Tourism Gorkhaland Territorial Administration**" at the Current account no: 35999842306, State Bar of India, Darjeeling Branch or such person/persons as may be nominated by the Licensor and a mentioned hereunder, in full discharge of its liabilities. The Licensor hereby agree TO HOLD UNT the Licensee the Demised Area for the period of 5 years (Five) Years commencing from **01.10.2021 and expiring on 30.09.2026** (hereinafter referred to as "License Tenure" YIELDING AND PAYING THEREFORE an amount of **Rs.15,000/-Rupees Fifteen Thousan only**) per month towards license Fees (hereinafter referred to as "License Fees") effective from 01.10.2021 payable by the Lessee on yearly basis in advance every year.
- 2.4 Keep interior of the aforesaid space including fitting and fixtures in good and tenable condition.
- 2.5 Use the aforesaid space for operation and maintenance of the equipment and antennae already installed to carry out the business of providing cellular telephone service.

3. The Licensee shall not:

- 3.1 Carry on or permit to be carried within the said space, any offensive trade or business in any manner whatsoever.
- 3.2 Commit or allow to be committed an act of nuisance or annoyance to the neighbors of the saic premises including Licensors.
- 3.3 Use or allow to be used the space or any part thereof for immoral and illegal purpose.
- 3.4 Be responsible and/or liable in any manner whatsoever to make any structural and/or other repairmen in the said premises at any material point of time.

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Executive Director
Tourism Department
G.T.A.



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4. Licensee shall be entitled:

- 4.1 to Provide for proper earthing to be sunk in or around the building and permit to maintain the earth cables/strips from ground floor to the said space and to operate, maintain, replace antennae already installed by clamping the said earthing cables/strips to the outside walls of the said building without causing structural damage to the building in any way whatsoever. If any damages are done, licensee shall repair the same at its own cost. The RF Cable from the antennae is affixed over the cable tray fixed by licensee and may be altered and maintained from time to time.
- 4.2 to draw, clamp and maintain feeder cables to the outside/inside walls from roof top to the said space from time to time.
- 4.3 to draw the power cable from licensors electricity meter room to the said roof top and to the said equipment and antennae on the roof top and also draw clamp and maintain power cables.
- 4.4 to draw temporary power supply as per requirement from the Licensor's meter a sub meter as aforesaid until and unless the permanent electricity connection is available to the Licensee and if the Licensee has installed electricity meter in its name, they shall be entitled to continue to use the same and pay the electricity charges to CESC directly.
- 4.5 to peaceful use and enjoy the said space without any interruption, disturbance or obligation whatsoever from the Licensor or any of its representative or any person or persons claiming through or under it or any occupant(s), flat owner(s), tenant(s), association or society of the premises or association of the building so long as the licensee continues to pay the license fee herein reserved and observe and perform the terms conditions of on its part as hereof
- 4.6 to appoint, at its own cost, its own watch and ward staff for safety, and security of the said space and all equipment.
- 4.7 to repair the room at the said space at its own cost and expenses to suit its business requirements.
- 4.8 to install temporarily a portable diesel generator within the premises which will be operated during power cuts.
- 4.9 to share the said space with other Telecom/communication operator(s)/Radio service Provider /User(s). The Licensor shall not raise any objection whatsoever or shall not claim any extra license fee for the same.

5. Licensor shall:

- 5.1 hand over the peaceful vacant possession of the said space to the Licensee to enable the Licensee to use and utilize the said space for the purpose of running of its business of providing, cellular telephone connections to various individuals and others by operating and maintaining the said equipment thereon.
- 5.2 indemnify and keep indemnified the Licensee from any losses, damages, costs, claims, demands, actions, or proceedings, arising out of any obstruction and/or disturbance created by the licensor

Executive Director
 Telecom Department
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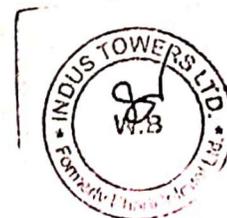


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or any of its representative or any person or persons directly or indirectly related to the licensor or any occupant(s), flat owner(s), tenant(s), association or society of the premises in peaceful occupation and/or utilization of the said space, at any point of time during the continuance of this agreement.

- 5.3 indemnify and keep the licensee fully harmless and indemnified against all losses, damages, costs, claims, demands, actions, or proceedings that the licensee may suffer or incur owing to any delay or default on the part of the licensor in complying with all or any of its obligation contained in this agreement in any manner whatsoever.
- 5.4 sign execute and provide all the necessary papers and/or documents to the licensee and when may be required by the Licensee so as to enable the licensee to obtain/ renew the necessary sanctions and/or permission from the concerned authorities like Municipal Authorities electricity authorities etc.
- 5.5 Pay all existing electricity due to the appropriate authority relating to the premises so as to enable to Licensee obtain new electric meter or to utilize the existing electric meter if obtained by the Licensee in its name.
- 5.6 Permit the Licensee's representatives, employees, assigns to have uninterrupted access to the said space round the clock and will also key of the main entrance of the building an of entrance to the roof of the top floor where the equipment, including antennae, poles, towers, etc. of the Licensee are installed and /or stored and the Licensor shall not obstruct movement of any materials or representatives or employees, or assigns of the Licensee in any manner at any time either by themselves or through their men, agents and or associates.
- 5.7 ensure that only the authorized personnel of Licensee shall be given access of the said space.
- 5.8 be liable to refund forthwith, the refundable security deposit if any as aforesaid to the Licensee in case the operation of the system is not allowed by any rules and regulations or order of Government (both Central and State) and/or any statutory body/bodies.
- 5.9 at the expiry of this agreement by efflux of time or on its earlier determination or termination, the Licensor shall refund forthwith the entire refundable security deposit, if any to the Licensee. However, notwithstanding anything constrained elsewhere if these present. In the event of an failure on the part of the Licensor to do so, the Licensee shall be entitled to keep and hold possession of the said space as a charge on such unpaid security deposit, if any, for which no License fees or any other claim whatsoever shall be payable to the Licensor and in such an event, the licensee shall also be entitled to charge interest @ 18% p.a on the said refundable amount for the period for which such money remains unpaid.
- 5.10 at the expiry of agreement period mentioned hereinabove, renew the agreement in favour of the Licensee upon being requested and/or approached by the Licensee in this on the terms and conditions mentioned in this agreement subject to such alteration and/or modification as may be mutually agreed upon and for such period as the parties may decide at the material time. The Licensee shall have the first option of renewal of the agreement in its favour and shall intimate the Licensor of its desire to do so.

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 Town Department
 G.T.A.



6. **The Licensor shall not:**



- 6.1 License out/License facilitate the use of the said space and/or any space on the same roof top to any other person or company or party for the purpose of Relay Station Centre of any type of air/radio waves/engaged in similar kind of business save and except as expressly permitted under clause 4.9 of this agreement.
- 6.2 Install any hording or construct any wall in the said roof top during the continuance of this agreement without prior written consent from the Licensee.
- 6.3 transfer/sell the said space without prior intimation to licensee in writing and in such case of transfer /sale of the said space, it shall be sold and/or transferred along with the Licensee's right to use the said premises/space by entering into fresh agreement at that material point of time the existing terms and conditions.
7. The Licensor hereby permits the Licensee to reserve the right, at its own cost and expenses, for any addition of poles on the tower, antennae, rebuilding , alteration, dismantling, repairs, removal of fittings, fixtures, equipment, accessories, etc. including mounting of poles, tower and antennae on the roof top for the purpose of their business. The Licensor shall not raise any objection if the mounting items like antennae, fixtures, etc. are exposed outside the specified area or shall not claim any extra license fee for the said modification work.
8. That the Licensor hereby solemnly confirm and covenant with the licensee that it has full authority, and unrestricted power, approval, to grant the above license and there shall be no objection from any other licensee(s)/ tenants/occupier(s) of the said building or society /association of the said premises for use of the said space by the licensee under this agreement.
9. If the Licensee does not make payment of monthly license fee within 20 days from the due date fixed as aforesaid, the Licensee shall be liable to pay interest @15 % p.a for the period of default but this will not entitle the licensee to commit default in payment of the license fee.
10. In case of any problem faced by the Licensee in smooth utilization of the above space for their business due to resistance caused by anyone whosoever, the Licensor shall be fully liable to indemnify the Licensee for making good of all such losses arising out of such resistance.

11. TERMINATION OF CONTRACT

- 11.1 The Licensee, at its sole discretion, may terminate this agreement immediately upon written notice to the licensor upon the occurrence of any of the following events:
- 11.1.1 The Licensor fails to comply with any of the terms and conditions of this agreement for any reason whatsoever.
- 11.1.2 The Licensor has made material misrepresentation of omission or commission to the Licensee.
- 11.1.3 The Licensor violates any law, administrative order, rule or regulation of any competent Government agency or appropriate authority.

Executive Director
Tourism Department
G.T.A.



- 11.1.1 The Licensor fails to comply with any of the terms and conditions of this agreement for any reason whatsoever.
- 11.1.2 The Licensor has made material misrepresentation of omission or commission to the Licensee.
- 11.1.3 The Licensor violates any law, administrative order, rule or regulation of any competent Government agency or appropriate authority.
- 11.1.4 The Licensor is not able to provide unrestricted access to the said roof and the said space at all times to the licensee as well as its men and agents and or representatives.
- 11.1.5 The Licensor causes any restriction or obstruction to the Licensee with regard to the positioning of the said equipment including antennae, mast, pole, tower, etc. in the said space.

11.2 However, notwithstanding anything contained elsewhere in this agreement, the Licensee at its sole discretion, may terminate this agreement without assigning any reason whatsoever upon serving a written notice of thirty (30) days to the Licensor and it is expressly understood and agreed that no license fees or any other claim whatsoever shall be payable from the effective date of termination as may be informed by the Licensee to the Licensor. If any amount of License fees is received by licensor in advance post expiry of notice period the licensor shall be liable to refund the full amount of excess license fees held by him to the licensee within notice period.

11.3 In the event of the termination of this agreement, the licensor shall allow the Licensee to remove the said equipment. Thereafter, the Licensee shall subject to other conditions specified elsewhere in this agreement, deliver vacant and peaceful possession of the said space to the licensor, subject to reasonable wear and tear upon full refund of the refundable security deposit if any.

11.4 In the event of termination of this agreement any time before expiry of three years from the date of commencement of this agreement because of any one or more of the reasons mentioned in clause 11.1 of this agreement, the licensor shall indemnify and keep indemnified the Licensee for any losses, damages, costs, claims, demands, arising out of infrastructure /installation cost, other expenses incurred by the Licensee for the purpose of this agreement and loss of expected business profit as calculated by the Licensee.

12. INDEMNIFICATION

In particular and without prejudice to the aforesaid, notwithstanding anything contained elsewhere in these presents it is hereby agreed by and between the parties hereto that the "LICENSOR" shall indemnify hold harmless the LICENSEE in respect of any and all claims and damages of every kind suffered by the Licensee and or/its men and agents and /or associates due to any acts, actions, omission or commission on the part of the Licensor herein, in breach of any of the terms and conditions of these presents.

13. SEVERABILITY

D
 Executive Director
 Tourism Department
 G.T.A.



If anything in this agreement is unenforceable, illegal or void, then it is served, and rest of this agreement remains in force.

14. AMENDMENTS

All amendments, alteration, additions, deletions, modifications and clarification to the above terms and conditions may be made at any time with mutual consent in case of any difficulties/ambiguities observed during operation but the same shall be essentially be so done in writing signed by both the parties.

15. FORCE MAJEURE

Neither Party shall be liable for any delay, failure to perform, damage, losses or destruction or malfunction of any equipment or any consequences thereof caused or occasioned by (a) due to fire, flood, water, the elements and/or acts of god, war, threat of imminent war, utility curtailments, explosion, civil disturbances, Government of State actions and/or inactions, shortage of equipment or supplies or any other cause beyond reasonable control. The party so delayed or prevented from performing shall provide prompt notice of such event to the other party and shall exercise in good faith, best efforts to remedy any such cause of delay or prevention of performance.

16. SUPERSEDES ALL PRIOR AGREEMENTS

This agreement supersedes any and all previous proposals, representations, statements oral or written, agreements by and between the parties and any such previous proposals or representations or statements or agreements are cancelled at the date of execution of this agreement.

17. MERGER/AMALGAMATION

The License contained herein shall not be determined or affected or in any way prejudiced by any absorption or by the Licensee or any amalgamation or merger thereof or therewith shall ensure and be available for and by absorbing or amalgamated or merged or new entity.

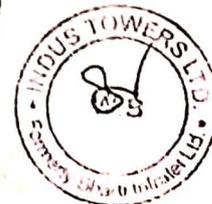
18. NOTICES

Any notice which either party may desire to serve upon other party must be in writing and given by (i) personal delivery to any officer of the receiving party or (ii) by mailing the same by registered mail, postage pre paid return receipt requested or (iii) by recognized courier services (iv) by facsimile communication subsequently to be confirmed in writing. Such notices shall be deemed to have been received by the addressee within 72 Hours if sent by telex or by electronic mail to the correct telex number or correct electronic number of the addressee as the case may be.

19. WAIVER:

- 19.1 A Party's failure or delay exercising a power or right does not operate as a waiver of that power or right. The exercise of power or right does not preclude either its exercise of any other power or right.


Executive Director
Tourism Department
G.T.A.



- 19.2 A waiver is not effective unless it is in writing.
- 19.3 Waiver of power or right if effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

20. ARBITRATION

- 20.1 The parties hereto agree that any disputes, differences or controversies arising out of or in connection with these presents and/or in any way or in any manner touching and/or concerning the dealings and transactions between the parties herein as recorded in this agreement shall be referred to and settled and/or adjudicated upon Arbitration by the Arbitrators to be appointed by the Circle Chief Executive Officer/CEO of Indus Towers Limited, West Bengal Circle and the Licensor, the parties hereby consent to the same.
- 20.2 Such Arbitration proceeding, or proceedings will be conducted in accordance with the Arbitration and Conciliation Act, 1996 and/or with the statutory modification thereof and/or subsequent enactment thereof or any other enactment for time being in force.
- 20.3 The venue of such arbitration proceeding, or proceedings shall be at Kolkata
- 20.4 The Arbitration shall be conducted in English Language only.
- 20.5 The award given by the Arbitrators shall be final in all respects and shall also be binding upon both the parties.

21. JURISDICTION

This Agreement is executed at Kolkata and the parties hereby unconditionally and irrevocably agree and covenant with each other that the competent Court at Kolkata only shall have the jurisdiction to entertain, try and determine the disputes with regard to any question or matter arising out of or in connection with this agreement and/or any other document that may be executed by the parties hereto or any of them in pursuance hereof or arising here from.

FIRST SCHEDULE REFERRED TO ABOVE

(Description of Premises where Demised Premises is situated)

All That Ground Plus one Storied Building situated at Tiger Hill Pavilion, Sinchel Road, Jorebonglow, Ghoom, Pin - 734102

On the North:

On the South:

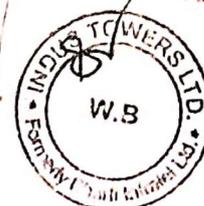
On the East:

On the West:

SECOND SCHEDULE above referred to: (Description of the Demised Premises)

All that area measuring approx. 500 Sq. ft on the roof of the premises and several other Places on combined basis lying on the First Schedule Property hereinabove.

Executive Director
Tourism Department
G.T.A.





IN WITNESS WHEREOF, the Parties hereto have signed this Agreement at the place a/ on the day, month and year first above written.

SIGNED, SEALED AND DELIVERED BY **SIGNED, SEALED AND DELIVERED BY**

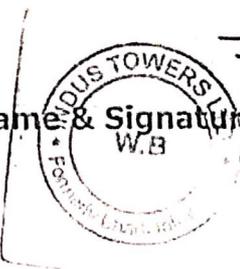
[Signature]
Executive Director
LICENSOR Tourism Department
G.T.A.

[Signature]
For INDUS TOWERS LIMITED
(LICENSEE)

In the presence of WITNESS:

In the presence of WITNESS:

- 1. *[Signature]*
 - 2. *[Signature]*
- Name & Signature**

- 1.
 - 2. *[Signature]*
- Name & Signature**
- 



25

ANNEXURE: R/3

**GORKHALAND TERRITORIAL ADMINISTRATION
OFFICE OF THE PRINCIPAL SECRETARY**

Secretariat Building, Lal Kothi
Darjeeling - 734101
e-mail: gtaprsecretary@gmail.com

Memo No.253/PS/GTA/2023-24

Date:02/05/2024

**From: The Principal Secretary
Gorkhaland Territorial Administration.**

**To: The Estate Manager,
Indus Tower Ltd, Kolkata,**

**Sub: Dismantling of Cellular Tower at Tiger Hill Sinchal Wildlife Sanctuary,
Ref: Memo No.861/WL/13-5,Dated 29/04/2024,**

Sir,

With reference to the above letter issued by the Divisional Forest Officer, Darjeeling wildlife Division Dated: 29/04/2024 (copy enclosed), and with reference to the agreement made between the Executive Director, Department of Tourism, Gorkhaland Territorial Administration and Indus Tower Ltd, Kolkata, signed on the 27th Oct 2022, and in terms of section 11.2 of the said agreement the agreement stands terminated with affect from 02/06/2024.

You are therefore requested to dismantle all the towers and remove all accessories by 2nd June 2024, and handover to the representative of Divisional of Forest officer Wildlife Division, Darjeeling.

Enclosed: As stated

**Principal Secretary
Gorkhaland Territorial Administration.**

Memo No.253(1)/PS/GTA/2023-24

Date: 02/05/2024

Copy forwarded for information and necessary action:

1. The Divisional Forest Officer, Wildlife Division, Darjeeling

**Principal Secretary
Gorkhaland Territorial Administratio**



Without Prejudice

indus TOWERS



Pt. discon

Handwritten signature/initials.

10th May 2024

To,
The Principal Secretary,
Gorkhaland Territorial Administration,
Secretariat Building, Lal Kothi,
Darjeeling, 734101.
E mail gtapsecretary@gmail.com

Reg: Reply to your Memo No 253/PS/GTA 2023-24 dated 02.05.2024 sent by you.

Ref Telecom Site ID No: IN-1064473; Site Name : Darjeeling -03;

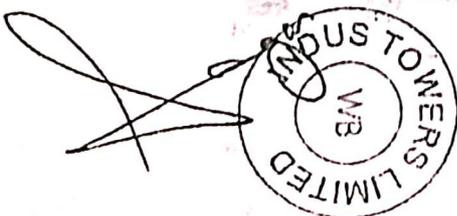
Dear Sir/Madam,

M/S Indus Towers Limited hereinafter referred to as the "Company" have received your above mentioned letter wherein you have requested the company to dismantle and remove the mobile telecommunication tower by 02.06.2024 based on rights enshrined upon you as referred in clause no 11.2 of the agreement dated 27.10.2022 executed amongst both the parties.

This is to apprise you that an agreement dated 27.10.2022 is executed amongst both the parties herein for a period of 5 (Five Years) from 01.10.2021 to 30.09.2026 and the company hereby sincerely thanks the Gorkhaland Territorial Administration, for their support and cooperation extended to the company in operating and maintaining the mobile telecommunication at the said area .

That as referred in clause in 11.2 of the said agreement only the licensee that is the company has the power to terminate the existing agreement by providing 30 days notice to the licensor hence your such assertion is not tenable in eyes of law . In light of the facts and circumstances you are hereby most humbly requested to rescind or recall your aforesaid letter demanding removal of mobile tower.

Furthermore, company hereby likes to bring to your kind information that vide different communication and directives issued by Govt. of India and Govt. of West Bengal, it has inter-alia been pointed out that :- Telecom operations are a critical part of the country's Information Infrastructure, Telegraph or Telephone Service is an "essential service" as per Disaster Management, Act and under section 2 (a) of the Essential Services Maintenance Act, 1968 and Telephone Service has been defined as public utility service under Section 22 A(b) of Legal Service Authority Act, 1987 and section 2(n) of Industrial Disputes Act, 1947.



Indus Towers Limited

Page 1 of 2

Circle Office : Godrej Waterside Tower-1, 8th Floor, Unit-801, Plot No. 5, Block - DP, Sector - V, Salt Lake City, Kolkata - 700091, West Bengal | Tel: +91 033 44051400
Registered Office : Building No. 10, tower A, 4th Floor, DLF Cyber City, Gurugram - 122002, Haryana | Tel: +91 - 124-4132600 Fax : +91 124 4109580



indus
TOWERS

You will also appreciate a fact that Mobile towers play a pivotal role in expanding and enhancing the coverage of mobile and wireless networks. They help in providing better signal strength and connectivity in areas that might otherwise have poor or no network coverage . Mobile telecommunication tower will also help the local at large and all government, private employees, all students and professionals and business communities, tourists, leading to the economic growth of the area and State of West Bengal.

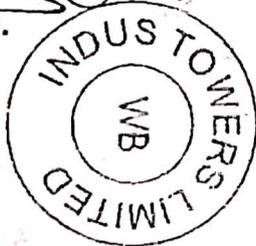
In case of any further query or any assistance you may contact Mr. Souvik Choudhary at 9804447546 or in case of any escalation to Mr. Rupak K Singh at 9831049891 or vide mail at : rupakkumarsingh @industowers.com or at sagar.saini@industowers.com

Thanking You,

Yours Faithfully

For Indus Towers Limited

(Circle Legal Head -W.B)
Sagar Saini.





GORKHALAND TERRITORIAL ADMINISTRATION
OFFICE OF THE PRINCIPAL SECRETARY
Secretariat Building, Lal Kothi, Darjeeling - 734101
e-mail: gtaprsecretary@gmail.com

No. 259/PS/GTA

Dated : 10/05/2024

**From: The Principal Secretary,
Gorkhaland Territorial Administration**

**To: The Estate Manager,
Indus Tower Ltd,
Kolkata.**

Sub: Relocate of the Cellular Tower at Tiger Hill Sinchal Wildlife Sanctuary.

**Ref. : This office Memo. No. 253/PS/GTA/2024-25 dated 02/05/2025.
Memo. No. 1279/WL/13-5 dated 01/09/2015 of Divisional Forest Officer,
Darjeeling Wildlife Division.**

Sir,

In partial modification of this office Memo No. 253/PS/GTA/2024-25 dated 02/05/2024, you are kindly requested the relocate of the cellular tower situated at Tiger Hill Sinchal Wildlife Sanctuary to an alternative location within GTA owned area and falling outside the jurisdiction of the Department of Forest.

This is for favour of your kind information and necessary action at your earliest convenience.

Thanking you.

Yours faithfully,

**Principal Secretary
Gorkhaland Territorial Administration**

**Encl: Memo. 1279/WL/13-5
dated 01/09/2015**

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GORKHALAND TERRITORIAL ADMINISTRATION
OFFICE OF THE EXECUTIVE DIRECTOR
SECRETARIAT BUILDING, LALKOTHI, DARJEELING – 734101

e mail : edt@tourismgta@yahoo.com / Website : Darjeeling.kalimpong-tourism.com
 (Phone No : 0354 2259043 & 0354 2254846, Fax No : 0354 2254932)

Memo No. 433/ED/TRM/GTA/2024-25

Date: 12/02/2025

To,
 The Estate Manager,
 INDUS Towers Limited, Kolkata

Subject : (Meeting at Lalkhoti ,Secretariat Building Darjeeling on 18th February 2025)

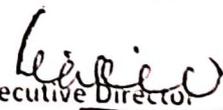
Sir,

With reference to the above subject you are hereby informed that a case is pending before the Hon'ble National Green Tribunal regarding the existing construction and installation on Tiger hill.

Since, your company is also having a Tower at Tiger hill, a letter had been issued to you on 10th May "2024" vide Memo No: 259/P.S /GTA/ 24-2025 Dated : 10/05/2024 requesting you to relocate the same . However, no action has been taken on your behalf as on date.

In this regard you are requested to attend the meeting at Lalkhoti Darjeeling on 18th February 2025 at 1:00 pm

Yours sincerely,


 Executive Director

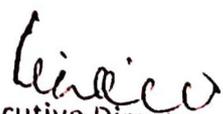
Department of Tourism
 Gorkhaland Territorial Administration

Memo No. 433 /ED/TRM/GTA/2024-25

Date: 12/02/2025

Copy forwarded for information to:

1. The Executive Sabhasad Tourism Dept. G.T.A Darjeeling.
2. The, OSD to the Hon'ble Chief Executive of GTA, Lalkothi, Darjeeling.
3. The Assistant Director Of Tourism, G.T.A.
4. The PA to the Principal Secretary, GTA, Lalkothi, Darjeeling
5. The PA to the Secretary, GTA, Lalkothi,


 Executive Director

Department of Tourism
 Gorkhaland Territorial Administration

~~30~~

**VAKALATNAMA
BEFORE THE NATIONAL GREEN TRIBUNAL
EASTERN ZONE BENCH, KOLKATA**

ORIGINAL APPLICATION NO.80/2024/EZ

IN THE MATTER OF:
SUBHASH DATTA

...APPLICANT

VERSUS

STATE OF WEST BENGAL & ORS.

...RESPONDENT(S)

KNOW All to whom these presents shall come that I, Suden Tshering Bhutia, currently posted at Secretary, Gorkhaland Territorial Administration, Respondent No.8 herein, do hereby appoint: -

SUJIT KUMAR SINGH
Advocate for the Respondent No.8
A-1/712, Ekta Gardens, 9, I.P. Extension, Delhi-110 092
Mob: 09810258079, Email:-sujitsingh303@gmail.com
D/1188/1998(R)

Hereinafter called Advocate to be my Advocate in the above noted case and authorize him: -

To act appear and plead in the above noted case in this court or in any other court in which the same be tried or heard and also in the appellate Courts,

To sign, file verify and present pleadings, replications, appeals, cross-objections, or petitions for executions, review revision restoration withdrawal, compromise or other petitions replies, objections or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To withdraw, or compromise the said case.

To deposit draw and receive moneys, cheques and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecutions of the said case.

To appoint instruct any other Legal practitioner authorizing him to exercise the power and authorities hereby conferred upon the Advocate whenever he may think fit to do so and sign the power of attorney on my/our behalf.

And I/We the undersigned do hereby agree to rectify and confirm act as if done by the Advocate or his substitutes in the matter as my/our own acts. as if done by me/us to all contents and purposes.

And I/We undertake that I/We or my/our duly authorized agent would appear in court on all hearing and will inform the Advocate for appearance when case is called.

And I/we the undersigned do hereby agree not to hold the Advocate or his substitute responsible to the result of the said case in consequence of his absence from the court when the sale case is called up for hearing or any negligence of the said Advocate or his substitute.

And I/We the undersigned do hereby agree that in the event of the whole or any part to the fee agreed by me/us to the Advocate remaining unpaid they will be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court. I/We hereby agree that once the fee is paid I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 year the original fee shall be paid again by me/us.

IN WITNESS WHERE OF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us this 16th day of January, 2025.

Accepted subject to the terms of the fees


SUJIT KUMAR SINGH
Advocate


ABHISHEK MEHRA
Advocate
D/6960/2023


Client

Secretary, GTA
Ex-officio Special Secretary
to the Govt. of West Bengal



sujit singh <sujitsingh303@gmail.com>

OA 80 of 2024 Subhas Datta Vs State of WB & Ors

1 message

sujit singh <sujitsingh303@gmail.com>

Mon, Mar 3, 2025 at 4:10 PM

To: subhasdatta@rediffmail.com

Cc: arijitmitraosd@gmail.com, sujitsingh303@rediff.com

IN RE: OA 80 of 2024 Subhas Datta Vs State of WB & Ors

Find attached reply being filed on behalf of Respondent No.8 in the matter under reference



Reply by Respondent 8.pdf

17486K

BEFORE THE NATIONAL GREEN
TRIBUNAL, EASTERN ZONE BENCH,
KOLKATA

O.A. NO.80/2024/EZ

IN THE MATTER OF:-

SUBHAS DATTA

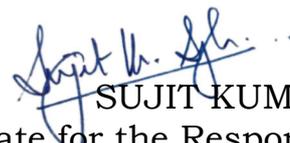
...APPLICANT

VERSUS

STATE OF WEST BENGAL & ORS.

...RESPONDENTS

REPLY AFFIDAVIT ON BEHALF OF
THE RESPONDENT NO.8



SUJIT KUMAR SINGH
Advocate for the Respondent No.8
A-1/712, Ekta Gardens
I.P. Extension, New Delhi-92
(M):-9810258079
Email: sujitsingh303@rediff.com