

## THE MAHARASHTRA STATE SEZ ACT, 2002

An Act to facilitate the development, financing, operation, maintenance, management and administration and regulation of Special Economic Zones in the State of Maharashtra.

The Act is enacted as follows:

### PRELIMINARY

#### 1. Short Title, Extent and Commencement

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- (1) This Act may be called the Maharashtra State SEZ Act, 2002.
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may by notification in the Official Gazette, appoint.

#### 2. Definitions

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- (1) In this Act, unless the context otherwise requires -
  - (a) "Act" means the Maharashtra State Special Economic Zone Act, 2002;
  - (b) "Developer" means a Person who develops, builds, designs, organizes, promotes, finances, operates and/or maintains a part and/or whole of the infrastructure(s) and other facilities of the Zone and who has been selected as per section 4 and 5 of this Act.
  - (c) "Chief Secretary" shall mean the Chief Secretary of the State of Maharashtra.
  - (d) "Co-developer" shall mean a Person who has entered into firm, written and binding contractual agreement with the Developer to develop, build, design, organize, promote, finance, operate and/or maintain a part or whole of the infrastructure and other facilities of the Zone in association with Developer;
  - (e) "Development Commissioner" means the officer appointed by Department of Commerce, Ministry of Commerce and Industries, Government of India, to perform the functions/ and vested with the power and authority of Development Commissioner in relation to this Act;
  - (f) "Empowered Committee" means the committee set up by the Government of Maharashtra under sub-section (2) of section 5 of this Act for providing single window clearance for the Developer of the Zone;
  - (g) "Government of India" or "GOI" means Government of India;
  - (h) "Government" or "GoM" means the Government of Maharashtra;
  - (i) "Infrastructure services" includes the following services and projects in the Zone:
    - Electricity generation, transmission and distribution;
    - Water, drainage and sewerage;

- Gas, steam, LPG transmission and distribution;
  - Communication (Telecom, internet etc);
  - Information Technology and infrastructure;
  - Roads and highways;
  - Port;
  - Airport;
  - Industrial park
  - Hospitals and healthcare facilities;
  - Education facilities;
  - Entertainment and leisure facilities;
  - Public health and sanitation projects and services
  - Any other such services as notified by the government;
- (j) “Off-Zone supplier” means a unit located outside the Zone, providing goods or services or both to Developer/Co-developer, Operator, Tenant or Resident or any or all of them;
- (k) “Operator” means a person engaged by the Developer or the SEZ Authority in providing Infrastructure Services in whole or in part in the Zone;
- (l) “Person” shall include any individual, firm, company or association or body of individuals whether incorporated or not;
- (m) “Regulations” shall means any regulations made under this Act.
- (n) “Resident” means a person residing in the Zone for an aggregate period of not less than 180 days in a year;
- (o) “Secretary” means Secretary, Ministry of Industries, Energy and Labour to the Government of Maharashtra;
- (p) “Special Economic Zones (SEZ)” means a zone which has received approval as a Special Economic Zone by the Inter Ministerial Committee of the Government of India and the geographical area declared and notified in the Official Gazette as Special Economic Zone by the Government of Maharashtra.
- (q) “SEZ Authority” means the authority established for the Zone under section 10 of the Act.
- (r) “Tenant” means a unit/enterprise in whole or part, which occupies space within the Zone for carrying out its approved business;
- (s) “Zone” means the Special Economic Zone.

### 3. Establishment of the Zone

- (1) Any person, subject to section 4 & 5 can develop, finance, operate, maintain, manage and administer a Special Economic Zone in the State of Maharashtra.

#### 4. Selection of the Developer and Procedure for Approval

- (1) The Government shall identify and notify the area to be developed as a Zone and invite proposals for the development of the same by the public, private, joint sector or by any instrumentality of the Government. The Government shall select a Developer for the purpose of development of the Zone. The scheme for selection of the Developer shall be such as prescribed by the Government.
- (2) The proposal for establishing the Zone shall be forwarded to the Chief Secretary indicating the name and address of the Developer along with a project report containing the following particulars:
  - a) Location of the proposed Zone with details of the existing infrastructure and that which is proposed to be established;
  - b) Distance of the Zone from the nearest airport/seaport/road/rail head.
  - c) Financial details including the investment proposed, mode of financing the project and viability of the projects;
  - d) Details of foreign equity and repatriation of dividends;
  - e) Industries that will be permitted to operate in the Zone.
- (3) Proposals for establishing the Zone shall be forwarded by the Government to the Department of Commerce, Government of India for its permission along with the following commitment from the Government;
  - a) The area incorporated in the Zone is free from any environmental restrictions;
  - b) Water, electricity and other services would be provided as required;
  - c) Full exemption on electricity duty and tax on sale of electricity for self generated and purchased power;
  - c) To allow, generation, transmission and distribution of power within the Zone;
  - d) Exemption from sales tax, octroi, mandi tax, turnover tax and taxes, duties, cess, levies on supply of goods from Domestic Tax Areas to the Tenants established in the Zone;
  - e) For Tenants inside the Zone, the power under the Industrial Disputes Act and other related acts would be delegated to the Development Commissioner or to an officer posted exclusively for the Zone and the Zone will be declared as a public utility service under the Industrial Disputes Act;
  - f) Single point clearances system and minimum inspections requirement under the applicable laws promulgated by the Government.
  - g) Such other commitments/requirements as may be specified by the Government of India or by any other regulatory authority from time to time.
- (4) The proposal of the Developer incorporating the commitments of the Government shall be forwarded to the Inter Ministerial Committee of the Government of India constituted for purpose of approving the setting up of SEZ and upon acceptance of the proposal a letter of permission shall be issued to the applicant.

- (5) Within 30 days of the receipt of the letter of permission from the Government of India, the Government shall approve the proposal and shall notify the area as a Special Economic Zone.

## 5. Empowered Committee

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- (1) The Government shall constitute an Empowered Committee for granting a single window clearance for the development of the Zone on receipt of such approval from the Inter Ministerial Committee of the Government of India.
- (2) The Empowered Committee shall be headed by an officer of the rank of Secretary or above.
- (3) The constitution of the Empowered Committee shall be such as may be decided by the Government from time to time.

## 6. Extent

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- (1) For the purpose of this Act, the area within the limits specified by the Government by notification in the Official Gazette under section 4(5) shall constitute the Zone. Such area shall be deemed to be a foreign territory for the purposes of trade operations, duties and tariffs.
- (2) The Government may from time to time after consultation with the Developer and by notification in the Official Gazette alter the limits specified for any Zone under sub-section (1) so as to include therein, or to exclude therefrom, such area as specified in the notification.
- (3)
  - (a) Where by a notification under sub-section (2) of this section any area is included within the limits of the Zone, all appointments, notifications, notices, taxes, orders, schemes, licenses, permissions, rules, bye-laws or forms made, issued, imposed or granted under this Act to the Zone, and in force within the Zone immediately before the area is included in the Zone shall, notwithstanding anything contained in this Act or any other law for the time being in force, extend to and be in force in the area so included from the date on which the area is included in the Zone.
  - (b) Where there are in force in the area included in the Zone, any appointments, notifications, notices, taxes, orders, schemes, licenses, permissions, rules, bye-laws or forms immediately before such area is included in the Zone either corresponding or inconsistent with the appointments, notifications, notices, taxes, orders, schemes, licenses, permissions, rules, bye-laws or forms extended and brought into force by sub-section (3)(a), such appointments, notifications, notices, taxes, orders, schemes, licenses, permissions, rules, bye-laws or forms shall stand superseded.
  - (c) Where by notification under sub-section (2) of this section, any area is excluded from the limits of the Zone, all appointments, notifications, notices, taxes, orders, schemes, licenses, permissions, rules, bye-laws or forms made, issued, imposed or granted under this Act in respect of the Zone and in force within its area immediately before the area is excluded from the Zone shall, notwithstanding anything contained in this Act or any other law for the time being in force, continue to be in force in the area so excluded until they are superseded or modified.

Provided that the Government shall not issue any notification to supersede or modify any prior notification mentioned in clause(c) above without giving the Developer and the SEZ Authority written notice 90 days prior to such supersession or modification.

- (4) With effect from the date on which this Act comes into force, Chapter III, Chapter IV and Section 31 of the Urban Land (Ceiling and Regulation) Act, 1976 shall be inapplicable to all land held by a Tenant or Developer for promoting or developing an SEZ or for the purpose of carrying on any commercial activity within the SEZ.

## 7. Zone Administration

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The following two authorities shall be constituted in each Zone to perform the various management and administration functions in the Zone, namely-

- (a) Zone Board;
- (b) Special Economic Zone Authority ("SEZ Authority").

## 8. Zone Board

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### ***Composition of the Zone Board***

- 1) The Zone Board shall comprise of :
  - a) The Development Commissioner of the Zone appointed by the Government of India;
  - b) A nominee of the Central Board of Excise and Customs, Ministry of Finance, Government of India;
  - c) One official appointed by the Government;
  - d) A nominee of the Developer.
- 2) The Development Commissioner shall be the ex-officio Chairman of the Zone Board.
- 3) The Zone Board shall meet at such places as may be decided by the Chairman.

### ***Meetings of Zone Board***

- a) The meetings of the Zone Board shall be held at least once every three months and at least four such meetings shall be held in a year.
- b) The quorum necessary at any such meeting of the Zone Board shall be three.
- c) Decisions, regarding any business transacted, at such meeting shall be taken by a simple majority. In the case of an equality of votes the Chairperson shall have the casting vote.
- d) No act or proceeding of the Zone Board shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Zone Board or any defect in the nomination of a person as the Chairperson or a Member or any irregularity in the procedure of the Zone Board including issuing of notice for holding of meeting, not affecting merits of the matter.

**Functions of the Zone Board**

- 1) The Zone Board shall provide an interface between the Government of India and the Government, and the Developer, the Tenants, Residents of the Zone from time to time.
- 2) The functions of the Zone Board shall include:
  - a) Maintenance of land records;
  - b) Setting town planning and urban development standards, as per the Regulations;
  - c) Registering of births, marriages and deaths;
  - d) Maintenance of law and order.
- 3) The Zone Board shall have the power to frame Regulations, rules and byelaws in relation to the above functions.

**9. Powers of Development Commissioner**

- (1) The Development Commissioner shall have the following powers namely:
  - (a) Acting as the registering authority for Tenants in the Zone.
  - (b) Allotting the Importer-Exporter code number for Tenants in the Zone.
  - (c) Granting approvals for all matters relating to post approval operation of an establishment in the Zone, including import/ procurement of additional capital goods, increase in value of capital goods on account of foreign exchange rate fluctuations, enhancement of production capacity, broad banding/ diversification, change in name of the company or the implementing agency and change from a company to another provided the new implementing agency/ company undertakes to take over the assets and abilities of the existing unit and merger of two or more Zone units and extension of validity of LOP/LOI.
  - (d) Exercising the powers of adjudication under Section 13 read with Section 11 of Foreign Trade (Development & Regulation) Act, 1992 for Tenants.
  - (e) Valuation of exports declared on SOFTEX form by Tenants in the Zone.
  - (f) Issuing eligibility certificates for grant of employment visa to low level foreign technicians to be engaged by Tenants in the Zone.
  - (g) Approving applications for setting up of enterprises in the Zone, other than proposals for setting up of enterprises in the services sector (except software and IT enabled services, trading or any other service activity as may be delegated by the BOA), provided that the item of manufacture does not require an industrial license under the Industries (Development & Regulation) Act, 1951.
  - (h) The Power to grant provisional and permanent small scale industry registration, letter of intent and registration for units engaged in information technology.
  - (i) Issuing Green Card to the Tenants automatically after execution of Legal Undertaking.

- (j) Performing the functions of the Labour Commissioner, as laid down in Section 25 of this Act.
- (k) Performing the functions of the State Pollution Control Board, as laid down in Section 34(2) of this Act.

## 10. Special Economic Zones as Industrial Township

### (1) **Specification of Special Economic Zone as Industrial Township**

The State Government shall declare the Zone to be an industrial township under the proviso to clause (1) of Article 243-Q of the Constitution of India The Zone shall be governed subject to the provisions of this chapter.

### (2) **Incorporation of SEZ Authority**

For every Zone there shall be a SEZ Authority. Every such SEZ Authority shall be a body corporate by the name of "the \_\_\_\_\_ SEZ Authority" and shall have perpetual succession and a common seal, and shall have power to acquire, hold and dispose of property and to enter into contracts and may by that name sue and be sued.

### (3) **Constitution of SEZ Authority in Special Economic Zone**

The SEZ Authority in the Zone shall consist of:

- a) Chairperson - to be nominated by the Developer;
- b) Two members to be nominated by the Developers;
- c) One member to be nominated by the Tenants;
- d) One member to be nominated by the Development Commissioner.

### (4) **Term of Office of Members**

- a) The term of office of the Chairperson and the Members nominated shall be five years. On the completion of the term, fresh nomination is to be made as specified in Section 10(3) above.
- b) Any casual vacancy arising for any reason, such as death or disablement of the Chairperson or a member, shall be filled in by nomination in such manner that the Constitution of the SEZ Authority as provided in sub-section (3) is unaltered.
- c) Any member so nominated under clause (b) sub-section (4) above shall hold office only for the remainder of the term for which the member, in whose place he is nominated would have held such office.

### (5) **Meetings of SEZ Authority**

- e) The SEZ Authority shall meet at least once in a month.
- f) The quorum necessary at any such meeting of the SEZ Authority shall be three.
- g) Decisions, regarding any business transacted, at such meeting shall be taken by a simple majority. In the case of an equality of votes the Chairperson shall have the casting vote.

- h) No act or proceeding of the SEZ Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the SEZ Authority or any defect in the nomination of a person action as the Chairperson or a Member or any irregularity in the procedure of the SEZ Authority including issuing of notice for holding of meeting, not affecting merits of the matter.

(6) ***Authentication of orders and documents of SEZ Authority***

All documents of the SEZ Authority shall be authenticated by the signature of the Chairperson of the SEZ Authority or any other officer authorised by the SEZ Authority in this behalf.

(7) ***Functions and duties of SEZ Authority***

- a) It shall be incumbent on the SEZ Authority to make adequate provision, by any means or measures which it is lawfully competent for them to use or to take, for each of the following matters, namely:-
- (i) lighting public streets, places and buildings;
  - (ii) cleaning public streets, places and sewers, removing noxious vegetation and abating all public nuisances;
  - (iii) extinguishing fires and protecting life and property when fires occur;
  - (iv) securing and removal of dangerous buildings and places;
  - (v) removal of obstructions and projections in or upon streets, bridges and other public places;
  - (vi) constructing, altering and maintaining public streets, culverts, boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage works, sewerage works, baths, washing places, drinking fountains, tanks, wells, and the like;
  - (vii) enforcing town planning and urban development standards, granting approvals and approving changes within the norms prescribed by the Zone Board;
  - (viii) supply of protected drinking water to the inhabitants of the Special Economic Zone and obtaining a supply of an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply;
  - (ix) granting leases to the Tenants as per the provisions of this Act;
  - (x) removal of unauthorized constructions.
  - (xi) Such other functions that may be delegated to the SEZ Authority by the Government.
- b) In the event that the Developer also provides residential facilities in the Zone, the SEZ Authority shall also provide the following facilities to the Residents;
- (i) Acquiring and maintaining places for the disposal of the dead;
  - (ii) Establishing and maintaining public dispensaries, and providing public medical relief and organizing Family Planning Centres;
  - (iii) Establishing and maintaining educational facilities;

(8) ***Powers of SEZ Authority in the Zone***

- a) The SEZ Authority in the Zone shall have the powers to do anything which may be necessary or expedient for the purposes of carrying out its functions under this Act. The SEZ Authority may, for its purpose, by an order delegate such powers as it may deem fit.
- b) Without prejudice to the generality of the foregoing powers, it shall levy fees or services charges for the maintenance of roads, drainage, water supply, lighting and such other services and amenities as may be provided by it, including provision of street lighting. Such fees or charges may be levied on the Tenants or any other Person receiving the benefit of such services or amenities.

(9) ***Power to makes rules***

The SEZ Authority may make rules for conducting activities and carrying out it functions under this Chapter. No previous sanction of the State Government or the Development Commissioner or the Zone Board shall be required will be required for these rules to be effective.

(10) ***Powers to suspend execution of orders and resolutions of SEZ Authority in Zone, on certain grounds***

If, in the opinion of the Development Commissioner, the execution of any Regulations order or resolution of the SEZ Authority in the Zone or the doing of anything which is about to be done or is being done by or on behalf of the SEZ Authority is causing or is likely to cause injury or annoyance to the public or is against public interest or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

**Provided** that before such an order is passed, a showcause notice be issued by the Development Commissioner to the SEZ Authority and the SEZ Authority may, if it so desires, forward a statement in response to the showcause notice, to the Development Commissioner, within twenty days from the receipt of such showcause notice, after which period it shall be presumed that the SEZ Authority has no objection if the order of the Development Commissioner is passed.

**Provided further** that the Development Commissioner shall take into account the statement of the SEZ Authority if received, before such an order is passed.

(11) ***Power to appoint Administrator in certain circumstances***

If, in the opinion of the State Government, the SEZ Authority is unable to or has failed to perform its duties or to carry out its functions, properly and satisfactorily, the State Government may, after giving the SEZ Authority a reasonable opportunity of being heard, by an order in writing published in the Official Gazette, appoint a Government Officer as an Administrator of the said Special Economic Zone, for a period specified in the order.

(12) ***Non-Application of Regional and Town Planning Act***

- (a) The Government shall by notification in the Official Gazette declare the SEZ Authority to be a New Town Development Authority under section 113-A of the Maharashtra Regional and Town Planning Act, 1966.
- (b) Upon the publication of such a notification in the Official Gazette, the provisions of the Maharashtra Regional and Town Planning Act, 1966, and any regulations, notifications or rules framed thereunder, shall have no application in the area of a Special Economic Zone.

## 11. Fiscal Benefits

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- (1) Notwithstanding anything contained in any other Act, including the Maharashtra State Sales Tax Act, the Bombay Sales of Motor Spirit Taxation Act, the Maharashtra Entertainment Tax Act, the Maharashtra Tax on Luxuries (Hotels and Lodging Houses) Act and the Bombay Stamp Act, the Government shall provide the fiscal benefits as enumerated in the following sections to the Developers/ Co-developers, Operators, Tenants, Residents and Off-Zone Suppliers of the Zone.
- (2) Any Developer/Co-developer, Operator, Tenant, Resident or Off-Zone Supplier of the Zone who avails of the fiscal benefits offered under this Act shall not be eligible for any other fiscal benefits offered to establishments in the State under any other Act, including the Maharashtra State Sales Tax Act, the Maharashtra Tax on Luxuries (Hotels and Lodging Houses) Act and the Bombay Stamp Act.
- (3) All land notified by the Government as area to be demarcated as a Zone, whether in the possession of the Developer/Co-Developer, Operator, Tenant, Resident or Off Zone Supplier shall be exempted from any liability for the payment of land revenue under the provisions of the Maharashtra Land Revenue Code, 1966.
- (4) The incentives available to the Developer/Co-developer, Operator, Tenant, Resident or Off-Zone Supplier of the Zone shall be as follows, namely-

## 12. Fiscal Benefits to the Developer/Co-developer

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- (1) The Developer/Co-developer of the Zone shall be exempt from the payment of Purchase Tax on purchases made from unregistered dealers, of goods required and used for the establishment and development of Infrastructure services.
- (2) The Developer/Co-developer of the Zone shall be eligible for the refund of Central Sales Tax (CST) paid on the purchase of goods required and used for the establishment and development of Infrastructure services.
- (3) The Developer/Co-developer of the Zone shall be exempt from the payment of tax on specified sales (Lease Tax) in respect of lease of goods required and used for the establishment and development of Infrastructure services.
- (4) The Developer/Co-developer of the Zone shall be exempt from the payment of tax in respect of Works Contracts executed for the establishment and development of Infrastructure services.
- (5) The Developer/Co-developer of the Zone shall be exempt from the payment of Stamp Duty on any instrument executed in relation to transactions for establishment and development of the Zone.
- (6) The Developer/Co-developer of the Zone shall be exempt from the payment of tax on the purchase of motor spirit required and used for establishment and development of Infrastructure services.
- (7) The Developer/Co-developer shall be exempt from the payment of all cess and duties levied by the State Government and Local Authorities.

### 13. Fiscal Benefits to the Operator

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- (1) The Operator of the Zone shall be exempt from the payment of Purchase Tax on purchases made from unregistered dealers, of goods required and used for the operation and maintenance of Infrastructure services.
- (2) The Operator of the Zone shall be eligible for the refund of CST paid on the purchase of goods required and used for the operation and maintenance of Infrastructure services.
- (3) The Operator of the Zone shall be exempt from the payment of tax on specified sales (Lease Tax) in respect of lease of goods required and used for the operation and maintenance of Infrastructure services.
- (4) The Operator of the Zone shall be exempt from the payment of tax in respect of Works Contracts executed for the operation and maintenance of Infrastructure services.
- (5) The Operator of the Zone shall be exempt from the payment of Stamp Duty on any instrument executed in relation to transactions for operation and maintenance of the Zone.
- (6) The Operator of the Zone shall be exempt from the payment of tax on the purchase of motor spirit required and used for operation and maintenance of Infrastructure services.
- (7) The Operator shall be exempt from the payment of all cess and duties levied by the State Government and Local Authorities.

### 14. Fiscal Benefits to the Tenant

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- (1) The Tenant shall be exempt from the payment of Purchase Tax on purchases made from unregistered dealers of goods required and used in establishments within the Zone.
- (2) The Tenant shall be exempt from the payment of Sales Tax on the sale of goods to the Developer/ Co-developer, Operator, Tenant or Resident within the Zone for use in the Zone.
- (3) The Tenant shall be eligible for the refund of Central Sales Tax paid on the purchase of goods required and used in establishments within the Zone.
- (4) The Tenant shall be exempt from the payment of tax on specified sales (Lease Tax) in respect of lease of goods required and used in establishments within the Zone.
- (5) The Tenant shall be exempt from the payment of tax in respect of Works Contracts executed for the construction and maintenance of factories, buildings or other facilities within the Zone.
- (6) The Tenant shall be exempt from the payment of Stamp Duty on any instrument executed within the Zone to the extent and for such period as may be specified by the Government by notification hereunder
- (7) The Tenant shall be exempt from the payment of tax on the sale and purchase of motor spirit to and in establishments within the Zone.
- (8) The Tenant shall be exempt from the payment of entertainment tax on services provided within the Zone.

- (9) The Tenant shall be exempt from the payment of luxury tax on services provided within the Zone.
- (10) The Tenant shall be exempt from the payment of all cess and duties levied by the State Government and Local Authorities.

## **15. Fiscal Benefits to the Resident**

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- (1) The Resident be exempt from the payment of Stamp Duty on any instrument executed within the Zone to the extent and for such period as may be specified by the Government by notification hereunder.
- (2) The Resident shall be exempt from the payment of all cess and duties levied by the State Government and Local Authorities.

## **16. Fiscal Benefits to Off-zone Supplier**

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The Off-Zone Supplier shall be exempt from the payment of Sales tax on sale of goods and services to the Developer/Co-developer, Operator or Tenant of the Zone.

## **17. Provision of Infrastructure Services**

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Notwithstanding anything contained in any other Act, the Developer, Co-Developer/Operator/agent of the Developer/Off Zone Supplier/Tenant shall be free to develop, construct, install, operate, manage, and maintain all or any of the Infrastructure Services without requiring any licence or approval from any authority provided that the provision of such infrastructure services is in accordance with the proposal of the Developer that has been approved by the Government.

## **18. Freedom to Provide Services and Charge Tariff**

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- (1) Notwithstanding anything in any other Act/Agreement/License, the Developer/Co-developer/Operator/Agent of the Developer of the Zone shall be free to develop, construct, install, operate, manage, and maintain any or all of the following services for the purpose of providing services to Tenants and Residents, without any license, namely-
  - (a) Generation, transmission & distribution of electricity
  - (b) Water extraction, treatment, transmission and distribution
  - (c) Waste water treatment
  - (d) Provision of ports, airports & related services
  - (e) Provision of roads & highways
  - (f) Any other services as may be prescribed by Regulation
- (2) Notwithstanding anything contained in any other Act, the provider of the facility/services under sub-section (1) to the Zone shall be free to set charge/levy fee for providing such services.

## 19. Generation, Transmission & Distribution of Electricity

- (1) The following provisions shall apply to the generation, transmission & distribution of electricity in the Zones, namely-
  - (a) Any person shall be free to generate & supply electricity within the geographical area of the Zone, under the terms & conditions of power supply and sale agreed to between the power generator and the distributor.
  - (b) The distribution and supply of electricity in the Zone shall be outside the purview of the Maharashtra Electricity Regulatory Commission.
  - (c) Any person generating electricity in the Zone shall be allowed to supply electricity to the State Electricity Boards as per government approvals and terms and conditions agreed by the generator and the SEB.
- (2) The power provider including utilities for generation, transmission, distribution or supply of electricity shall be entitled to all the tax exemption enjoyed by other industrial/commercial units located in SEZ. These tax exemptions will *inter alia* include customs, octroi, sales, excise duty, etc.
- (3) If the power producer is located outside the SEZ and lays transmission lines to feed the SEZ requirements:
  - (a) It will be permitted similar tax exemption as stated in para 2 to correspond to quantity of power supplied to SEZ. This will apply to all Fixed Costs incurred for the purpose of power supply and to all variable input costs like fuel, oil, water, etc.
  - (b) The tariff charged shall be outside the purview of the MERC.
  - (c) The power provided shall not require additional license to set up transmission lines/distribution network to facilitate power supply to SEZ. Such transmission/distribution lines can be laid in the area of State Electricity Board for which no additional authorization would be needed one SEZ has consented to take power from the said power provider.
- (4) For the provision of products/services of infrastructure as defined in this Act, relevant Acts, guidelines, rules and regulations prevalent in India shall be applicable for quality or product/service and safety requirements.
- (5) The supply and distribution of power from the Zone to consumers, transmission companies or distribution companies outside the Zone shall be subject to the provisions of the ERC Act 1998.
- (6) Any sale of electricity to the Zone shall be exempted from payment of tax on the sale of Electricity to a Developer/Co-developer, Operator, Tenant or Resident of the Zone.

## 20. Water Extraction, Treatment, Transmission and Distribution

- (1) The Developer/Co-developer or Operator shall be permitted to set up systems and facilities for Water extraction, treatment, transmission and distribution within the Zone, provided the minimum service standards are met.
- (2) The Developer/Co-developer or Operator shall be permitted to set and collect tariffs for the supply of water within the Zone.

## **21. Wastewater and Solid Waste Management and Treatment**

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- (1) The Developer/Co-developer or Operator shall be permitted to set up systems and facilities for wastewater and solid waste management and treatment in the Zone, provided the minimum service standards are met.
- (2) The Developer/Co-developer or Operator shall be permitted to set and collect tariffs for the management and treatment of wastewater and solid waste in the Zone.

## **22. Ports and Airports**

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- (1) The Developer/; or Operator shall be permitted to develop, operate and maintain a port and/or an airport for the conveying goods and Persons for the purpose of carrying out the activities of the Zone.
- (2) The Developer/Co-developer or Operator shall be permitted to handle/ landing of goods and persons (not meant for the Zone) as per the terms and conditions prescribed by Maharashtra Maritime Board and, the Airports Authority of India and Directorate General of Civil Aviation.
- (3) The Developer/Co-developer or Operator shall be permitted to set and collect tariffs from the vessels/aircrafts using the facilities of the port/airport and on the goods landed and shipped at the port, subject to the port/airport meeting all the minimum performance standards set up the relevant central and state, maritime and aviation regulatory authorities and the payment of all the relevant dues to such authorities.

## **23. Roads**

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The Developer/Co-developer or Operator, or any of his agents shall be permitted to develop, operate and maintain the road network within the Zone and to charge and retain fee/toll for the same.

## **24. Labour<sup>1</sup>**

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## **25. Development Commissioner as Labour Commissioner**

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- (1) The Development Commissioner of the Zone shall be vested with all the powers of the Labour Commissioner under the Industrial Disputes Act-1947 and such other acts and the rules and regulations thereunder specified in Schedule B hereto.
- (2) The Development Commissioner shall be empowered to resolve disputes under Section 11-A of the Industrial Disputes Act, 1946.
- (3) The Development Commissioner shall have the power to accept and scrutinize the Annual Statements of Compliance submitted under section 26(1) of the Act, and to carry out such inspections and in such manner as may be prescribed by Regulation.

- (4) The Development Commissioner shall be vested with the powers of dispute-resolution for setting labour related disputes, and such dispute-resolution mechanism shall be as prescribed by Regulation.

## 26. Inspection and Compliance

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- (1) The Tenants shall submit one single **Annual Statement of Compliance** (hereinafter referred to as “**AsoC**”) with the Development Commissioner, as per the format specified in the Regulations, in lieu of all registers/forms/returns under the following enactments;
- (i) Factories Act, 1948;
  - (ii) Payment of Wages Act, 1936;
  - (iii) Employees State Insurance Act, 1948;
  - (iv) Workmen’s Compensation Act, 1923;
  - (v) Maternity Benefit Act, 1961;
  - (vi) Contract Labour (Regulation and Abolition) Act, 1970;
  - (vii) Payment of Bonus Act, 1965;
  - (viii) Minimum Wages Act, 1948;
  - (ix) Child Labour (Prohibition and Regulation) Act, 1986.
- (2) The Tenant shall, as a part of the AsoC, certify that the unit has complied with all applicable law and shall also confirm that “the unit has generated all required information regarding the workmen that is required for complying with the labor regulations and if called upon, will be in position to deliver the same within 15 days from receiving a notice for production of information from the Development Commissioner”.
- (3) The Development Commissioner shall be the competent authority for carrying out inspections and ensuring compliance with respect to the Acts stipulated in sub-section (1).
- (4) In case of default/non-compliance of the provisions of any of the Acts stipulated in sub-section (1), the penalties as per the relevant sections of the said Acts shall be levied on the Tenant.

## 27. Industrial Disputes Act, 1947

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- (1) Chapter V-B of the Industrial Disputes Act 1947, shall be applicable to all Tenants employing 300 workmen or more.
- (2) The compensation payable upon retrenchment/closure of any establishment/industry/undertaking shall be equivalent to the salary of a minimum of 45 days for every completed year of service.
- (3) Section 9A of the Industrial Disputes Act 1947 shall not apply to the Zone.

## **28. Declaration of the Zone as a Public Utility**

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Industries and establishments in the Zone shall be declared as “Public Utility Services” under Section 40 read with the First Schedule of the Industrial Disputes Act 1947, under Sub Clause (VI) of Clause (N) of Section 2.

## **29. Engaging Contract Labour**

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The Contract Labour (Regulation and Abolition) Act, 1970 shall not apply to the enterprises in the Zone.

## **30. Establishment of Trade Unions**

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- (1) The Trade Unions Act, 1956, the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1947, the Bombay Industrial Relations Act and any other law relating to trade unions shall be inapplicable to the Zone from the date of commencement of this Act and the employees of the Tenants in the Zone shall be permitted to form Trade Unions, subject to the following conditions:
  - (a) Not more than one trade union can be set up for each unit in the Zone.
  - (b) Such union shall have not less than 50% of the workmen employed by such Tenant as its members.
  - (c) All the members and office bearers of a trade union shall be employees of the unit for which the trade union shall be set up.
- (2) The Development Commissioner shall register trade unions that satisfy the criteria mentioned in sub-section(1) and the process of registration shall be as prescribed by the Regulations.

## **31. Composite and Single Window Environmental Clearance for the Zone**

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- (1) At the time of seeking approvals for the Zone, the Developer shall also seek all clearances, no objection certificates and consents from the empowered officer of the Maharashtra Pollution Control Board working under the supervision of the Development Commissioner.
- (2) The empowered officer shall, if required under the Environmental Protection Act, 1986, the Environmental Impact Assessment Regulations, 1994 or any other law for the time being in force promulgated by the Government of India, forward the application of the Developer to Ministry Environment & Forest or to such other authority as may be established by the Government of India for its approval with a request for single and composite environmental clearance, which will cover the development of both the Zone and the proposed enterprises in the Zone.
- (3) In the event that approval of the Government of India is not required for the Zone, the empowered officer of the Maharashtra Pollution Control Board shall grant approval for the development of the Zone

- (4) No objection certificates consents and other clearances required from the Maharashtra Pollution Control Board for units and activities within the zone would be granted by the empowered officer of the Maharashtra Pollution Control Board under the administrative supervision and control of the Development Commissioner.
- (5) The activities and projects noted in Annexure-1 hereto which falls within the ambit of the Environmental Impact Assessment Notification 1994 (as amended on May 4, 1994) will have to obtain Environment Clearance from the Ministry of Environment and Forest, Government of India. In the event, the Government of India delegates the power to the Development Commissioner the clearance shall be sought accordingly.
- (6) The Government shall accord Environment Clearance to the projects and activities mentioned in Annexure 2 and 3 hereto in accordance with the Government resolution, Environment Department, No. ENV-1094/SEAC/Copyright-170/Desk-1, dated August 7, 1997 will vest with the Development Commissioner of the SEZ.
- (7) From the date of commencement of the Act, the powers to accord environmental clearance to the projects, enterprises and activities in the Zone will vest in the Development Commissioner.
- (8) In the event that any enterprise or proposed enterprise does not comply with environmental parameters prescribed in the approval granted by the Development Commissioner, the Development Commissioner shall deny the benefits available to such Tenant under the EXIM Policy.

### 32. Self Certification by the Enterprises in the Zone

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- (1) The Enterprises shall submit a **Quarterly Certificate of Compliance** (hereinafter referred to as “**QsoC**”) to the Development commissioner in the format prescribed by Regulations confirming that the Enterprise has complied with all the regulations relating to the environment and pollution control.
- (2) The official deputed by the Maharashtra State Pollution Control Department may, with the approval of the Development Commissioner, conduct inspections on the Tenants in the Zone to verify compliance with the applicable law.

### 33. Waiver of Water Pollution Cess

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- (1) Notwithstanding anything contained in the Water Pollution Cess Act, 1977, neither the Zone nor the Establishment in the Zone shall be required to pay water pollution cess provided the Zone and the Establishments in the Zone comply with the environmental norms that have been laid down for the Zone.
- (2) Powers of the Maharashtra Pollution Control Board delegated to the Development Commissioner.  
The following powers of the Maharashtra State Pollution Control Board shall be delegated to the Development Commissioner, namely-
  - a) Power to grant approvals to Tenants proposing to set up enterprises in the Zone on the advise of the official deputed by the Maharashtra State Pollution Control Board to the Zone, as laid down in Section 9(1)(k) of the Act.

- b) Power to accept and scrutinize the Quarterly Certificate of Self Compliance submitted by the Tenants, and to grant permission to the official deputed by the Maharashtra State Pollution Control Board to the Zone to conduct surprise inspections within the Zone, as laid down in Section 33(2) of the Act.

### 34. Leases of Land and Buildings

- (1) **Term of Lease** - The SEZ Authority may lease land to the Tenants for such term and in consideration of premium or rent or both premium and rent as it may determine in the rules;
- (2) **Recovery of premium or rent** - Whenever any part of the premium or rent or service charges or any other sum due to the SEZ Authority under the lease shall be in arrears it may be recovered:
  - i) by summarily attaching the property with the permission of the Development Commissioner and disposing the same through an auction;
  - ii) by setting off the arrears against the premium paid by the Tenant; or
- (3) **User land** – Every lease shall specify user of the demised land which shall be applied only to the specified user and to no other user.
- (4) **To build according to the building rules of the Development Commissioner/SEZ Authority**– The lessee shall not at any time during the lease erect any building erection or structure on any portion of the demised land except in accordance with the building rules framed by the Development Commissioner/SEZ Authority from time to time.
- (5) **Restrictions against Assignment** – The lessee shall not sell, assign, mortgage, underlet or otherwise transfer wholly or partly the demised land or his interest therein or part wholly or partly with the possession of the demised land or permit any person to use wholly or partly the demised land (hereinafter referred to as ‘transfer of the demised land’).

PROVIDED THAT nothing contained herein shall apply if the lessee shall perform to the satisfaction of the SEZ Authority the following conditions:-

- (A) Before transferring the demised land the lessee shall pay to the SEZ Authority one half of the difference between the declared premium and the premium paid by the lessee to the Corporation, for obtaining the lease of the demised land, subject to a minimum of Rs.[ ].
- (B) In the instrument by which the lessee shall transfer the demised land the lessee shall impose upon the person to whom the demised land is so transferred to perform and observe to the SEZ Authority all the conditions and covenants of the lease granted to him, the lessee.
- (6) **Delivery of possession, determination of lease** – The lessee shall on determination of the lease for any reason deliver possession of demised land to the SEZ Authority in as good condition as, it was in when he obtained possession subject only to change caused by reasonable wear and tear or irresistible force.
- (7) **Payment of cost of lease deeds** – The lease shall pay all costs and expenses incidental to preparation execution and registration of all deeds or instruments of lease.

- (8) **Notice and demands** – Any demand for payment or notice requiring to be made upon or given to the lessee shall be sufficiently made or given if sent by the SEZ Authority through the post by the registered letter addressed to the lessee at the demised land and any demand or notice by the post shall be deemed to have been delivered in the course of post.

### 35. Power of Entry

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It shall be lawful for the any person authorized by the SEZ Authority through a general or special order to enter into any premise in the Zone with or without assistants or workmen in order to make an inquiry, inspection, measurement, valuation or surveyor to execute any work which is necessary under this Act, the Regulations or the rules.

### 36. Power of Inspection

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- (1) The SEZ Authority may by general or special order authorize any person:
- (a) To inspect any drain, pipe, sewer, channel or any other structure in any other building or land in the Zone and in his discretion cause the ground to be opened for the purpose of preventing or removing any nuisance arising therefrom;
  - (b) To examine works under construction in the Zone ;
  - (c) For such other purpose as may be necessary and expedient for the purpose of maintenance of the Zone.
- (2) If such inspection or the opening of the ground is found to be necessary for the purpose of prevention or removal of a nuisance, the expenses thereby incurred shall be borne by the Tenant /Resident or person in possession of the premise. However, if it is found that no nuisance exists, all costs to repair the same shall be borne by the SEZ Authority.

### 37. Eviction from Premises

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- (1) If the Development Commissioner, acting *suo motu* or an application made by the Developer, is of the opinion that a Tenant/ Resident or Off Zone Supplier is unauthorisedly occupying or wrongfully in possession of any land or premises or is not entitled or has ceased to be entitled to be to continue the use, occupation or possession of any such premises, or has violated the terms on which such land or premises have been made available, then it shall be lawful for the Development Commissioner to evict such Person.
- (2) Before evicting such Person, the development Commissioner shall give the Person a reasonable opportunity of being heard and the Collector shall make a summary inquiry if necessary. The Development Commissioner shall record his reasons in brief for arriving at an opinion.
- (3) After summary eviction of any person any construction or development on the land or in the premises if not removed by such person within three days of receipt of a notice of eviction shall be liable for forfeiture and summary removal.

- (4) A person who is liable to be summarily evicted may also be liable, at the discretion of the Development Commissioner to pay a penalty to the Developer not exceeding twice the value of the prevailing annual rent.

### **38. Recovery of Money**

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- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, the SEZ Authority may recover any money recoverable from the Tenants/Residents or any other person who owes any money to the SEZ Authority, including rent on lands or buildings under the leases/sub-leases executed by the SEZ Authority to the Tenants/Residents, may be recovered either by distress and sale of the movable and immovable property located within the Zone of such Person, or by the attachment and sale of such property .
- (3) The SEZ Authority shall make an application in this regard to the Development Commissioner. The Development Commissioner shall have the power to take such action and to issue such orders as may be required to seize, attach and auction such property.
- (4) Notwithstanding anything contained in this Act, if the amount recovered by the SEZ Authority by an order of the Development Commissioner is insufficient to satisfy the arrears owed to the SEZ Authority, the SEZ Authority shall not be precluded in any manner from initiating such proceedings as the SEZ Authority deems fit for the recovery of money from any property of such Tenant/ Resident located outside the Zone.
- (5) Notwithstanding anything contained in this Act or any other law for the time being in force, no appeal shall lie from the order of the Development Commissioner made under this section.

### **39. Termination of Business**

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Tenants who desire to terminate business or operations shall comply with such requirements and procedures which the Developer shall set, particularly, those relating to the clearing of debts. The assets of the closed enterprise can be transferred and the funds can be remitted out of the Zone subject to the rules, guidelines and procedure prescribed by the Government of India in consultation with the Reserve Bank of India.

### **40. Dispute Resolution**

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In the event of a dispute amongst any/ all of the following: the Developer/ the SEZ Authority and the Development Commissioner, the matter may be referred for resolution to the State Government by any of the concerned parties and the decision of the State Government on such dispute shall be final and binding on the parties to the dispute.

In the event of dispute between Tenant(s)/Resident(s) and any/ all of the following: the Developer, the Development Commissioner and the SEZ Authority, the matter will be decided by a designated sub-committee consisting of two members who shall be drawn from amongst the members of the Zone Board.

## 41. Penalty

Any person who fails to comply with any provision of this Act, any Regulation, rule made by the SEZ Authority or any notification issued by the Government or the Development Commissioner shall be punishable with a fine which may extend to Rs. [ ] and, in the case of continuing failure, with an additional fine that may extend to Rs. [ ] for every day after the first after which such person has persisted in such failure or contravention.

## 42. Cancellation or Suspension of Licences, Approvals, Consents Etc.

Where any person to whom a licence approval, consent or written permission has been granted under this Act or any agent or employee of such person commits a breach of any of the conditions thereof, or any condition imposed under this Act, the Regulations or the Rules, or the Development Commissioner is satisfied that the such license, permission or approval has been obtained by the holder through fraud or misrepresentation then the Development Commissioner may, without prejudice to the any other penalty which may have been incurred under this Act, by an order in writing cancel such licence or written permission or suspend it for such period as it thinks fit.

## MISCELLANEOUS

### 43. Power of the Government to Issue Directions

- (1) Without prejudice to the other provisions of this Act, the Board shall, in the discharge of its functions and duties under this Act, be bound by such directions in questions of policy, other than those relating to administrative matters, as the Government may give to it in writing from time to time.

Provided that the Board shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

- (2) The decision of the Government whether a question is a question of policy or not, shall be final.

### 44. Power of the Government to Issue Notice, Order or Direction

Notwithstanding the provisions of any other law for the time being in force, the Government may, respectively, for the purposes of performing its functions under this Act, issue such notice, order, direction or instruction in writing as they may deem fit, to any person within the Zone. Reasons for issuance of such notice, order or direction shall be recorded in writing within 30 days of issuance of such notice, order or direction.

## **45. Power of the Government to Supersede Board and the Sez Authority**

- (1) If, at any time, the Government is satisfied that the Board and/or the SEZ Authority has defaulted in the performance of any duty or obligation imposed or cast on it by or under this Act, the Government may fix a period for the performance of that duty or obligation and give notice to the Board and/or the SEZ Authority, as the case may be, accordingly.
- (2) If, in the opinion of the State Government, the Authority fails or neglects to perform such duty or obligation within the period so fixed for its performance, it shall be lawful for the State Government to supersede and re-constitute the Board and/or the SEZ Authority as it deems fit.
- (3) After the supersession of the Authority and until it is reconstituted hereof, the powers, duties and functions of the Authority under this Act shall be carried on by the Government or by such officer or officers or body of officers as the Government may appoint for this purpose from time to time.
- (4) All assets and liabilities vested in the SEZ Authority shall, during the period of supersession, vest in the Government.

## **46. Protection of Action Taken in Good Faith**

No suit, prosecution or other legal proceeding shall lie against the SEZ Authority or any member, officer, or employee of the SEZ Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule or Regulation made thereunder.

## **47. Delegation of Powers**

- (1) The Development Commissioner may, by general or special order in writing, delegate to the SEZ Authority or any other member or officer of the SEZ Authority or any other person subject to such conditions, if any, as may be specified in the order such of its powers and functions under this Act as it may deem necessary.

## **48. Power to Make Rules**

- (1) The State Government may, by notification, make the rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the provisions of the foregoing sub-section, such rules may provide for all or any of the following matters, namely-
  - (a) the form and manner in which the accounts of the Authority shall be prepared and maintained under section \_\_\_\_;
  - (b) form in which and the time within which the annual report of the Chief Executive Officer shall be prepared under section \_\_\_\_;

## **49. Rules to be Laid Before Legislature**

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Every rule made by the Government under this Act shall be laid, as soon as may be, after it is made, before the State Legislature and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

## **50. Power to Remove Difficulties**

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- (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty.
- (2) Every order made under this section shall be laid, as soon as may be, after it is made, before the State Legislature.