Greater Chennai Corporation



Request for Proposal (RfP)

for

Design, Build, Finance, Operate and Transfer of Public Convenience Toilets

in locations under Zone 5, 6 and 9 (Marina only) of Chennai City

RFP Ref: S.P.D.C. No B1/00452/2022

Dated: 29-09-2022

**Part II – Volume 2 –**

**Draft Concession Agreement**

Page **1** of **114**

**Table of Contents**

|  |  |
| --- | --- |
| **Description** | **Page No** |
| Article 42: Definitions | 4 |
|  |  |
| Schedule A: Site(s) for the Project | 21 |
| Annex-I to Schedule-A: Site(s) for the Project | 22 |
|  |  |
| Schedule B: Development of the Project | 33 |
| Annex–I to Schedule-B: Description of the Project | 34 |
|  |  |
| Schedule C: Project Facilities | 35 |
| Annex-I to Schedule-C: Project Facilities | 39 |
|  |  |
| Schedule D: Specifications and Standards | 40 |
| Annex-I to Schedule-D: Specifications and Standards for the Project | 41 |
|  |  |
| Schedule E: Applicable Permits | 46 |
|  |  |
| Schedule F: Performance Security | 47 |
|  |  |
| Schedule G: Project Completion Schedule | 51 |
|  |  |
| Schedule H: Drawings | 53 |
| Annex-I to Schedule-H: List of Drawings | 54 |
|  |  |
| Schedule I: Tests | 55 |
|  |  |
| Schedule J: Completion/ Phased Completion Certificate | 57 |
|  |  |
| Schedule K: Maintenance Requirements and Key Performance Indicators | 59 |
| Annex-I to Schedule-K: Project - Operations & Maintenance related  requirements | 61 |
| Annex-II to Schedule-K: Repair/Rectification of Defects and Deficiencies | 65 |
| Annex-III to Schedule-K: Key Performance Indicators | 67 |
|  |  |
| Schedule L: Safety Requirements | 76 |
|  |  |
| Schedule M: Selection of Independent Engineer | 78 |
|  |  |
| Schedule N: Terms of Reference for Independent Engineer | 79 |
|  |  |
| Schedule 0: Escrow Agreement | 86 |
|  |  |
| Schedule P: Panel of Chartered Accountants | 100 |
|  |  |
| Schedule Q: Vesting Certificate | 102 |
|  |  |
| Schedule R: Substitution Agreement | 103 |
|  |  |
| Schedule S: Deleted | 114 |

# List of Tables:

|  |  |  |
| --- | --- | --- |
| **Description** | | **Page**  **No** |
| Table-1 | Site Locations in Zone - V, VI and IX (Marina only) of Greater Chennai  Corporation | 22 |
| Table-2 | Location of PCTs, Standalone Urinals, Standalone Bath rooms and Modular  Toilets | 36 |
| Table-3 | No of seats / service counters across different PCTs, Standalone Urinals,  Standalone Bath rooms and Modular Toilets | 36 |
| Table-4 | Asset Inventorisation – Quality Parameters | 36 |
| Table-5 | Seats/ service counters – (Indicative) classification for Major and Minor  refurbishments | 37 |
| Table-6 | Description of Project Facilities | 39 |
| Table-7 | Standards that apply for the Project | 41 |
| Table-8 | Phased Completion – Listing of Units | 58 |
| Table-9 | Maintenance Defect/deficiency - Time limits and Penalty details | 65 |
| Table-10 | Key Performance Indicators | 68 |
| Table-11 | Final Score - KPI related calculation | 74 |
| Table-12 | Effective Performance Score - KPI related calculation | 74 |
| Table-13 | Penalty Stage - KPI related calculation | 74 |
| Table-14 | KPI Deduction - KPI related calculation | 75 |

**ARTICLE 42 DEFINITIONS**

# Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

* + - **"Accounting Year"** means the financial year commencing from the first day of April of any calendar year and ending on the thirty-first day of March of the next calendar year;
    - **"Additional Performance Security"** shall have the meaning as set forth in Clause 9.7;
    - **"Adjusted Equity"** means the Equity funded in Indian Rupees and adjusted on the first day of the current month (the **"Reference Date"),** in the manner set forth below, to reflect the change in its value on account of depreciation and variations in WPI, and for any Reference Date occurring:
      * on or before COD, the Adjusted Equity shall be a sum equal to the Equity funded in Indian Rupees and expended on the Project, revised to the extent of one half of the variation in WPI occurring between the first day of the month of Appointed Date and the Reference Date;
    - **"Affected Party"** shall have the meaning as set forth in Clause 28.1;
    - **"Agreement"** or "Concession Agreement" means this Agreement, its Recitals, and the Schedules hereto and any amendments thereto made in accordance with the provisions contained in this Agreement;
    - **"Annuity Payments"** shall have the meaning as set forth in Clause 23.6.2;
    - **"Annuity Payment Date"** shall have the meaning as set forth in Clause 23.6.2;
    - **"Appendix"** shall have the meaning as set forth in Clause 10.3.1;
    - **"Applicable Laws"** means all laws, brought into force and effect by GOI or the State Government including rules, regulations and notifications made thereunder, and judgments, decrees, injunctions, writs and orders of any court of record, applicable to this Agreement and the exercise, performance and discharge of the respective rights and

obligations of the Parties hereunder, as may be in force and effect during the subsistence of this Agreement;

* + - **"Applicable Permits"** means all clearances, licenses, permits, authorizations, no objection certificates, consents, approvals and exemptions required to be obtained or maintained under Applicable Laws in connection with the construction, operation and maintenance of the Project during the subsistence of this Agreement;
    - **"Appointed Date"** means the date on which Financial Close is achieved and every Condition Precedent is satisfied, in accordance with the provisions of this Agreement, and such date shall be the date of commencement of the Concession Period;
    - **"Associate" or "Affiliate" means,** in relation to either Party (and/or Consortium Members), a person who controls, is controlled by, or is under the common control with such Party (or Consortium Member) (as used in this definition, the expression "control" means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and Policies of such person, whether by operation of law or by contract or otherwise);
    - **"Authority"** shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;
    - **"Authority Default"** shall have the meaning as set forth in Clause 31.2.1;
    - **"Authority Indemnified Persons"** shall have the meaning set forth in Clause 36.1.1;
    - **"Authority Representative"** means such person or persons as may be authorized in writing by the Authority to act on its behalf under this Agreement and shall include any person or persons having authority to exercise any rights or perform and fulfill any obligations of the Authority under this Agreement;
    - **"Bank"** means a bank incorporated in India and having a minimum net worth of Rs. 1,000 crore (Rupees one thousand crore) or any other bank acceptable to Senior Lenders, but does not include a bank in which any Senior lender has an interest;
    - **"Bid"** means the documents in their entirety comprised in the bid

submitted by the (selected bidder/Consortium) in response to the Request for Proposals in accordance with the provisions thereof and **"Bids"** shall mean the bids submitted by any and all pre• qualified bidders;

* + - **"Bid Date"** means the last date on which the Bid may have been submitted in accordance with the provisions of the Request for Proposals;
    - **"Bid Project Cost"** shall have the meaning as set forth in Clause 23.1;
    - **"Bid Security"** means the security provided by the Concessionaire to the Authority along with the Bid, in accordance with the Request for Proposals, and which is to remain in force until substituted by the Performance Security;
    - **"COD" or "Commercial Operation Date"** shall have the meaning as set forth in Clause 15.1.1;
    - **"CPI (IW)"** means the Consumer Price Index for Industrial Workers as published by the Labour Bureau, Government of India and shall include any index which substitutes the CPI **(IW),** and any reference to CPI **(IW)** shall, unless the context otherwise requires, be construed as a reference to the CPI **(IW)** published for the period ending with the preceding quarter;
    - **"Change in Law"** means the occurrence of any of the following after the Bid Date:
      * The enactment of any new Indian law;
      * The repeal, modification or re-enactment of any existing Indian law;
      * The commencement of any Indian law which has not entered into effect until the Bid Date;
      * a change in the interpretation or application of any Indian law by a judgment of a court of record which has become final, conclusive and binding, as compared to such interpretation or application by a court of record prior to the Bid Date; or
      * Any change in the rates of any of the Taxes that have a direct effect on the Project;
    - **"Change in Ownership"** means a transfer of the direct and/or indirect legal or beneficial ownership of any shares, or securities convertible into shares, that causes the aggregate holding of the (selected bidder/ Consortium Members), together with (its/their) Associates, in the total Equity to decline below 51% (fifty one per cent) thereof during Construction Period and two years thereafter; provided that any material variation (as compared to the representations made by the Concessionaire during the bidding process for the purposes of meeting the minimum conditions of eligibility or for evaluation of its application or bid, as the case may be) in the proportion of the equity holding of (the

selected bidder/ any Consortium Member) to the total Equity, if it occurs prior to completion of a period two years after COD, shall constitute Change in Ownership;

* + - **"Change of Scope"** shall have the meaning as set forth in Clause 16.1.1;
    - **"Company"** means the company acting as the Concessionaire under this Agreement;
    - **"Completion Certificate"** shall have the meaning as set forth in Clause 14.2;
    - **"Completion Cost"** shall have the meaning as set forth in Clause 23.6.1;
    - **"Concession"** shall have the meaning as set forth in Clause 3.1.1;
    - **"Concessionaire"** shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals;
    - **"Concession Period"** means the period starting on and from Appointed Date and ending on the Transfer Date. For avoidance of doubt, it is clarified that the Concession Period shall include the Construction Period plus a fixed period of 8 years of Operation & Maintenance Period from the COD;
    - **"Concessionaire Default"** shall have the meaning as set forth in Clause 31.1.1;
    - **"Conditions Precedent"** shall have the meaning as set forth in Clause 4.1.1;
    - **"Consortium"** shall have the meaning as set forth in Recital (D);
    - **"Consortium Member"** means a company specified in Recital (D) as a member of the Consortium;
    - **"Construction Period"** means the period beginning from the Appointed Date and ending on COD;
    - **"Construction Works"** means all works and things necessary to complete the Project in accordance with this Agreement;
    - **"Contractor"** means the person or persons, as the case may be, with whom the Concessionaire has entered into any of the EPC Contract, the O&M Contract or any other material agreement or contract for construction, operation and/or maintenance of the Project or matters incidental thereto, but does not include a person who has entered into an agreement for

providing financial assistance to the Concessionaire;

* + - **"Cure Period"** means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Party responsible for such breach or default and shall:
      * Commence from the date on which a notice is delivered by one Party to the other Party asking the latter to cure the breach or default specified in such notice;
      * Not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and
      * Not in any way be extended by any period of Suspension under this Agreement;

provided that if the cure of any breach by the Concessionaire requires any reasonable action by the Concessionaire that must be approved by the Authority or the Independent Engineer hereunder, the applicable Cure Period shall be extended by the period taken by the Authority or the Independent Engineer to accord their approval;

* + - **"DBFOT Annuity" or** "Design, Build, Finance, Operate and Transfer" shall have the meaning as set forth in Recital (A);
    - **"Damages"** shall have the meaning as set forth in Sub-clause (w) of Clause 1.2.1;
    - **"Debt Due"** means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:
      * the principal amount of the debt provided by the Senior Lenders under the Financing Agreements for financing the Total Project Cost (the "principal") but excluding any part of the principal that had fallen due for repayment two years prior to the Transfer Date;
      * all accrued interest, financing fees and charges payable under the Financing Agreements on, or in respect of, the debt referred to in Sub-clause (a) above until the Transfer Date but excluding

(i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, (ii) any penal interest or charges payable under the Financing Agreements to any Senior Lender, and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default; and

* + - * any Subordinated Debt which is included in the Financial Package and disbursed by lenders for financing the Total Project Cost; provided that if all or any part of the Debt Due is convertible into Equity at the option of Senior Lenders and/or the Concessionaire, it shall for the purposes of this Agreement be deemed to be Debt

Due even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

* + - **"Debt Service"** means the sum of all payments on account of principal, interest, financing fees and charges due and payable in an Accounting Year to the Senior Lenders for and in respect of Debt Due under the Financing Agreements;
    - **"Development Period"** means the period from the date of this Agreement until the Appointed Date;
    - **"Dispute"** shall have the meaning as set forth in Clause 38.1.1;
    - **"Dispute Resolution Procedure"** means the procedure for resolution of Disputes as set forth in Article 38;
    - **"Divestment Requirements"** means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 32.1;
    - **"Document" or "Documentation" means documentation in printed or written form, or in tapes,** discs, drawings, computer programmers, writings, reports, photographs, films, cassettes, or expressed in any other written, electronic, audio or visual form;
    - **"Drawings"** means all of the drawings, calculations and documents pertaining to the Project as set forth in Schedule-H, and shall include 'as built' drawings of the Project;
    - **"EPC Contract"** means the engineering, procurement and construction contract or contracts entered into by the Concessionaire with one or more Contractors for, inter alia, engineering and construction of the Project in accordance with the provisions of this Agreement;
    - **"EPC Contractor"** means the person with whom the Concessionaire has entered into an EPC Contract;
    - **"Emergency"** means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including Users thereof, or which poses an immediate threat of material damage to any of the Project Assets;
    - **"Encumbrances"** means, in relation to the Project, any encumbrances such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations, and shall include any designation of loss

payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, where applicable herein but excluding utilities referred to in Clause 11.1;

* + - **"Equity"** means the sum expressed in Indian Rupees representing the paid-up equity share capital of the Concessionaire for meeting the equity component of the Total Project Cost, and for the purposes of this Agreement shall include convertible instruments or other similar forms of capital, which shall compulsorily convert into equity share capital of the Company, and any interest-free funds advanced by any shareholder of the Company for meeting such equity component;
    - **"Escrow Account"** means an Account which the Concessionaire shall open and maintain with a Bank in which all inflows and outflows of cash on account of capital and revenue receipts and expenditures shall be credited and debited, as the case may be, in accordance with the provisions of this Agreement, and includes the Sub-Accounts of such Escrow Account;
    - **"Escrow Agreement"** shall have the meaning as set forth in Clause 25.1.2;
    - **"Escrow Bank"** shall have the meaning as set forth in Clause 25.1.1;
    - **"Escrow Default"** shall have the meaning as set forth in Schedule-O;
    - **"Estimated Project Cost"** shall be the cost estimated by the Authority for development of the Project and provided in the Request for Proposal Volume -I- Instructions to Bidders.
    - **"Financial Close"** means the fulfillment of all condition’s precedent to the initial availability of funds under the Financing Agreements which shall be communicated by the Lender's Representative to the Authority in writing. Such communication from Lender's Representative shall be treated as date on which the Financial Close is achieved;
    - **"Financial Default"** shall have the meaning as set forth in Schedule-R;
    - **"Financial Model"** means the financial model adopted by Senior Lenders, setting forth the capital and operating costs of the Project and revenues therefrom on the basis of which financial viability of the Project has been determined by the Senior Lenders, and includes a description of the assumptions and parameters used for making calculations and projections therein;
    - **"Financial Package"** means the financing package indicating the total capital cost of the Project and the means of financing thereof, as set forth in the Financial Model and approved by the Senior Lenders, and includes Equity, all financial assistance specified in the Financing Agreements and Subordinated Debt, if any;
    - **"Financing Agreements"** means the agreements executed by the Concessionaire in respect of financial assistance to be provided by the Senior Lenders by way of loans, guarantees, subscription to non-convertible debentures and other debt instruments including loan agreements, guarantees, notes, debentures, bonds and other debt instruments, security agreements, and other documents relating to the financing (including refinancing) of the Total Project Cost, and includes amendments or modifications made in accordance with Clause 5.2.3;
    - **"Force Majeure" or "Force Majeure Event"** shall have the meaning ascribed to it in Clause 28.1;
    - **"GOI"** means the Government of India;
    - **"Good Industry Practice"** means the practices, methods, techniques, designs, standards, skills, diligence, efficiency, reliability and prudence which are generally and reasonably expected from a reasonably skilled and experienced operator engaged in the same type of undertaking as envisaged under this Agreement and which would be expected to result in the performance of its obligations by the Concessionaire in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner and for providing safe, economical, reliable and efficient use of the Project
    - **"Government"** means the Government of the India;
    - **"Government Instrumentality"** means any department, division or sub- division of the Government or the State Government and includes any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government or the State Government, as the case may be, and having jurisdiction over all or any part of the Project or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement;
    - **"Indemnified Party"** means the Party entitled to the benefit of an indemnity pursuant to Article 36;
    - **"Indemnifying Party"** means the Party obligated to indemnify the other Party pursuant to Article 36;
    - **"Independent Engineer"** shall have the meaning as set forth in Clause 21.1;
    - **"Indirect Political Event"** shall have the meaning as set forth in Clause 28.3;
    - **"Insurance Cover"** means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 26, and includes all insurances required to be taken out by the Concessionaire under Clause 26.2 but not actually taken, and when used in the context of any act or event, it shall mean the aggregate of the maximum sums insured and payable or deemed to be insured and payable in relation to such act or event;
    - **"Intellectual Property"** means all patents, trademarks, service marks, logos, get-up, trade names, internet domain names, rights in designs, blue prints, programs and manuals, drawings, copyright (including rights in computer software), database rights, semi• conductor, topography rights, utility models, rights in know-how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;
    - **"LOA" or "Letter of Award"** means the letter of award referred to in Recital (D);
    - **"Lead Member"** shall have the meaning set forth in Recital (D)
    - **"Lenders' Representative"** means the person duly authorized by the Senior Lenders to act for and on behalf of the Senior lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;
    - **"Licensed Premises"** shall have the meaning as set forth in Clause 10.2.2;
    - **"Maintenance Manual"** shall have the meaning as set forth in Clause 17

.3.1;

* + - **"Maintenance Program"** shall have the meaning as set forth in Clause 17.4.1;
    - **"Maintenance Requirements"** shall have the meaning as set forth in Clause 17.2;
    - **"Material Adverse Effect"** means a material adverse effect of any

act or event on the ability of either Party to perform any of its obligations under and in accordance with the provisions of this Agreement and which act or event causes a material financial burden or loss to either Party;

* + - **"Nominated Company"** means a company selected by the Lenders' Representative and proposed to the Authority for substituting the Concessionaire in accordance with the provisions of the Substitution Agreement;
    - **"Non-Political Event"** shall have the meaning as set forth in Clause 28.2;
    - **"O&M"** means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance, and provision of services and facilities, in accordance with the provisions of this Agreement;
    - **"O&M Contract"** means the operation and maintenance contract that may be entered into between the Concessionaire and the O&M Contractor for performance of all or any of the O&M obligations;
    - **"O&M Contractor"** means the person, if any, with whom the Concessionaire has entered into an O&M Contract for discharging O&M obligations for and on behalf of the Concessionaire;
    - **"O&M Expenses"** means expenses incurred by or on behalf of the Concessionaire or by the Authority, as the case may be, for all O&M including (a) cost of salaries and other compensation to employees,

(b) cost of materials, supplies, utilities and other services, (c) premium for insurance, (d) all taxes, duties, cess and fees due and payable for O&M, (e) all repair, replacement, reconstruction, reinstatement, improvement and maintenance costs, (f) payments required to be made under the O&M Contract or any other contract in connection with or incidental to O&M, and (g) all other expenditure required to be incurred under Applicable Laws, Applicable Permits or this Agreement;

* + - **"O&M Inspection Report"** shall have the meaning as set forth in Clause 19.2;
    - **"O&M Payments"** shall have the meaning as set forth in Clause 23.7.1;
    - **"Operation Period"** means the operation and maintenance period of 8 (eight) years commencing from COD and ending on the Transfer Date;
    - **"Parties"** means the parties to this Agreement collectively and "Party" shall mean any of the parties to this Agreement individually;
    - **"Payment Milestone"** shall have the meaning as set forth in Clause 23.4; **"Performance Guarantee"** shall have the meaning as set forth in Clause 33.2.3;
    - **"Performance Security"** shall have the meaning as set forth in Clause 9.1.1;
    - **“Phased Completion”** means the stage in the progress of the Project as determined and certified by the Independent Engineer in writing to the Concessionaire on which work for a particular phase of the Project (expressed as number of Project Units out of the total number of Project Units) is complete in all respects and is satisfactory, without any pending items whatsoever. As an illustration, if the Concessionaire completes the work on 50 toilet units in all respects, without any pending or punch list items whatsoever, ahead in the schedule of a sequential implementation plan for the entire set of Project Facilities, then and in that event, such of those 50 units can be submitted for consideration of Phased Completion, subject however to determination and certification by the Independent Engineer of the submission.
    - **“Phased Completion Certificate”** means the certificate issued by the Independent Engineer to the Concessionaire on completion of a particular Phase of the Project in all respects. The Concessionaire may present one or more phase of the Project for securing Phased Completion Certificate(s).
    - **"Physical Progress"** shall mean the physical construction of the Project completed by the Concessionaire and shall be measured as per the assessment done by the Independent Engineer, basis, inter-alia, the unit measure of the seats/service counters completed, and further, in accordance with Clause 23.4 of this Agreement.
    - **"Price Index"** shall comprise:
      * 33% (thirty three percent) of WPI; and
      * 67% (sixty seven percent) of CPI **(IW),**

Which constituents may be substituted by such alternative index or indices as the Parties may by mutual consent determine;

* + - **"Price Index Multiple"** between any two reference periods shall be computed using the variation in Price Index occurring between the Reference Index Date preceding the first period and the Reference Index Date preceding the second period. The latter as a multiple of the former shall be the Price Index Multiple for the reference periods under computation.
    - **"Project"** means the construction, operation and maintenance of the Project in accordance with the provisions of this Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project in Site;
    - **"Project Agreements"** means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, and any other material agreements or contracts that may be entered into by the Concessionaire with any person in connection with matters relating to, arising out of or incidental to the Project, but does not include the Escrow Agreement, Substitution Agreement, or any agreement for procurement of goods and services;
    - **"Project Assets"** means all physical and other assets relating to and forming part of the Site including (a) rights over the Site in the form of license, Right of Way or otherwise; (b) tangible assets such as civil works and equipment including ………………….); (c) Project Facilities situated on the Site; (d) all rights of the Concessionaire under the Project Agreements; (e) financial assets, such as receivables, security deposits etc.;

(f) insurance proceeds; and (g) Applicable Permits and authorizations relating to or in respect of the Project;

* + - **"Project Completion Schedule"** means the progressive Project Milestones set forth in Schedule-G for completion of the Project on or before the Scheduled Completion Date;
    - **"Project Facilities"** means all the amenities and facilities situated on the Site, as described in Schedule C
    - “**Project Unit”** means each of the public convenience toilets, standalone urinals, standalone bath rooms, and modular toilets
    - **“Project Units”** mean collectively all of the public convenience toilets, standalone urinals, standalone bath rooms, and modular toilets
    - **"RBI"** means the Reserve Bank of India, as constituted and existing under the Reserve Bank of India Act, 1934, including any statutory modification or replacement thereof, and its successors;
    - **"Re.", "Rs." or "Rupees" or "Indian Rupees"** means the lawful currency of the Republic of India;
    - **"Reference Exchange Rate" means,** in respect of any one currency that is to be converted into another currency in accordance with the provisions of this Agreement, the exchange rate as of 12.00 (twelve) noon on the

relevant date quoted in Chennai by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Chennai by the Bank of India and the Bank of Baroda;

* + - **"Reference Index Date"** means, in respect of the specified date or month, as the case may be, that last day of the preceding month with reference to which the Price Index or any constituent thereof is revised and in the event such revision has not been notified, the last such Price Index or any constituent thereof shall be adopted provisionally and used until the Price Index or such constituent thereof is revised and notified;
    - **"Request for Proposals"** or "RFP" shall have the meaning as set forth in Recital (B);
    - **"Right of Way"** means the constructive possession of the Site, together with all way leaves, easements, unrestricted access and other rights of way, howsoever described, necessary for construction, operation and maintenance of the Project in accordance with this Agreement;
    - **"Safety Requirements"** shall have the meaning as set forth in Clause 18.1.1;
    - **“SBI MCLR”** means the prevailing marginal cost of funds based lending rate for a tenor of 1 year, notified by State Bank of India from time to time
    - **"Scheduled Completion Date"** shall have the meaning as set forth in Clause 12.3.1;
    - **"Scope of the Project"** shall have the meaning as set forth in Clause 2.1;
    - **"Senior Lenders"** means the financial institutions, banks, multilateral lending agencies, trusts, funds and agents or trustees of debenture holders, including their successors and assignees, who have agreed to guarantee or provide finance to the Concessionaire under any of the Financing Agreements for meeting all or any part of the Total Project Cost and who hold paripassu charge on the assets, rights, title and interests of the Concessionaire;
    - **"Site"** shall have the meaning as set forth in Clause 10.1;
    - **"Specifications** and **Standards"** means the specifications and standards relating to the quality, quantity, capacity and other requirements for the Project, as set forth in Schedule• D, and any modifications thereof, or additions thereto, as included in the design and engineering for the Project

submitted by the Concessionaire to, and expressly approved by, the Authority;

* + - **"State"** means the State of Tamil Nadu;
    - **"State Government"** means the government of that State;
    - **"Statutory Auditors"** means a reputable firm of chartered accountants acting as the statutory auditors of the Concessionaire under the provisions of the Companies Act, 2013, including any re-enactment or amendment thereof, for the time being in force, and appointed in accordance with Clause 27.2.1;
    - **"Subordinated Debt"** means the aggregate of the following sums expressed in Indian Rupees or in the currency of debt, as the case may be, outstanding as on the Transfer Date:
      * the principal amount of debt provided by lenders or the Concessionaire's shareholders for meeting the Total Project Cost and subordinated to the financial assistance provided by the Senior Lenders; and
      * all accrued interest on the debt referred to in Sub-clause (a) above but restricted to the lesser of actual interest rate and a rate equal to 5% (five per cent) above the prevailing SBI MCLR in case of loans expressed in Indian Rupees and lesser of the actual interest rate and 6 (six) month Overnight Alternative Reference Rate (ARR) for the respective currency1 plus 2% (two per cent) in case of loans expressed in foreign currency, but does not include any interest that had fallen due 1 ( one) year prior to the Transfer Date;

provided that if all or any part of the Subordinated Debt is convertible into Equity at the option of the lenders and/or the Concessionaire's shareholders, it shall for the purposes of this Agreement be deemed to be Subordinated Debt even after such conversion and the principal thereof shall be dealt with as if such conversion had not been undertaken;

* + - **"Substitution Agreement"** shall have the meaning as set forth in Clause 34.3.1;
    - **"Suspension"** shall have the meaning as set forth in Clause 30.1;
    - **"Taxes"** means any Indian taxes including goods and services tax, excise duties, customs duties, value added tax, sales tax, local taxes, cess and any impost or surcharge of like nature (whether Central, State or local) on the goods, materials, equipment and services incorporated in and forming part

1 https:/[/w](http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12191&Mode=0)w[w.rbi.org.in/Scripts/NotificationUser.aspx?Id=12191&Mode=0](http://www.rbi.org.in/Scripts/NotificationUser.aspx?Id=12191&Mode=0)

of the Project charged, levied or imposed by any Government Instrumentality, but excluding any interest, penalties and other sums in relation thereto imposed on any account whatsoever. For the avoidance of doubt, Taxes shall not include taxes on corporate income;

* + - **"Termination"** means the expiry or termination of this Agreement and the Concession hereunder;
    - **"Termination Notice"** means the communication issued in accordance with this Agreement by one Party to the other Party terminating this Agreement;
    - **"Termination Payment"** means the amount payable by the Authority to the Concessionaire, under and in accordance with the provisions of this Agreement, upon Termination;
    - **"Tests"** means the tests set forth in Schedule-I to determine the completion of the Project in accordance with the provisions of this Agreement;
    - **"Total Project Cost"** means 60 % (sixty percent) of the Bid Project Cost specified in Clause 23.1;
      * provided that the amount hereinabove specified shall be adjusted for Goods and Services Tax (GST) as applicable
      * provided that in the event WPI increases, on an average, by more than 3% (three per cent) per annum for the period between the Bid Date and COD, the amount hereinbefore specified shall be increased such that the effect of increase in WPI, in excess of such 3% (three per cent), is reflected in the Total Project Cost;
      * provided further that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI *or* Reference Exchange Rate occurring in respect of Debt Due, as the case may be, in accordance with the provisions of this Agreement;
      * provided also that the Total Project Cost shall not exceed 60% of the actual capital expenditure on the Project and capitalized in the books of accounts of the Concessionaire as certified by the Statutory Auditor.
      * For the avoidance of doubt, it is hereby clarified that the Total Project Cost shall not include the cost of any adverting activity likely to be undertaken by the Concessionaire at the Project Site(s).
    - **"Transfer Date"** means the date on which this Agreement and the Concession hereunder expires pursuant to the provisions of this Agreement or is terminated by a Termination Notice;
    - **"User"** means a person who uses or intends to use the Project or any part

thereof in accordance with the provisions of this Agreement and Applicable Laws;

* + - **"Vesting Certificate"** shall have the meaning as set forth in Clause 32.4; and
    - **"WPI"** means the Wholesale Price Index *for* all commodities as published by the Ministry of Industry, GOI and shall include any index which substitutes the WPI, and any reference to WPI shall, unless the context otherwise requires, be construed as a reference to the latest monthly WPI published no later than 30 (thirty) days prior to the date of consideration hereunder.

# IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DAY, MONTH AND YEAR FIRST ABOVE WRITTEN.

|  |  |
| --- | --- |
| SIGNED, SEALED AND DELIVERED For and on  behalf of THE AUTHORITY by:  (Signature) (Designation) (Name) (Address) (Fax No.)  (e-mail) | THE COMMON SEAL OF CONCESSIONAIRE  has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the … day of 2022 hereunto affixed in the presence of (…..) Director, who has signed these Presents in token thereof and, Company Secretary/Authorized Officer who has countersigned the same in token thereof:  (Signature) (Designation) (Name) (Address) (Fax No.)  (e-mail) |

In the presence of:

1. 2.

**Schedules**

# SCHEDULE – A

***(See Clause 10.1)***

# SITE(s) FOR THE PROJECT

1. **The Site(s)**
   1. Site(s) for the Project shall include the land, buildings, and structures, as described in Annex-I of this Schedule-A.
   2. An inventory of the Site including the land, buildings, structures, trees and any other immovable property on, or attached to, the Site shall be prepared jointly by the Authority Representative and the Concessionaire, and such inventory shall form part of the memorandum referred to in Clause 10.3.1 of the Agreement.
   3. Additional land required for construction of works specified in the Change of Scope Order issued under Clause 16.2.3 of this Agreement shall be acquired in accordance with the provisions of Clause 10.3.6 of this Agreement. Upon acquisition, such land shall form part of the Site and vest in the Authority.

# Annex - I (Schedule-A)

**Site(s) for the Project**

# Site(s)

*The Site(s) for the Project is described in detail in Table 1 below:*

*Table 1: Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 1 | V | N049 | Solaiappan Street | 200 | PCT | 13.118921 | 80.287263 |
| 2 | V | N049 | Appasamy Street | 150 | PCT | 13.121661 | 80.286974 |
| 3 | V | N049 | G.A Road (Urinal) | 100 | Standalone  Urinal | 13.119494 | 80.290370 |
| 4 | V | N049 | West Kalmandabam Road Near  Cotton City (Urinal) | 80 | Standalone  Urinal | 13.117980 | 80.289833 |
| 5 | V | N049 | West Kalmandabam Road Near  Cotton City (Urinal) | 80 | Standalone  Urinal | 13.115644 | 80.289474 |
| 6 | V | N049 | Kalmandabam Modular Toilet | 40 | Modular Toilet | 13.115682 | 80.289575 |
| 7 | V | N049 | Singara Garden 4th Lane | 200 | PCT | 13.113767 | 80.289514 |
| 8 | V | N049 | West Kalmandabam New | 50 | Standalone  Urinal | 13.114970 | 80.291951 |
| 9 | V | N050 | NRT Park | 80 | PCT | 13.105231 | 80.295356 |
| 10 | V | N050 | East Madha Junction (New Urinals) | 50 | Standalone  Urinal | 13.107365 | 80.295362 |
| 11 | V | N050 | North Madha Koil Street Extn. (Jn  Of East Madha Koil Street) | 250 | PCT | 13.109617 | 80.296280 |
| 12 | V | N050 | East Madha Koil 10th Lane (Dead  end side) | 300 | PCT | 13.110983 | 80.297163 |
| 13 | V | N050 | Venkatesan Street | 300 | PCT | 13.112422 | 80.296045 |
| 14 | V | N050 | Market Lane | 250 | PCT | 13.115768 | 80.293928 |
| 15 | V | N050 | Thambu Lane | 200 | PCT | 13.116631 | 80.295132 |
| 16 | V | N050 | G.M. Pettai | 600 | PCT | 13.115239 | 80.296578 |
| 17 | V | N050 | Sheak Masthiri Street-Modular  Toilet | 40 | Modular  Toilet | 13.118770 | 80.295699 |
| 18 | V | N050 | A.J. Colony Main Road | 150 | PCT | 13.119493 | 80.295145 |
| 19 | V | N050 | Suryanarayana Street (Kamaraj  Park) | 150 | PCT | 13.117908 | 80.293129 |
| 20 | V | N050 | S.N Chetti Modular Toilet - 1 | 40 | Modular  Toilet | 13.120925 | 80.293620 |
| 21 | V | N050 | S.N Chetti Modular Toilet-2 | 40 | Modular  Toilet | 13.119221 | 80.293448 |
| 22 | V | N050 | S.N Chetti Modular Toilet-3 | 40 | Modular  Toilet | 13.118358 | 80.293178 |
| 23 | V | N050 | S.N chetty Street (Kamaraj park) | 300 | PCT | 13.117621 | 80.293153 |
| 24 | V | N051 | Narayanappan Garden 8th Lane | 250 | PCT | 13.111918 | 80.286903 |
| 25 | V | N052 | Jagannathan Street | 400 | PCT | 13.111052 | 80.288486 |
| 26 | V | N052 | M.C. Road | 200 | PCT | 13.109753 | 80.287806 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 27 | V | N052 | Robinson Ground | 150 | PCT | 13.109020 | 80.287341 |
| 28 | V | N052 | West Cementry Road Urinals | 50 | Standalone  Urinal | 13.112461 | 80.282695 |
| 29 | V | N061 | Gandhi Irwin Road (Urinal) | 50 | Standalone Urinal | 13.076146 | 80.259787 |
| 30 | V | N061 | Gandhi Irwin Road | 200 | PCT | 13.076664 | 80.260078 |
| 31 | V | N061 | Gandhi Irwin Road | 250 | PCT | 13.076813 | 80.260321 |
| 32 | V | N061 | Gandhi Irwin Road (Rotary) | 150 | PCT | 13.077927 | 80.262803 |
| 33 | V | N061 | Langs garden Road (Moorthy Street) | 200 | PCT | 13.074745 | 80.265420 |
| 34 | V | N061 | Chinnakulandai lane | 200 | PCT | 13.075706 | 80.264798 |
| 35 | V | N061 | Chinnakulandai lane Bath room | 120 | Standalone  Bath room | 13.075688 | 80.264313 |
| 36 | V | N061 | Whannels Road (Modular Toilet) | 40 | Modular  Toilet | 13.077213 | 80.263990 |
| 37 | V | N061 | LG Road | 200 | PCT | 13.073619 | 80.265784 |
| 38 | V | N061 | Ayyasamy Road | 400 | PCT | 13.072855 | 80.264569 |
| 39 | V | N061 | Adthinar Salai (Modular Toilet) | 40 | Modular  Toilet | 13.072386 | 80.263304 |
| 40 | V | N061 | Transport lane | 300 | PCT | 13.070358 | 80.263985 |
| 41 | V | N061 | Transport lane-1 | 50 | Standalone  Bath room | 13.069802 | 80.264074 |
| 42 | V | N061 | Transport lane-2 | 50 | Standalone Bath room | 13.069534 | 80.263969 |
| 43 | V | N061 | Transport lane-3 | 50 | Standalone  Bath room | 13.069332 | 80.264111 |
| 44 | V | N061 | Transport lane-4 | 50 | Standalone  Bath room | 13.068985 | 80.263888 |
| 45 | V | N061 | Transport lane-5 | 50 | Standalone  Bath room | 13.068506 | 80.263972 |
| 46 | V | N061 | Rukkumani Lakshmipathy  Ammaiyar Salai (Urinal) | 50 | Standalone  Urinal | 13.066577 | 80.260715 |
| 47 | V | N061 | Santhosh Nagar  (Varatharajapuram) | 200 | PCT | 13.077715 | 80.255888 |
| 48 | V | N061 | Gengu (R) Subway (Road East) | 200 | PCT | 13.075745 | 80.252220 |
| 49 | V | N061 | Subway Service Road (Gopalsamy Nagar) | 200 | PCT | 13.075602 | 80.252125 |
| 50 | V | N061 | Rangachari Street (Sami(R)Puram) | 200 | PCT | 13.073552 | 80.254552 |
| 51 | V | N061 | Egmore High Road | 200 | PCT | 13.075030 | 80.255373 |
| 52 | V | N061 | Tamil Salai | 250 | PCT | 13.073970 | 80.257177 |
| 53 | V | N061 | Pontheon Road (Urinals) | 50 | Standalone  Urinal | 13.068700 | 80.256237 |
| 54 | V | N061 | Ethiraj Line Park | 80 | PCT | 13.066445 | 80.257453 |
| 55 | V | N061 | Mayor Sundarao Park | 120 | PCT | 13.066005 | 80.260763 |
| 56 | V | N062 | West Koovam River Road (New  Urinals) | 50 | Standalone  Urinal | 13.079259 | 80.268840 |
| 57 | V | N062 | East Coovum River Road | 250 | PCT | 13.078148 | 80.271660 |
| 58 | V | N062 | Navalar Nedunchiyan Nagar | 200 | PCT | 13.077646 | 80.272489 |
| 59 | V | N062 | New Balakrishnan Street | 120 | Standalone  Bath room | 13.077901 | 80.268454 |
| 60 | V | N062 | Koovur Vaithiya Nathan Street | 200 | PCT | 13.078090 | 80.267092 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 61 | V | N062 | Laffond Street | 200 | Modular Toilet | 13.075011 | 80.272225 |
| 62 | V | N062 | Pumping Station Road (Opposite  to Zoin Chruch) | 150 | PCT | 13.074795 | 80.271853 |
| 63 | V | N062 | Pumping Station Road | 200 | PCT | 13.074356 | 80.271744 |
| 64 | V | N062 | May Day Playground | 50 | PCT | 13.074431 | 80.272660 |
| 65 | V | N062 | May Day Park | 100 | PCT | 13.072748 | 80.273334 |
| 66 | V | N062 | Ritchie Street | 250 | PCT | 13.072456 | 80.272372 |
| 67 | V | N062 | Govindan Street | 250 | PCT | 13.071797 | 80.271815 |
| 68 | V | N062 | West Koovam River Road  (Modular Toilet) | 40 | Modular  Toilet | 13.071329 | 80.268998 |
| 69 | V | N062 | West Koovam River Road | 200 | PCT | 13.073280 | 80.267318 |
| 70 | V | N063 | Adhithanar Lane | 200 | PCT | 13.069339 | 80.265553 |
| 71 | V | N063 | South Koovam Road | 250 | PCT | 13.067202 | 80.263836 |
| 72 | V | N063 | South Koovam Road (New Urinals) | 50 | Standalone  Urinal | 13.067685 | 80.267152 |
| 73 | V | N063 | Dams Road | 300 | PCT | 13.069844 | 80.269703 |
| 74 | V | N063 | G.P. Road (Modular Toilet) | 40 | Modular  Toilet | 13.065769 | 80.267859 |
| 75 | V | N063 | G.P. Road (New Urinals) | 50 | Standalone  Urinal | 13.064066 | 80.267418 |
| 76 | V | N063 | Kalimanpuram | 250 | PCT | 13.064025 | 80.267846 |
| 77 | V | N063 | Mohan Dass Road | 150 | PCT | 13.059407 | 80.268285 |
| 78 | V | N063 | Lord Govindaraj Nagar | 300 | PCT | 13.059617 | 80.267683 |
| 79 | V | N063 | G.P. Road (Modular Toilet) | 40 | Modular  Toilet | 13.058983 | 80.265528 |
| 80 | V | N063 | Gopal Dass Road | 200 | PCT | 13.061349 | 80.268876 |
| 81 | V | N063 | Veeranpuram | 200 | PCT | 13.059840 | 80.270738 |
| 82 | V | N063 | Link Road (Modular Toilet) | 40 | Modular Toilet | 13.063737 | 80.261230 |
| 83 | V | N063 | Link Road (Urinals) | 50 | Standalone  Urinal | 13.066799 | 80.268076 |
| 84 | V | N063 | Langs Garden Road | 300 | PCT | 13.068731 | 80.268545 |
| 85 | V | N058 | New Moor Market Road (Near  Railway Colony) | 200 | PCT | 13.090149 | 80.270227 |
| 86 | V | N058 | New Moore Market Road, Near Thideer Nagar | 200 | PCT | 13.090983 | 80.271305 |
| 87 | V | N058 | Railway Colony | 250 | PCT | 13.091981 | 80.271642 |
| 88 | V | N058 | Sydenhams Road, Near Ripon  building | 250 | PCT | 13.087501 | 80.269817 |
| 89 | V | N058 | My Ladies Park | 250 | PCT | 13.086877 | 80.271458 |
| 90 | V | N058 | Allikulam Link Road | 250 | PCT | 13.082693 | 80.272422 |
| 91 | V | N058 | Allikulam (New Urinals) | 50 | Standalone  Urinal | 13.082418 | 80.273148 |
| 92 | V | N058 | Rajamuthaiah Salai (Near Ripon  Building) | 200 | PCT | 13.082215 | 80.270922 |
| 93 | V | N058 | Naval Hospital Road, Near NH  2nd lane | 200 | PCT | 13.083853 | 80.266921 |
| 94 | V | N058 | Stringer Street | 200 | PCT | 13.082954 | 80.265930 |
| 95 | V | N058 | E.K. Guru St. | 150 | PCT | 13.085609 | 80.269345 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 96 | V | N058 | Depot Street | 150 | PCT | 13.090001 | 80.269099 |
| 97 | V | N058 | Narayana Guru Salai | 200 | PCT | 13.090062 | 80.264996 |
| 98 | V | N058 | AP Road | 200 | PCT | 13.090428 | 80.259017 |
| 99 | V | N058 | Purasaivakkam High Road  (Urinals) | 50 | Standalone  Urinal | 13.086940 | 80.258265 |
| 100 | V | N058 | Narayana Guru Salai-1 | 200 | PCT | 13.087906 | 80.261179 |
| 101 | V | N058 | E.V.K. Sampath Salai (New  Urinals) | 50 | Standalone  Urinal | 13.085821 | 80.262973 |
| 102 | V | N058 | Whannels Road | 150 | PCT | 13.078905 | 80.263302 |
| 103 | V | N058 | Kannappan Thidal Community Hall | 100 | PCT | 13.090414 | 80.270365 |
| 104 | V | N059 | South Mint Street | 150 | PCT | 13.083240 | 80.278008 |
| 105 | V | N059 | Nainiappan Street | 150 | PCT | 13.084030 | 80.278923 |
| 106 | V | N059 | Nainiappan Street (Near MA  Jacob) | 150 | PCT | 13.084608 | 80.279232 |
| 107 | V | N059 | Rattan Bazar Road | 200 | PCT | 13.085869 | 80.280942 |
| 108 | V | N059 | Fazer Bridge Road - Modular  Toilet | 40 | Modular  Toilet | 13.085585 | 80.282729 |
| 109 | V | N059 | Frazer Bridge Road | 150 | PCT | 13.085419 | 80.283706 |
| 110 | V | N059 | Broadway Bus Stand Inside (South  Side) | 200 | PCT | 13.086749 | 80.284033 |
| 111 | V | N059 | Broadway Bus Stand Middle | 200 | PCT | 13.086984 | 80.284078 |
| 112 | V | N059 | Broadway Bus Stand North | 200 | PCT | 13.087922 | 80.283993 |
| 113 | V | N059 | N.S.C. Bose Road | 200 | PCT | 13.088372 | 80.282212 |
| 114 | V | N059 | V.O.C. Salai (Near Blue Star) | 250 | PCT | 13.088322 | 80.275244 |
| 115 | V | N059 | V.O.C. Salai Near Central | 200 | PCT | 13.083081 | 80.276191 |
| 116 | V | N059 | N.S.C. Bose Road Urinals | 80 | Standalone  Urinal | 13.088486 | 80.281933 |
| 117 | V | N059 | N.S.C. Bose Road (New Urinals) | 50 | Standalone  Urinal | 13.088472 | 80.281957 |
| 118 | V | N059 | Isak Street | 100 | Standalone Urinal | 13.083612 | 80.276944 |
| 119 | V | N059 | Evening Bazar Road | 50 | Standalone  Urinal | 13.085560 | 80.279891 |
| 120 | V | N059 | R.G.G.G.H. | 300 | PCT | 13.080064 | 80.275532 |
| 121 | V | N059 | SM Nagar (Opposite to Gandhi  Nagar 7th Street) | 200 | PCT | 13.078403 | 80.279000 |
| 122 | V | N059 | SM Nagar (Opposite to B Block) | 200 | PCT | 13.078404 | 80.278817 |
| 123 | V | N059 | S.M. Nagar Children Toilet-1 | 100 | PCT | 13.078374 | 80.278868 |
| 124 | V | N059 | S.M. Nagar (Opposite to Gandhi  Nagar 6th Main Road) | 200 | PCT | 13.078439 | 80.277650 |
| 125 | V | N059 | S.M. Nagar Near Central Bridge | 200 | PCT | 13.078971 | 80.274935 |
| 126 | V | N059 | Pallavan Salai | 200 | PCT | 13.076738 | 80.276364 |
| 127 | V | N059 | S.M. Nagar Children Toilet-2 | 100 | PCT | 13.078370 | 80.279904 |
| 128 | V | N059 | SM Nagar (Opposite to Middles  School) | 200 | PCT | 13.078393 | 80.279825 |
| 129 | V | N059 | S.M. Nagar Children Toilet-3 | 100 | PCT | 13.078358 | 80.280366 |
| 130 | V | N059 | S.M. Nagar Near Anna Salai  Main Road | 200 | PCT | 13.078386 | 80.281022 |
| 131 | V | N054 | Wood Warf 1 street | 250 | PCT | 13.095784 | 80.274353 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 132 | V | N054 | V.O.C.Salai | 200 | PCT | 13.096303 | 80.275100 |
| 133 | V | N054 | PKG 3rd lane | 150 | PCT | 13.096154 | 80.276586 |
| 134 | V | N054 | V.O.C. Modular Toilet | 40 | Modular  Toilet | 13.098539 | 80.275149 |
| 135 | V | N054 | Wood Warf 1st Lane | 150 | PCT | 13.099175 | 80.274156 |
| 136 | V | N054 | V.O.C. Salai (Opposite to  Padmanaban Theater) | 200 | PCT | 13.100460 | 80.274897 |
| 137 | V | N054 | Karnish Nagar (Urinals) | 50 | Standalone  Urinal | 13.104132 | 80.276786 |
| 138 | V | N054 | Mint Street (Ladies Toilet) | 150 | PCT | 13.104933 | 80.279972 |
| 139 | V | N054 | Mint Street (Opp. To Crown  Theatre) Gents | 150 | PCT | 13.105004 | 80.279984 |
| 140 | V | N057 | Anna Pillai Street Near Workshop | 150 | PCT | 13.095184 | 80.276479 |
| 141 | V | N057 | Jakkapuram | 300 | PCT | 13.090726 | 80.274703 |
| 142 | V | N057 | Adhi Andhra Colony | 100 | PCT | 13.093378 | 80.274693 |
| 143 | V | N057 | Kalyanapuram 8th Street | 100 | PCT | 13.094397 | 80.274263 |
| 144 | V | N057 | Kalyanapuram 1st Street | 350 | PCT | 13.093987 | 80.274974 |
| 145 | V | N057 | Water Basin Street | 100 | PCT | 13.093908 | 80.276298 |
| 146 | V | N057 | Davidson Street | 100 | PCT | 13.092621 | 80.285629 |
| 147 | V | N057 | Anna Pillai Street | 150 | PCT | 13.091378 | 80.285282 |
| 148 | V | N057 | Stinger street | 150 | PCT | 13.091185 | 80.285133 |
| 149 | V | N057 | South Market Kothalchavadi  (Urinals) | 50 | Standalone  Urinal | 13.090584 | 80.285239 |
| 150 | V | N057 | Parthiban Street | 100 | PCT | 13.090963 | 80.283446 |
| 151 | V | N057 | VOC Salai | 150 | PCT | 13.093753 | 80.275104 |
| 152 | V | N055 | Barracks Street | 200 | PCT | 13.103178 | 80.283909 |
| 153 | V | N055 | Barracks Playground | 50 | Standalone Urinal | 13.104073 | 80.284195 |
| 154 | V | N055 | Varadhamman Koil Street | 250 | PCT | 13.099310 | 80.280878 |
| 155 | V | N060 | Narayanappa Street | 250 | PCT | 13.096949 | 80.291750 |
| 156 | V | N060 | Venkata Lingappa Street | 200 | PCT | 13.098653 | 80.292729 |
| 157 | V | N060 | Beach Road 4th Street (Modular Toilet) | 50 | Modular Toilet | 13.099267 | 80.292701 |
| 158 | V | N060 | Kandappa Street | 150 | PCT | 13.100791 | 80.293411 |
| 159 | V | N060 | Rajaji Salai (Clybettry) | 200 | PCT | 13.100524 | 80.294207 |
| 160 | V | N060 | Rajaji Salai (Parrys Corner) | 100 | PCT | 13.088882 | 80.290554 |
| 161 | V | N060 | Rajaji Salai-1 | 300 | PCT | 13.080401 | 80.289183 |
| 162 | V | N060 | Rajaji Salai, Near Sathya Nagar | 1000 | PCT | 13.074688 | 80.287426 |
| 163 | V | N060 | Rajaji Salai, Near Sathya Nagar-  1 | 300 | PCT | 13.074424 | 80.287308 |
| 164 | V | N060 | Rajaji Salai, Near Sathya Nagar-  2-Girls | 200 | PCT | 13.074464 | 80.287079 |
| 165 | V | N060 | Rajaji Salai, Near Sathya Nagar-  3 Boys | 200 | PCT | 13.074507 | 80.286667 |
| 166 | V | N060 | Double Road | 150 | PCT | 13.085359 | 80.288823 |
| 167 | V | N060 | Double Road-1 | 50 | Standalone  Urinal | 13.085304 | 80.288765 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 168 | V | N060 | N.S.C. Bose Road | 150 | PCT | 13.088473 | 80.288075 |
| 169 | V | N060 | N.S.C. Bose Road - Modular Toilet | 40 | Modular  Toilet | 13.088591 | 80.286828 |
| 170 | V | N060 | N.S.C. Bose Road | 50 | Standalone Urinal | 13.088604 | 80.287545 |
| 171 | V | N052 | Cementry Road | 200 | PCT | 13.108972 | 80.286997 |
| 172 | V | N052 | Anna Park | 150 | PCT | 13.108111 | 80.288975 |
| 173 | V | N052 | Anna Park 1 | 100 | PCT | 13.107142 | 80.287850 |
| 174 | V | N052 | Anna Park Modular Toilet | 40 | Modular Toilet | 13.107179 | 80.287900 |
| 175 | V | N052 | Anna Park Ladies Modular Toilet | 40 | Modular  Toilet | 13.108249 | 80.288113 |
| 176 | V | N052 | Anna Park Ladies Toilet | 100 | PCT | 13.108288 | 80.288114 |
| 177 | V | N052 | Rope Godown Street, Royapuram | 150 | PCT | 13.108217 | 80.289589 |
| 178 | V | N052 | Dobikanana | 150 | PCT | 13.106871 | 80.289211 |
| 179 | V | N052 | Durai street | 200 | PCT | 13.106643 | 80.289983 |
| 180 | V | N052 | Masuthi Street - Modular Toilet | 40 | Modular Toilet | 13.107702 | 80.291107 |
| 181 | V | N052 | N.R.T Road, Royapuram | 150 | PCT | 13.106217 | 80.291943 |
| 182 | V | N052 | M.S. Kovil street | 150 | PCT | 13.103289 | 80.290770 |
| 183 | V | N052 | OHS Modular Toilet | 40 | Modular Toilet | 13.103670 | 80.290295 |
| 184 | V | N052 | OSH Road, Royapuram, Near 5th  street | 200 | PCT | 13.104170 | 80.289043 |
| 185 | V | N052 | OSH Road, Royapuram, Near Jn  Office | 200 | PCT | 13.104893 | 80.287168 |
| 186 | V | N052 | M.C. Road Modular Toilet | 40 | Modular Toilet | 13.105640 | 80.286453 |
| 187 | V | N052 | Model Line 8th Street, Royapuram | 200 | PCT | 13.108278 | 80.284725 |
| 188 | V | N052 | Model Line 1st Street, Royapuram | 150 | PCT | 13.108597 | 80.283694 |
| 189 | V | N053 | Dr. Vijayaragavalu Salai | 100 | PCT | 13.109932 | 80.280135 |
| 190 | V | N053 | Kannan Street (S.No.1-12) | 150 | PCT | 13.113784 | 80.277051 |
| 191 | V | N052 | Old Jail Road Inside Stanley | 200 | PCT | 13.105121 | 80.283943 |
| 192 | V | N056 | Ibrahim Salai - Modular Toilet | 40 | Modular  Toilet | 13.103089 | 80.289949 |
| 193 | V | N056 | Ibrahim Salai | 50 | Standalone Urinal | 13.103099 | 80.289923 |
| 194 | V | N056 | Ibrahim Salai | 200 | PCT | 13.104197 | 80.287076 |
| 195 | V | N056 | BRN Garden | 200 | PCT | 13.101811 | 80.286452 |
| 196 | V | N056 | Asirvathapuram | 150 | PCT | 13.099304 | 80.286425 |
| 197 | V | N056 | Amman Kovil Street | 40 | Modular  Toilet | 13.097726 | 80.286033 |
| 198 | V | N056 | Old Jail Road Modular Toilet | 40 | Modular  Toilet | 13.104578 | 80.286108 |
| 199 | V | N053 | VOC Salai | 200 | PCT | 13.102822 | 80.274056 |
| 200 | V | N053 | Andhra Park (VOC Salai) | 200 | PCT | 13.103058 | 80.273498 |
| 201 | V | N053 | B.B. Road (Near Zone-V) | 200 | PCT | 13.104038 | 80.274488 |
| 202 | V | N053 | Canal Street (Stanly Nager 6th Street) | 200 | PCT | 13.108152 | 80.272036 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 203 | V | N053 | C.B. Road | 150 | PCT | 13.107955 | 80.272626 |
| 204 | V | N053 | C.B Road Near N.N. Nagar | 150 | PCT | 13.109992 | 80.273593 |
| 205 | V | N053 | Stanly Nagar 6th Street (Canal  Street) | 200 | PCT | 13.110039 | 80.272523 |
| 206 | V | N053 | Stanly Nagar 5th Street | 200 | PCT | 13.110032 | 80.271308 |
| 207 | V | N053 | C.B Road Near Motor Room | 150 | PCT | 13.106294 | 80.272727 |
| 208 | V | N053 | P.P Amman Koil Street (East) Jn of  7th street | 200 | PCT | 13.107575 | 80.273984 |
| 209 | V | N053 | P.P Amman Koil Street (6th) | 200 | PCT | 13.107589 | 80.273978 |
| 210 | V | N053 | P.P. Amman Koil Street (4th) | 200 | PCT | 13.107039 | 80.274244 |
| 211 | V | N053 | P.P. Amman Koil Street (2nd) | 200 | PCT | 13.106321 | 80.274527 |
| 212 | V | N053 | Kathbada Main Road (Opp to  New Labour Lane West) | 200 | PCT | 13.106091 | 80.275533 |
| 213 | V | N053 | New Labour Lane (Park Opposite) | 150 | PCT | 13.105976 | 80.275722 |
| 214 | V | N053 | Labour Lane | 200 | PCT | 13.105479 | 80.275924 |
| 215 | V | N053 | Kathbada Main Road (Opp to  New Labour Lane East) | 200 | PCT | 13.106421 | 80.276199 |
| 216 | V | N053 | Kathbada main Street | 200 | PCT | 13.106774 | 80.276892 |
| 217 | V | N053 | Ramdas Nagar | 150 | PCT | 13.108781 | 80.277024 |
| 218 | V | N053 | Ramdas Nagar | 200 | PCT | 13.108661 | 80.277153 |
| 219 | V | N053 | Kathivakkam High Road | 150 | PCT | 13.107123 | 80.279697 |
| 220 | V | N053 | Pensioners 3rd Street | 200 | PCT | 13.108825 | 80.279108 |
| 221 | V | N053 | T.H Service Road | 150 | PCT | 13.106750 | 80.279895 |
| 222 | V | N053 | Srinivasapuram 2nd Street | 200 | PCT | 13.113060 | 80.276107 |
| 223 | V | N053 | Bojaraja Nagar Main Street  (School) | 150 | PCT | 13.111338 | 80.276969 |
| 224 | V | N053 | Mint Bus Depot | 350 | PCT | 13.105840 | 80.280793 |
| 225 | V | N053 | North Wall Road (New Bus Stand) | 200 | PCT | 13.104037 | 80.276134 |
| 226 | V | N053 | Corona Toilet | 150 | PCT | 13.105023 | 80.278040 |
| 227 | V | N057 | Kalyanapuram | 150 | PCT | 13.093898 | 80.274806 |
| 228 | VI | N064 | Nermai Nagar 1st Street | 200 | PCT | 13.124867 | 80.222089 |
| 229 | VI | N065 | G.K.M Colony 1st Main Road | 200 | PCT | 13.111407 | 80.216441 |
| 230 | VI | N066 | S.R.P. Koil North Kamarajar Nagar | 200 | PCT | 13.121751 | 80.232661 |
| 231 | VI | N067 | Jaganathan Salai | 300 | PCT | 13.112047 | 80.232707 |
| 232 | VI | N068 | Maduraisamy Madam Street | 100 | PCT | 13.115990 | 80.239020 |
| 233 | VI | N068 | S.R.P. Koil Street (North) | 150 | PCT | 13.118796 | 80.232007 |
| 234 | VI | N068 | Pallavan Salai Opposite to Burial | 250 | PCT | 13.122136 | 80.238019 |
| 235 | VI | N068 | Thillai Nayagam Pillai 2nd Street | 200 | PCT | 13.113781 | 80.236163 |
| 236 | VI | N069 | Madhavaram High Road | 150 | PCT | 13.119478 | 80.242616 |
| 237 | VI | N069 | Thikkakulam Dobi Kanna | 150 | PCT | 13.103955 | 80.242326 |
| 238 | VI | N069 | Anderson Road Near Bus Depot | 150 | PCT | 13.098106 | 80.242246 |
| 239 | VI | N069 | Ponnuvelpuram | 150 | PCT | 13.101895 | 80.243068 |
| 240 | VI | N070 | Chinnaiah Lane (Concrete) | 200 | PCT | 13.106992 | 80.255344 |
| 241 | VI | N070 | Perambur High Road | 200 | PCT | 13.108144 | 80.248714 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 242 | VI | N070 | Murasoli Maran Park | 200 | PCT | 13.108551 | 80.242491 |
| 243 | VI | N070 | Melpatti Ponnappan Street | 150 | PCT | 13.114884 | 80.252012 |
| 244 | VI | N070 | Tank Street | 150 | PCT | 13.109745 | 80.243513 |
| 245 | VI | N070 | Chengan Street | 150 | PCT | 13.107498 | 80.253392 |
| 246 | VI | N070 | M.H Road CPS School Road | 200 | PCT | 13.110562 | 80.243498 |
| 247 | VI | N071 | Sasthri Nagar Main Road | 150 | PCT | 13.104816 | 80.245461 |
| 248 | VI | N071 | Semathamman Colony Main Street | 150 | PCT | 13.106547 | 80.244287 |
| 249 | VI | N071 | Perambur High Road (Rajiv  Gandhi Nagar) | 150 | PCT | 13.106231 | 80.242761 |
| 250 | VI | N071 | Rajiv Gandhi Nagar (Children) | 100 | PCT | 13.106173 | 80.242683 |
| 251 | VI | N071 | Brisly Nagar 5th Street | 200 | PCT | 13.099723 | 80.248777 |
| 252 | VI | N070 | Murasoli Maran Park | 100 | PCT | 13.108457 | 80.242620 |
| 253 | VI | N072 | Narasima Nagar 2nd Street | 150 | PCT | 13.104483 | 80.266673 |
| 254 | VI | N072 | Sastri Nagar | 150 | PCT | 13.103163 | 80.265345 |
| 255 | VI | N072 | Ambedkar Nagar 1st Cross Street | 300 | PCT | 13.103565 | 80.264482 |
| 256 | VI | N072 | Ambedkar Nagar Main Road | 200 | PCT | 13.103134 | 80.263014 |
| 257 | VI | N072 | Brightons Road | 200 | PCT | 13.107435 | 80.262484 |
| 258 | VI | N072 | Decastor Road | 200 | PCT | 13.102051 | 80.266852 |
| 259 | VI | N072 | Kasthuri Bai Colony A Block | 300 | PCT | 13.107134 | 80.266842 |
| 260 | VI | N072 | Kanniga Puram Playground  (Brightons) | 200 | PCT | 13.106811 | 80.260735 |
| 261 | VI | N072 | Slaughter House Goat PC | 150 | PCT | 13.104263 | 80.261263 |
| 262 | VI | N072 | Slaughter House Cow PC | 150 | PCT | 13.103271 | 80.262694 |
| 263 | VI | N072 | VOC Nagar 11th Street | 150 | PCT | 13.106128 | 80.262417 |
| 264 | VI | N072 | VOC Nagar 1st Cross Street | 150 | PCT | 13.104537 | 80.262939 |
| 265 | VI | N072 | Powder Mills Road | 200 | PCT | 13.101158 | 80.267024 |
| 266 | VI | N073 | Strahans Road 1st Street | 150 | PCT | 13.098361 | 80.252977 |
| 267 | VI | N073 | Ramaswamy Street | 200 | PCT | 13.102179 | 80.262261 |
| 268 | VI | N073 | New Ferrance Road | 150 | PCT | 13.098937 | 80.257585 |
| 269 | VI | N073 | Strahans Road Jn. of Otteri Bridge | 150 | PCT | 13.098078 | 80.251429 |
| 270 | VI | N073 | Alexander Cross Street | 200 | PCT | 13.099341 | 80.255405 |
| 271 | VI | N073 | Grey Nagar 3rd Street | 200 | PCT | 13.098937 | 80.265556 |
| 272 | VI | N073 | Gandhi Nagar Pulianthope High | 300 | PCT | 13.098487 | 80.266955 |
| 273 | VI | N073 | Stephenson Road | 150 | PCT | 13.102527 | 80.260507 |
| 274 | VI | N074 | Medavakkam Tank Road | 150 | PCT | 13.089640 | 80.241073 |
| 275 | VI | N074 | Chinnababu Street | 100 | PCT | 13.095627 | 80.245178 |
| 276 | VI | N074 | Ranganadhapurm Slum Road | 200 | PCT | 13.093464 | 80.242838 |
| 277 | VI | N074 | Herbal Park (Entrance of Pumping) | 100 | PCT | 13.092973 | 80.247134 |
| 278 | VI | N074 | Otteri Dumping Ground Link Road | 100 | PCT | 13.093080 | 80.249416 |
| 279 | VI | N074 | Herbal Park (Otteri Link Road) | 100 | PCT | 13.093862 | 80.248413 |
| 280 | VI | N074 | Otteri Link Road | 200 | PCT | 13.093718 | 80.249510 |
| 281 | VI | N075 | Venkatammal Samathi Street | 150 | PCT | 13.091446 | 80.253249 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 282 | VI | N075 | S.S.Puram A Block 2nd Street | 200 | PCT | 13.093289 | 80.250637 |
| 283 | VI | N075 | Edward Park Street | 100 | PCT | 13.096078 | 80.253064 |
| 284 | VI | N075 | Ponniamman Koil Street | 150 | PCT | 13.092009 | 80.252627 |
| 285 | VI | N075 | S.S.Puram A Block 10th Street | 150 | PCT | 13.094716 | 80.250588 |
| 286 | VI | N075 | S.S.Puram B Block 2nd Street | 150 | PCT | 13.091123 | 80.249194 |
| 287 | VI | N075 | Ponniamman Koil Street Jn. | 150 | PCT | 13.091955 | 80.252643 |
| 288 | VI | N075 | Venkatammal Samthy Street | 150 | PCT | 13.091403 | 80.252373 |
| 289 | VI | N076 | Sachidhanandam Street | 150 | PCT | 13.095074 | 80.257620 |
| 290 | VI | N076 | Ramanujam Garden Street | 150 | PCT | 13.096016 | 80.257039 |
| 291 | VI | N076 | Angalamman Koil Street | 150 | PCT | 13.095093 | 80.262573 |
| 292 | VI | N076 | Kalyana Mastri Garden 6th Street | 200 | PCT | 13.093877 | 80.260165 |
| 293 | VI | N076 | K. M. Garden 1st Street Junction | 250 | PCT | 13.094528 | 80.261853 |
| 294 | VI | N076 | Conron Smith Nagar Park | 80 | PCT | 13.095186 | 80.257607 |
| 295 | VI | N076 | Bakthavachalam Park | 80 | PCT | 13.097062 | 80.262453 |
| 296 | VI | N076 | Angalamman Koil Street (Near Jai  Nagar) | 120 | PCT | 13.095780 | 80.262421 |
| 297 | VI | N076 | Angalamman Koil Street (Near Jai  Nagar) | 100 | PCT | 13.095810 | 80.262400 |
| 298 | VI | N076 | Angalamman Koil Street (Near  Anjanaeyar Koil) | 150 | PCT | 13.096422 | 80.262408 |
| 299 | VI | N077 | Siva Rao Road | 150 | PCT | 13.098638 | 80.262795 |
| 300 | VI | N077 | Demellows Road (Near Amma  Unavagam) | 150 | PCT | 13.094303 | 80.268288 |
| 301 | VI | N077 | Gurusamy Nagar 10th Street | 200 | PCT | 13.096285 | 80.265915 |
| 302 | VI | N077 | Munusamy Street | 150 | PCT | 13.096599 | 80.263208 |
| 303 | VI | N077 | Kumarasamy Rajapuram | 150 | PCT | 13.095453 | 80.265344 |
| 304 | VI | N077 | Pulianthope 4th Street | 150 | PCT | 13.097291 | 80.264588 |
| 305 | VI | N077 | Basin Elephant Gate Road | 150 | PCT | 13.096994 | 80.268606 |
| 306 | VI | N077 | Sundarapuram | 200 | PCT | 13.096217 | 80.268006 |
| 307 | VI | N077 | Playground 1st Street | 250 | PCT | 13.094213 | 80.264186 |
| 308 | VI | N078 | Rajamuthaiah Salai (Sydennams  Road) | 200 | PCT | 13.090953 | 80.269488 |
| 309 | VI | N078 | Muthu Gramani Street | 200 | PCT | 13.092682 | 80.256568 |
| 310 | VI | N078 | Sachidanandam Slum | 150 | PCT | 13.094030 | 80.257257 |
| 311 | VI | N069 | Kanakkar Street | 50 | Standalone  Urinal | 13.111421 | 80.231533 |
| 312 | VI | N069 | Loco Scheme 1st Road | 50 | Standalone Urinal | 13.108455 | 80.228143 |
| 313 | VI | N069 | Loco Scheme 1st Road (Amma  Unavagam) | 80 | PCT | 13.108599 | 80.228053 |
| 314 | VI | N064 | G.K.M Burial Ground | 150 | PCT | 13.111519 | 80.215468 |
| 315 | VI | N064 | Rohini Street, Rajaji Nagar | 80 | PCT | 13.113906 | 80.211536 |
| 316 | VI | N064 | Srinivasa Nagar 3rd Main Road -  School | 80 | PCT | 13.119249 | 80.206237 |
| 317 | VI | N064 | Srinivasa Nagar 3rd Main Road -  Anganwadi | 80 | PCT | 13.119570 | 80.206228 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 318 | VI | N064 | P.V. Shanmugam Nagar | 80 | Standalone Urinal | 13.121535 | 80.205956 |
| 319 | VI | N064 | Srinivasa Nagar 3rd Cross Street | 80 | Standalone  Urinal | 13.120392 | 80.204650 |
| 320 | VI | N064 | Srinivasa Nagar 10th Cross Street | 80 | Standalone  Urinal | 13.121308 | 80.202370 |
| 321 | VI | N064 | Srinivasa Nagar 13th Cross Street | 80 | Standalone  Urinal | 13.122013 | 80.202624 |
| 322 | VI | N064 | Mahaveer Park | 80 | Standalone  Urinal | 13.124117 | 80.204397 |
| 323 | VI | N065 | Anjugam Nagar Park | 40 | Modular  Toilet | 13.122270 | 80.221175 |
| 324 | VI | N065 | Thiruveedhi Amman Koil Street | 150 | PCT | 13.120942 | 80.218627 |
| 325 | VI | N065 | Poombuhar Nagar Park (Modular Toilet) | 40 | Modular Toilet | 13.120047 | 80.211175 |
| 326 | VI | N065 | Poombuhar Nagar 1st Main Road  (Modular Toilet) | 40 | Modular  Toilet | 13.123047 | 80.212238 |
| 327 | VI | N065 | V.O.C. Park Lakshmi Nagar 3rd  Street | 80 | Standalone  Urinal | 13.123155 | 80.209646 |
| 328 | VI | N065 | MK Stalin Pond Park (Modular  Toilet) | 80 | Modular  Toilet | 13.119664 | 80.223699 |
| 329 | VI | N067 | Maduraisamy Madam Street  (New Urinals) | 50 | Standalone  Urinal | 13.117551 | 80.238731 |
| 330 | VI | N067 | May Sajith Hussain Park | 50 | Standalone  Urinal | 13.113387 | 80.235296 |
| 331 | VI | N067 | Fish Market | 50 | Standalone Urinal | 13.118633 | 80.232787 |
| 332 | VI | N067 | Thiru Vi Ka Nagar Bus Stand | 40 | Modular  Toilet | 13.119744 | 80.232542 |
| 333 | VI | N067 | Kalaignar Karunanidhi Park | 120 | PCT | 13.122306 | 80.233139 |
| 334 | VI | N067 | Pallavan Salai (Modular Toilet) | 40 | Modular  Toilet | 13.122245 | 80.238678 |
| 335 | VI | N067 | K.K.R. Avenue Park | 80 | Standalone Urinal | 13.122440 | 80.239269 |
| 336 | VI | N070 | Madhavaram High Road (New  Urinals) | 50 | Standalone  Urinal | 13.122383 | 80.242407 |
| 337 | VI | N070 | Madhavaram High Road (Amma  Unavagam) | 60 | PCT | 13.120689 | 80.242815 |
| 338 | VI | N070 | Ragavan Street (New Urinals) | 50 | Standalone Urinal | 13.112826 | 80.238929 |
| 339 | VI | N070 | Anderson Road Near Bus Depot  (New Urinals) | 50 | Standalone  Urinal | 13.098793 | 80.242097 |
| 340 | VI | N070 | Madurai Street | 120 | PCT | 13.099977 | 80.237181 |
| 341 | VI | N068 | Division Office - 68 | 80 | PCT | 13.113761 | 80.230451 |
| 342 | VI | N068 | Division Office - 68-1 | 100 | PCT | 13.113716 | 80.230468 |
| 343 | VI | N068 | Jawahar Nagar 2nd Circular  Street Park | 80 | Standalone  Urinal | 13.113859 | 80.230195 |
| 344 | VI | N068 | Jawahar Nagar 1st Circular  Street Playground | 150 | PCT | 13.113799 | 80.228856 |
| 345 | VI | N068 | Jawahar Nagar 1st Circular  Street Indoor Stadium | 150 | PCT | 13.113657 | 80.229114 |
| 346 | VI | N068 | Star Playground (Gym) | 80 | PCT | 13.112200 | 80.228834 |
| 347 | VI | N068 | Star Playground | 80 | Standalone  Urinal | 13.111921 | 80.228571 |

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| **Site Locations in Zone - V, VI, and IX (Marina only) of Greater Chennai Corporation** | | | | | | | |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Area**  **(sq. ft)\*** | **Toilet Type** | **Latitude** | **Longitude** |
| 348 | VI | N068 | Jawahar Nagar Park 5th Main Road | 80 | Standalone Urinal | 13.111032 | 80.229005 |
| 349 | VI | N068 | Periyar Nagar Park 20th Street | 80 | Standalone  Urinal | 13.114621 | 80.220032 |
| 350 | VI | N068 | S.R.P. Colony 6th Street | 80 | Standalone  Urinal | 13.118057 | 80.224308 |
| 351 | VI | N068 | Chennai Middle School K.C.  Thottam | 200 | PCT | 13.118373 | 80.231131 |
| 352 | VI | N066 | Periyar Nagar Bus Depot | 50 | Standalone  Urinal | 13.116551 | 80.224067 |
| 353 | VI | N076 | Venkatammal Samathy Street  (Children) | 100 | PCT | 13.091363 | 80.252724 |
| 354 | VI | N076 | K.M. Garden 6th Street - 1(Bath  room) | 50 | Standalone  Bath room | 13.093937 | 80.259993 |
| 355 | VI | N076 | K.M. Garden 6th Street - 2(Bath  room) | 50 | Standalone  Bath room | 13.093960 | 80.260365 |
| 356 | VI | N076 | K.M. Garden 6th Street - 3(Bath  room) | 50 | Standalone  Bath room | 13.094022 | 80.260875 |
| 357 | VI | N076 | K.M. Garden 1st Street (Bath room) | 50 | Standalone Bath room | 13.094503 | 80.261020 |
| 358 | VI | N076 | Strahans Road | 150 | PCT | 13.097293 | 80.259526 |
| 359 | VI | N076 | Patel Park | 100 | PCT | 13.096229 | 80.253115 |
| 360 | VI | N071 | Ayyanavaram T.B. Hospital (New  Urinals) | 50 | Standalone  Urinal | 13.096956 | 80.245491 |
| 361 | VI | N071 | Chengan Street Old | 150 | PCT | 13.107510 | 80.253460 |
| 362 | IX | N114 | Swimming Pool | 400 | PCT | 13.060176 | 80.283200 |
| 363 | IX | N114 | Labour Statue | 250 | PCT | 13.063599 | 80.283811 |
| 364 | IX | N114 | MGR Memorial Hall Back side | 400 | PCT | 13.065120 | 80.284115 |
| 365 | IX | N116 | Thiruvalluvar Statue | 200 | PCT | 13.054293 | 80.281848 |
| 366 | IX | N116 | Slumboard | 200 | PCT | 13.051311 | 80.281366 |
| 367 | IX | N121 | Opposite to QMC | 200 | PCT | 13.044938 | 80.280375 |
| 368 | IX | N121 | Opposite to QMC | 200 | PCT | 13.041625 | 80.279925 |
| 369 | IX | N126 | Loop Road | 300 | PCT | 13.033234 | 80.279684 |
| 370 | IX | N125 | Loop Road | 150 | PCT | 13.022638 | 80.276532 |
| 371 | IX | N125 | Loop Road | 200 | PCT | 13.025165 | 80.269491 |
| 372 | IX | N114 | Anna Swimming Pool | 150 | PCT | 13.067252 | 80.284642 |

**\*** The Area in square feet mentioned hereinabove is indicative and is based on a reasonable estimate of the footprint of the building. This figure may not necessarily indicate the plot area which could, in just a couple of sites, be larger than the footprint area. The Authority expects the Concessionaire to conduct its own due diligence to assess and estimate the area and absorb all the risks arising therefrom, as part of its roles and responsibilities under this Concession.

# SCHEDULE – B

**(See Clause 2.1) DEVELOPMENT OF THE PROJECT**

# Development of the Project

Development of the Project shall include construction of the Project as described in this **Schedule-B** and in **Schedule-C**.

# Project Units

Augment the existing public toilets by constructing and renovating toilets and related facilities in 372 locations (on **design, build, finance, operate and transfer (the "DBFOT Annuity" or "Hybrid Annuity")** basis to:

* + include Project as described in Annex-I of this Schedule-B and Annex-I of Schedule-C.
  + be completed by the Concessionaire in conformity with the Specifications and Standards set forth in Annex-I of Schedule-D.

# Annex – I (Schedule-B)

**Description of the Project**

1. Repair, renovation, revamp, refurbishment etc., of existing toilets, standalone urinals and modular toilets and for building new toilets at locations that the Authority may specify, and for providing certain special facilities in few of these toilet locations, and for operating and maintaining these facilities and to get all of these under a centralized control and monitoring system, under a Design, Build, Finance, Operate and Transfer framework of Concession with GCC for site locations in Zone 5, 6 and 9 (Marina only) of GCC.

# Project Facilities

Project Facilities shall be constructed in conformity with Annex-I of Schedule- C.

# Specifications and Standards

The Project F a c i l i t i e s shall be constructed in conformity with the Specifications and Standards specified in Annex-I of Schedule-D.

# SCHEDULE - C

**(See Clause 2.1) PROJECT FACILITIES**

# Project Facilities

Scope of Services for the Project Facilities

The Scope of work will include Design, Build, Finance, Operate, Maintain and Transfer of Public Convenience Toilets (PCTs) (with some of them having Bath room facilities), Standalone Urinals, Standalone Modular Toilets, Standalone Bath rooms and other special facilities in identified locations in Zones 5, 6 and 9 (Marina only) of Greater Chennai Corporation under a Public Private Partnership basis for the term of the Concession Period.

# Overall Scope of Services

* 1. *The* Concessionaire has to design, build, install, commission operate, maintain and eventually transfer the Project Facilities as per the design and maintenance guidelines given in this Agreement. The Concessionaire has to build the Project Facilities including the Centralized Control and Monitoring System in best of class manner so that the Facilities meets the design and operations requirements as well as support the Concessionaire to comply with the service level requirements and thereby, the Key Performance Indicators.
  2. The Authority expects the Concessionaire to note that while scrutiny and approvals are given by Authority for the Project Facilities, the Concessionaire shall ensure standard design theme across all the locations envisaged across the Project Facilities. The façade, material design, interior works, fixtures, electrical, should remain of equal standard across all locations. The Concessionaire shall be given the freedom to create a local theme each / group of PCTs to encourage more usage and response.
  3. The Concessionaire shall be responsible, at his own cost, for all the maintenance and repairs of the PCTs, the related assets and its components. The Concessionaire shall also carry out rectification of any defects during the implementation of any component of the PCTs or during the Operations and Maintenance Period.
  4. The electricity and water charges for construction, running and maintenance of the Project Facilities shall be secured by and the usage charges behind these resources shall be paid for, by the Concessionaire.

# Specific Scope of Services

* 1. The *Concessionaire* shall repair, renovate, retro-fit, revamp, refurbish and carry out all such activities so as to upgrade the look and quality of the PCTs, Standalone Urinals and Modular Toilets located in the Site, and aggregated as under:

*Table 2: Location of PCTs, Standalone Urinals, Standalone Bath rooms and Modular Toilets*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | ***Public***  ***Convenience Toilets (PCTs)*** | ***of the PCT's, New***  ***(redevelopment) requirements are*** | ***Standalone Urinals*** | ***Standalone Bath rooms*** | ***Modular Toilets*** | ***Total*** |
| Zone 5 | 170 | (28) | 26 | 7 | 24 | 227 |
| Zone 6 | 102 | (24) | 22 | 4 | 6 | 134 |
| Zone 9  (Marina only) | 11 | (3) | 0 | 0 | 0 | 11 |
| **Total** | **283** | **(55)** | **48** | **11** | **30** | **372** |

* 1. Toilets listed under new requirements are those that are either defunct or partially/ wholly demolished at the Site location and are therefore, required to be developed as a ‘redevelopment’ activity on that Site location.
  2. *Table* 3 below indicates the number of seats or service counters as the case may be, across the different PCTs, Standalone Urinals and Modular Toilets.

*Table 3: No of seats / service counters across PCTs, Standalone Urinals. Standalone Bath rooms and Modular Toilets*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | ***Seats in PCTs*** | ***Urinals in PCTs*** | ***Bath rooms in PCTs*** | ***Standalone Urinal***  ***counters*** | ***Standalone Bath rooms*** | ***Seats in Modular***  ***Toilets*** | ***sub-total*** |
| Zone 5 | 1704 | 76 | 253 | 68 | 10 | 48 | 2159 |
| Zone 6 | 815 | 7 | 119 | 34 | 4 | 9 | 988 |
| Zone 9  (Marina only) | 86 | 35 | 2 | 0 | 0 | 0 | 123 |
| **Total** | **2605** | **118** | **374** | **102** | **14** | **57** | **3270** |

* 1. The toilets have also been surveyed for quality of building, electrical and plumbing infrastructure provisions, accessibility and upkeep. The toilets have been assessed to be of differing standards on these parameters as on date and have, therefore, been broadly classified on the quality parameter as under:

*Table 4: Asset Inventorisation – Quality Parameters*

|  |  |  |
| --- | --- | --- |
|  | Good | * Cleanliness |
|  |  | * Availability of water |
|  |  | * Availability of electricity |
|  |  | * All fittings in working condition |
|  |  | * Access to the Toilet Complex |
| Toilet Quality |  |  |
| Bad | * Building with damages * Unclean |
|  |  | * Non-availability of water/clean water |
|  |  | * Non-availability of electricity |
|  |  | * Fittings not working or in damaged condition |
|  |  | * Inaccessible toilet complex |
|  | Defunct = New Constructions | * Inoperative toilets due to multiple reasons irrespective of the good/bad condition of the toilets. For avoidance of doubt, |

|  |  |  |
| --- | --- | --- |
|  |  | these do not refer to a toilet on an altogether newly identified location, if any. |

* 1. The Authority has estimated that the aggregate of 3270 seats/ service counters as the case may be are likely to be classified for major refurbishment (for those that are of bad quality as per categorisation above), minor refurbishment (for those that are of good quality as per categorisation above) and new constructions as pet Table 5 below.

*Table 5: Seats/ Service counters – indicative classification for Major and Minor refurbishment*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Type of Work | ***PCT*** | ***Stand-alone Urinals*** | ***Stand-alone Bath rooms*** | ***E- Toilet*** | ***Grand Total*** |
| Refurbishment (Major) of Toilets | 283 | 56 | 61 | 42 | 442 |
| Refurbishment (Minor) of Toilets | 1806 | 96 | 258 | 6 | 2166 |
| New construction of Toilets | 516 | 68 | 69 | 9 | 662 |
| **Grand Total** | **2605** | **220** | **388** | **57** | **3270** |

* 1. The Authority however expects the Concessionaire to conduct its own due diligence to assess and estimate the numbers and absorb all the risks arising therefrom, as part of its roles and responsibilities under this Concession.
  2. The Authority has estimated that about 55% of the PCTs in Zone 5 and about 45% of the PCTs in Zone 6 already have bath room facilities in them. The Concessionaire is however expected to reconfirm these figures and thereafter, provide such special facilities like bath room, washing area, women/child care room and waiting area for atleast 60% of the PCTs listed above.
  3. The Centralized Control & Monitoring System and Mobile App has to be developed by the Concessionaire for monitoring the Public Convenience Toilets lounges.
  4. The Concessionaire shall not collect user charges from public in any manner as the toilet facilities shall be provided to the public free of cost.

# Scope of Services – advertising activity



***Specific***

* 1. The Concessionaire shall be encouraged to develop revenue generation plan by using side walls, façade interiors, and all such permissible areas of the Unit, for planning, designing, engineering, financing, construction, operations and maintenance of advertisement opportunities in the Project Unit(s) subject to securing all permits and approvals and prior approval from the Authority under the provisions of the Concession Agreement.
  2. The Concessionaire is encouraged to explore innovative approaches under advertisement activities.. Provided that such opportunities identified by the Concessionaire shall be scrutinized in detail by the Authority for necessary compliance such as legal, statutory laws, guidelines, council orders, etc. The Authority may, upon finding such plans to be compliant, accord the approval for the same. The Concessionaire has to seek specific approval for each Unit identified for advertisement activities before construction of these facilities at that Unit. The fees applicable for advertisements, rentals and charges etc., as may be applicable under extant rules and regulations will be

leviable and the Concessionaire shall agree and undertake to comply with these statutory and non-statutory obligations.

* 1. Deleted
  2. The Concessionaire may undertake any advertising activity any time during the Concession Period provided that due approvals from the Authority and from Statutory and Non-Statutory agencies, as applicable are secured behind any or all of the advertisement activities.

Provided that the Concessionaire may also decide not to undertake any advertising activity.

1. Project Facilities to be completed on or before Commercial Operation Date have been described in Annex-I of this Schedule C.

# Annex-I (Schedule-C)

**Project Facilities**

# Project Facilities

The Concessionaire shall construct the Project Facilities described in this Annex-I to form part of the Project.

# Description of Project Facilities

Each of the Project Facility is briefly described below:

*Table 6: Description of Project Facilities*

|  |  |
| --- | --- |
| **Facilities** | **Description** |
| a. Toilets | Repair, renovation, revamp, and refurbishment of all the Toilets listed  in in Annex – I (Schedule A) to standards as stipulated in Specifications and Standards, Annex – I Schedule D. |
| b. Special Facilities in Toilets | Provide certain special facilities in atleast 60% of the Toilets listed in Annex – I (Schedule A) like bath room, washing area, women/child  care room and waiting area. |
| c. Urinals and Modular Toilets | Repair, renovation, revamp, and refurbishment of all the Urinals and Modular Toilets in in Annex – I (Schedule A) to standards as stipulated  in Specifications and Standards, Annex – I Schedule D |
| d. Central Control  Monitoring Systems (CCMS) | Develop, install and maintain control systems and related infrastructure for effective monitoring of the facilities. |

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# SCHEDULE – D

**(See Clause 2.1) SPECIFICATIONS AND STANDRADS**

# 1 Specification and Standards for the Project

The Concessionaire shall comply with the Specifications and Standards set forth in Annex• I of this Schedule-D for construction of the Project.

# Annex - I (Schedule-D)

**Specifications and Standards for the Project**

**1** Standards to apply have been listed in Table 7 below. However, the applicable Standards shall not be limited to the following, and shall include the amendments to these Standards if any from time to time.

*Table 7: Standards that apply for the Project*

|  |  |  |
| --- | --- | --- |
| **Sl #** | **Standards as specified in** | **Description** |
| 1 | Manual on Sewerage and Sewage Treatment Systems CPHEEO, MoUD, 2013 | Outlines the norms for toilets, both public and community, and for the facilities to be provided in each of these  Outlines the methods and processes to be followed for O&M of the latrines and toilets that are part of any public  convenience facility |
| 2 | Guidelines on Community Toilets 1995 | Provides norms for size of toilet cubicle,  bath room, urinal and washing areas |
| 3 | Model Building Bye-laws, MoUD, 2016 | Outlines the general building requirements and services, codes, standards and  guidelines for building toilets in public areas |
| 4 | SP 7- National Building Code of India BIS 2016 | Deals with guidelines for regulating the building construction activities. This code also reflects the state-of-the-art and  contemporary applicable international practices. |
| 5 | Urban and Regional Development Plans, Formulation & Implementation Guidelines,  MoUD, 2014 | Deals with aspects related to locations, signage, maintenance and cleaning of  public toilets |
| 6 | Harmonised Guidelines on Norms and Standards for Barrier Free Environment for Persons with  Disability and Elderly Persons, MoUD, 2016 | Outlines detailed norms for different elements of a toilet construction for persons  who are differently abled. |
| 7 | Guidelines for Swachh Bharat Mission (Urban) 2014 | Sanitation requirements and Norms for  provisions of toilets, separately for Public and for Community Toilets |
| 8 | National Building Code | For structural design and stability of the  toilets |
| 9 | Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 | Deals with occupational health and safety of the staff associated with O&M of the  toilet facility |
| 10 | TN Government Gazette Extraordinary, January 31, 2019. Notifications by the Government. MAWS Department. Amendments to the Chennai Municipal Corporation Licensing of Hoardings and Levying and Collection of Advertisements Tax Rules 2003; Read together  with WP No 6913 of 2018 dated 11-03-2020, Order passed by Honourable High Court | Deals with contours, permissions, approvals, forms and formats behind licensing of hoardings and levy and collection of advertisement related fees, and rentals. |

|  |  |  |
| --- | --- | --- |
|  | Madras and Chennai City Municipal  Corporation Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules 2003 |  |

# Specifications to apply, not limited to the following:

* 1. The overall design and operations related specifications for Project shall be structured to achieve the following objectives:
     1. To ensure adequate privacy, comfort, convenience and confidence for women,

child, older persons, and persons with disabilities friendly in usage of the Project Facilities

* + 1. To ensure and uphold the dignity, health, and safety of users as well as the maintenance staff
    2. To ensure environmental sustainability – lower the carbon footprint, the better shall be the design and operations.
    3. To handle digital technologies, sensors, and automation and such other enablers effectively for efficient operations and maintenance of the Project Facilities
    4. To be able to build climate resilient infrastructure that shall withstand adverse impact of flood, water stagnation, rising dampness etc., protect the structure and help uninterrupted operations of the Project Facilities.
    5. To construct the Project Facilities as per the aspirational parameters of Swachh Bharat Mission Guidelines.

# *Design* and Implementation related Specifications - Project



* + 1. The design related specifications shall, inter-alia:
       1. Allow for easy cleaning and maintenance, have high resistance for vandalism, and have low maintenance requirements
       2. Adequately address the different sanitation needs of special user groups including women, children, old and infirm, and the differently abled.
       3. Provide for both the average and the peak loading factors
       4. Provide for clean, safe, accessible, convenient and hygienic facility at a level of privacy adequate to perform necessary personal functions
       5. Be in such a way that the internal spaces naturally stay dry
       6. Provide adequate access, safe pedestrian path and including ramps for the differently abled.
       7. Provide for signage and display boards with directions and distances to reach that location. Facility shall be brightly lit, vibrant, aesthetic and pleasing.
       8. Include landscaping, greenery and such aspects are to be provided for and properly implemented and maintained.
       9. Be in such manner that the structure of the building and access (including access control) to the building should be reassuring to Users (especially to women) about safety, privacy and security
       10. Focus special attention for women users in matters related to door locks and latches, window and roof designs, etc. Menstrual hygiene management is also to be given specific importance
       11. Cover solutions for hygiene management (toilet seat sanitizers, health faucets, toilet papers, etc.)
       12. Provide for right mix of Indian and Western closets, Male, Female, LGBTQIA+ and Differently abled users, and these to be built of suitable dimensions
       13. Reckon good quality of plumbing materials and workmanship, floor grading and water drains etc., and these shall be such as to prevent spills, leakages and accumulations whatsoever
       14. Provide for amenities like drum roll for toilet papers, clothes hook, platforms/shelf, grab bars, soap dispensers, hand dryers, etc., to be considered and provided
       15. Build in optimal locations for placement of support infrastructure such as bio- metric attendance for the staffs, customer feedback system(s), surveillance camera, mirrors, sanitary items, etc.
       16. Ensure that doors and door locks, partitions and bay areas shall be such as to offer adequate privacy, protection and confidence for the users of the facility
       17. Allow natural air and light to be used to fullest possible as a means of ventilating and lighting the facility. Where needed, mechanical ventilation devices to be fitted.
    2. The Concessionaire shall ensure that no damage is caused to existing roads, drainages etc., through implementation activities or through any of its agents, contractors etc.
    3. The construction of Project shall not obstruct traffic, pedestrian movement and should be carried out such that there shall be no bottleneck in that area. There shall not be any encroachment upon any premises, road, corridor, pathway or footpath or any part of the area beyond the Site boundary for common use in any manner whatsoever and any such encroachment shall be deemed to be breach of this Agreement making the Agreement liable for cancellation.
    4. All Project Units shall also be designed to keep the specific needs of weak and/or senior users so that they feel comfortable and confident in using them. Ramps, grab bars, anti-skid floors etc., shall be considered for a very effective and efficient usage.
    5. Sump for municipal water supply and/or bore well(s), and storage tanks to be provided to ensure adequate storage availability and storage.
    6. Rain water harvesting and Storm water drainage should be given adequate importance so that water stagnations etc., don’t end up compromising the quality and upkeep of the toilets
    7. Waste water to be appropriately treated (in septic tanks) as much as feasible at the site itself. Other alternative include, connection to a sewer line and appropriate disposal of septage.
    8. Adequate lighting, both inside and outside the facility, at all times, especially during night is absolutely essential. Flood lights/mass lights near toilets can help improve a sense of safety and security with the users especially during night times.
    9. The Concessionaire shall secure and provide for separate electricity meters for each of the location and shall also have separate meters for the Project Facilities

and advertisement activity inside each Site location.

* + 1. Advertisements are permitted on 3 (three) exterior walls of the Unit, limited to 40% of exterior wall area and subject to a maximum of 40 square metre per Unit. Advertisements are also permitted in the interiors of the Unit limited to 10% of interior wall area and subject to a maximum of 5 square metre per Unit.
    2. Lighting systems should be adequate and all fixtures shall be vandalism proof.
    3. Emergency power alternatives, atleast for lighting the main access and usage areas shall be provided so that power failures don’t end up compromising the usage and safety of the toilets
    4. Waste and refuse bins, appropriately color coded, should be placed at all necessary locations in and around the toilet location. Wastes should be segregated and disposed as per practices in vogue, for example, sanitary napkins shall be disposed only as a bio-medical waste.
    5. Good quality wires and fittings should be used for the purposes. Concealed wiring is to be preferred. Energy efficient bulbs and fittings to be given importance.
    6. Concessionaire shall be responsible for all aspects relating to design and implementation of the Project and Authority shall not be responsible for any errors, deficiencies, omissions, or consequences of the provision or otherwise of these aspects.
    7. Waterless urinals, modular toilets and such other recent technology alternatives to be generously considered and provided for
    8. Solar power and such other green energy sources to be generously considered and provided for.
    9. The Design shall include provision of a Centralized Control and Monitoring System both in terms of hardware, software and network. The aspects related to operations, customer feedback for each Unit would need to be available through mobile app and for Authority for constant review and corrective actions, as may be required. The Users may also be given the same mobile app where they can share their feedback, grievances, suggestions etc. All such data for monitoring, customer feedback, grievances shall in addition, be integrated through API to the Authority’s Integrated Command Control Centre at the Authority’s head office.
    10. All the Project Facilities shall be geotagged and also be available on open digital search engines such as Google etc. The Concessionaire shall carryout the same and ensure compliance to the same before the commencement of Operations phase.
    11. The Concessionaire shall design the Project such as to achieve and exceed the service requirements as per the maintenance requirements and KPI parameters mentioned in Schedule K to this Agreement.
    12. The CCMS to be designed and developed by the Concessionaire shall be such as to monitor all the duties and obligations of the Concessionaire and to capture and record all parameters, not limited to the KPIs that has been laid out in Schedule K to this Agreement.

# SCHEDULE – E

**(See Clause 4.1.3) APPLICABLE PERMITS**

# Applicable Permits

* 1. The Concessionaire shall obtain, as required under Applicable Laws, the following Applicable Permits on or before the Appointed Date.
     1. No Objection Certificates from the Authority
     2. No Objection Certificates from the Highways/TNRDC, as required
     3. Permits for Vehicles and Licenses for drivers
     4. Electrical connection from the state electricity utility
     5. Equipment licenses
     6. Labour related permits
     7. Licenses to work during other than normal working hours
     8. Water supply connection from the state water utility
     9. Licenses if any to operate waste water facilities
     10. Health and Safety certificates
     11. Fire safety clearances, as required
     12. Any and all other permits or clearances required under Applicable Laws.
  2. Unless otherwise specified in this Agreement, Applicable Permits, as required, relating to environmental protection shall have been procured by the Authority as a Condition Precedent.

# SCHEDULE –F

**(See Clause 9.1) PERFORMACE SECURITY**

GCC

# WHEREAS:

1. ...................... (the **"Concessionaire")** and the GCC (the **"Authority")** have entered into a Concession Agreement dated (the **"Agreement")** whereby the Authority has agreed to the Concessionaire undertaking development and operation of …........ on Hybrid Annuity Mode, subject to and in accordance with the provisions of the Agreement.
2. The Agreement requires the Concessionaire to furnish a Performance Security to the Authority in a sum of Rs.\*\*\*\*\* (Rupees\*\*\*\*\* crore) (the **"Guarantee Amount")** as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Construction Period (as defined in the Agreement).

(C) We, ....................... through our Branch at..................(the **"Bank")** have agreed to furnish this Bank Guarantee by way of Performance Security.

NOW, THEREFORE, the Bank hereby, unconditionally and irrevocably, guarantees and affirms as follows:

1. The Bank hereby unconditionally and irrevocably guarantees the due and faithful performance of the Concessionaire's obligations during the Construction Period, under and in accordance with the Agreement, and agrees and undertakes to pay to the Authority, upon its mere first written demand, and without any demur, reservation, recourse, contest or protest, and without any reference to the Concessionaire, such sum or sums upto an aggregate sum of the Guarantee Amount as the Authority shall claim, without the Authority being required to prove or to show grounds or reasons for its demand and/or for the sum specified therein.
2. A letter from the Authority, under the hand of an Officer not below the rank Deputy Commissioner (Works) in GCC, that the Concessionaire has committed default in the due and faithful performance of all or any of its obligations under and in accordance with the Agreement shall be conclusive, final and binding on the Bank. The Bank further agrees that the Authority shall be the sole judge as to whether the Concessionaire is in default in due and faithful performance of its obligations during the Construction Period under the

Agreement and its decision that the Concessionaire is in default shall be final, and binding on the Bank, notwithstanding any differences between the Authority and the Concessionaire, or any dispute between them pending before any court, tribunal, arbitrators or any other authority or body, or by the discharge of the Concessionaire for any reason whatsoever.

1. In order to give effect to this Guarantee, the Authority shall be entitled to act as if the Bank were the principal debtor and any change in the constitution of the Concessionaire and/or the Bank, whether by their absorption with any other body or corporation or otherwise, shall not in any way or manner affect the liability or obligation of the Bank under this Guarantee.
2. It shall not be necessary, and the Bank hereby waives any necessity, for the Authority to proceed against the Concessionaire before presenting to the Bank its demand under this Guarantee.
3. The Authority shall have the liberty, without affecting in any manner the liability of the Bank under this Guarantee, to vary at any time, the terms and conditions of the Agreement or to extend the time or period for the compliance with, fulfilment and/ or performance of all or any of the obligations of the Concessionaire contained in the Agreement or to postpone for any time, and from time to time, any of the rights and powers exercisable by the Authority against the Concessionaire, and either to enforce or forbear from enforcing any of the terms and conditions contained in the Agreement and/or the securities available to the Authority, and the Bank shall not be released from its liability and obligation under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the Concessionaire or any other forbearance, indulgence, act or omission on the part of the Authority or of any other matter or thing whatsoever which under any law relating to sureties and guarantors would but for this provision have the effect of releasing the Bank from its liability and obligation under this Guarantee and the Bank hereby waives all of its rights under any such law.
4. This Guarantee is in addition to and not in substitution of any other guarantee or security now or which may hereafter be held by the Authority in respect of or relating to the Agreement or for the fulfilment, compliance and/or performance of all or any of the obligations of the Concessionaire under the Agreement.
5. Notwithstanding anything contained hereinbefore, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee will remain in force until the (first) anniversary of the Appointed Date and unless a demand or claim in writing is made by the Authority on the Bank under this

Guarantee, no later than 6 (six) months from the date of expiry of this Guarantee, all rights of the Authority under this Guarantee shall be forfeited and the Bank shall be relieved from its liabilities hereunder.

1. Upon request made by the Concessionaire for release of the Performance Security along with the particulars required hereunder, duly certified by a statutory auditor of the Concessionaire, the Authority shall release the Performance Security forthwith.
2. The Bank undertakes not to revoke this Guarantee during its currency, except with the previous express consent of the Authority in writing, and declares and warrants that it has the power to issue this Guarantee and the undersigned has full powers to do so on behalf of the Bank.
3. Any notice by way of request, demand or otherwise hereunder may be sent by post addressed to the Bank at its above referred Branch, which shall be deemed to have been duly authorised to receive such notice and to effect payment thereof forthwith, and if sent by post it shall be deemed to have been given at the time when it ought to have been delivered in due course of post and in proving such notice, when given by post, it shall be sufficient to prove that the envelope containing the notice was posted and a certificate signed by an officer of the Authority that the envelope was so posted shall be conclusive.
4. This Guarantee shall come into force with immediate effect and shall remain in force and effect for a period of one year and six months or until it is released earlier by the Authority pursuant to the provisions of the Agreement.
5. This guarantee shall also be operatable at our Branch at Chennai, from whom, confirmation regarding the issue of this guarantee or extension/renewal thereof shall be made available on demand. In the contingency of this guarantee being invoked and payment thereunder claimed, the said branch shall accept such invocation letter and make payment of amounts so demanded under the said invocation.
6. The guarantor/bank hereby confirms that it is on SFMS (Structural Finance Messaging System) platform & shall invariably send an advice of this Bank Guarantee to the designated bank of GCC, details of which is as under:

|  |  |  |
| --- | --- | --- |
| S No | Particulars | Details |
| 1 | Name of Beneficiary |  |
| 2 | Name of Bank |  |
| 3 | Account No. |  |
| 4 | IFSC Code |  |

Signed and sealed this .......... day of ..........., 20......... at ...........

SIGNED, SEALED AND DELIVERED

For and on behalf of the BANK by:

(Signature)

(Name) (Designation) (Code Number)

NOTES:

1. The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.
2. The address, telephone number and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

# SCHEDULE – G

**(See Clause 12.1) PROJECT COMPLETION SCHEDULE**

# Project Completion Schedule

During Construction Period, the Concessionaire shall comply with the requirements set forth in this Schedule-G for each of the Project Milestones and the Scheduled Completion Date (the "Project Completion Schedule"). Within 15 (fifteen) days of the date of each Project Milestone, the Concessionaire shall notify the Authority of such compliance along with necessary particulars thereof.

# Project Milestone-I

* 1. Project Milestone-I shall occur on the date falling on the 90 th (ninetieth) day from the Appointed Date (the "Project Milestone-I").
  2. Prior to the occurrence of Project Milestone-I, the Concessionaire shall have expended not less than 30% (thirty per cent) of the total capital cost set forth in the Financial Package.
  3. Prior to the occurrence of Project Milestone -1, the Concessionaire shall have commenced construction of the Project and achieved 30% Physical Progress.

# Project Milestone-II

* 1. Project Milestone-II shall occur on the date falling on the 180 th (one hundred and eightieth) day from the Appointed Date (the "Project Milestone-II").
  2. Prior to the occurrence of Project Milestone-II, the Concessionaire shall have expended not less than 50% (fifty per cent) of the total capital cost set forth in the Financial Package.
  3. Prior to the occurrence of Project Milestone -II, the Concessionaire shall have commenced construction of the Project and achieved 50% Physical Progress

# Project Milestone-Ill

* 1. Project Milestone-Ill shall occur on the date falling on the 270th (two hundred and seventy) day from the Appointed Date (the "Project Milestone-Ill").
  2. Prior to the occurrence of Project Milestone-Ill, the Concessionaire shall have commenced construction of all Project Facilities and expended not less than 70% (seventy five per cent) of the total capital cost set forth in the Financial Package.
  3. Prior to the occurrence of Project Milestone -Ill, the Concessionaire shall have

commenced construction of the Project and achieved 70% Physical Progress

# Scheduled Completion Date

* 1. The Scheduled Completion Date shall be the 365th (three hundred and sixty fifth) day from the Appointed Date.
  2. On or before the Scheduled Completion Date, the Concessionaire shall have completed the Project in accordance with this Agreement.

# Extension of period

Upon extension of any or all of the aforesaid Project Milestones or the Scheduled Completion Date, as the case may be, under and in accordance with the provisions of this Agreement, the Project Completion Schedule shall be deemed to have been amended accordingly.

# SCHEDULE - H

**(See Clause 12.2) DRAWINGS**

# Drawings

In compliance of the obligations set forth in Clause 12.2 of this Agreement, the Concessionaire shall furnish to the Independent Engineer, free of cost, all Drawings listed in Annex-I of this Schedule-H.

# Additional drawings

If the Independent Engineer determines that for discharging its duties and functions under this Agreement, it requires any drawings other than those listed in Annex-I, it may by notice require the Concessionaire to prepare and furnish such drawings forthwith. Upon receiving a requisition to this effect, the Concessionaire shall promptly prepare and furnish such drawings to the Independent Engineer, as if such drawings formed part of Annex-I of this Schedule-H.

# Annex - I (Schedule-H) List of Drawings

The Concessionaire shall furnish, under provisions of Clause 12.2 of this Agreement, including but limited to the following Drawings for each Unit.

1. Detailed design – indicating all the changes that the Concessionaire may contemplate (through repair, renovation, refurbishment, etc.) behind each of the Unit
2. Layout Plan – for all the Units
3. Key Plan – for all the Units
4. Drawings behind the drainage system
5. Drawings behind the water supply system
6. Drawings behind the plumbing and electrical lines for each Unit

# SCHEDULE – I

**(See Clause 14.1.2) TESTS**

# Schedule for Tests

* + 1. The Concessionaire shall, no later than 30 (thirty) days prior to the likely completion of the Project, notify the Independent Engineer and the Authority of its intent to subject the Project to Tests, and no later than 7 (seven) days prior to the actual date of Tests, furnish to the Independent Engineer and the Authority detailed inventory and particulars of all works and equipment forming part of the Project.
    2. The Concessionaire shall notify the Independent Engineer of its readiness to subject the Project to Tests at any time after 7 (seven) days from the date of such notice, and upon receipt of such notice, the Independent Engineer shall, in consultation with the Concessionaire, determine the date and time for each Test and notify the same to the Authority who may designate its representative to witness the Tests. The Independent Engineer shall thereupon conduct the Tests itself or cause any of the Tests to be conducted in accordance with Article 14 and this Schedule-I.

# Tests

* + 1. In pursuance of the provisions of Clause 14.1.2 of this Agreement, the Independent Engineer shall conduct, or cause to be conducted, the Tests specified in this Paragraph 2 for all facilities including advertising activities.
    2. Visual and physical Test: The Independent Engineer shall conduct a visual and physical check of the Project to determine that all works and equipment forming part thereof conform to the provisions of this Agreement.
    3. Structural Test: All civil structures shall be subjected to structural and load testing for compliance of the Project with applicable specifications and standards.
    4. Other Tests: The Independent Engineer may require the Concessionaire to carry out or cause to be carried additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project with Specifications and Standards.
    5. Environmental audit: The Independent Engineer shall carry out a check to determine conformity of the Project with the environmental requirements set forth in Applicable Laws and Applicable Permits.
    6. Safety review: Safety audit of the Project shall have been undertaken by the Safety Consultant as set forth in Schedule-L, and on the basis of such audit, the Independent Engineer shall determine conformity of the Project Facilities with the provisions of this Agreement.

# Agency for conducting Tests

All Tests set forth in this Schedule-I shall be conducted by the Independent Engineer or such other agency or person as it may specify in consultation with the Authority.

# Completion / Phased Completion Certificate

Upon successful completion of Tests, the Independent Engineer shall issue the Completion Certificate or the Phased Completion Certificate, as the case may be, in accordance with the provisions of Article 14.

# Tests during construction

Without prejudice to the provisions of this Schedule-I, tests during construction shall be conducted in accordance with the provisions of Clause 13.3.1.

# SCHEDULE - J

**(See Clause 14.2)**

# COMPLETION AND PHASED COMPLETION CERTIFICATES COMPLETION CERTIFICATE

1. I/We, ................. (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement dated

................................................................................................................................................ (the

"Agreement"), for development and operation of the ....................Project (the "Project") on design, build, finance, operate and transfer (the "DBFOT Annuity or Hybrid Annuity") basis, through..................(Name of Concessionaire), hereby certify that the Tests specified in Article 14 and Schedule-I of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and I/We am/are satisfied that the Project can be safely and reliably placed in commercial service of the Users thereof.

1. It is certified that, in terms of the aforesaid Agreement, all works forming part of the Project have been completed, and the Project is hereby declared fit for entry into commercial operation on this the day of 20

# SIGNED, SEALED AND DELIVERED

For and on behalf of

# INDEPENDENT ENGINEER by:

(Signature)

(Name) (Designation) (Address)

# PHASED COMPLETION CERTIFICATE

I/We,............... (Name of the Independent Engineer), acting as Independent Engineer, under and in accordance with the Concession Agreement Dated…. (the "Agreement"), for development and operation of the Project (the "Project") on design, build, finance, operate and transfer (the "DBFOT Annuity or Hybrid Annuity") basis through. (Name of Concessionaire), hereby

certify that the Tests specified in Article 14 and Schedule-I of the Agreement for a phase of the Project as per list of Site locations provided in Table 8 hereinbelow.

*Table 8: Phased Completion – Listing of Units*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **S**  **No.** | **Zone** | **Ward** | **Toilet Location** | **Toilet Type** | **Latitude** | **Longitude** | **Brief description of the nature of work done**  **(new/major/minor)** |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

The tests have been successfully undertaken to determine the compliance of this phase of the Project with the provisions of the Agreement, and I/We am/are satisfied that the phase of the Project as listed in table hereinabove can be safely and reliably placed in commercial service of the Users thereof.

It is certified that, in terms of the aforesaid Agreement, all works forming a phase of Project as listed in table hereinabove have been completed, and this phase of the Project is hereby declared fit for entry into commercial operation on this the day of ……….. 20..

|  |  |
| --- | --- |
| **ACCEPTED, SIGNED, SEALED AND DELIVERED**  FOR AND ON BEHALF OF  **CONCESSIONAIRE by:**  SIGNED, SEALED AND DELIVERED  (Signature)  (Name and Designation) (Address) | **ACCEPTED, SIGNED, SEALED AND DELIVERED**  FOR AND ON BEHALF OF INDEPENDENT ENGINEER SIGNED, SEALED AND DELIVERED  (Signature)  (Name and Designation) (Address) |

# SCHEDULE K

**(See Clause 17.2)**

# MAINTENANCE REQUIREMENTS and KEY PERFORMANCE INDICATORS

1. **Maintenance Requirements**
   1. The Concessionaire shall, at all times, operate and maintain the Project in accordance with the provisions of the Agreement, Applicable Laws and Applicable Permits. In particular, the Concessionaire shall, at all times during the Operation Period, conform to the maintenance requirements set forth in Annex – I of this Schedule-K (the "Maintenance Requirements").
   2. The Concessionaire shall repair or rectify any defect or deficiency set forth in Paragraph 2 of this Schedule-K within the time limit specified therein and any failure in this behalf shall constitute a breach of the Agreement. Upon occurrence of any breach hereunder, the Authority shall be entitled to recover Damages as set forth in this Schedule, without prejudice to the rights of the Authority under the Agreement, including Termination thereof.
   3. The Concessionaire shall operate and maintain the Project to best of standards and specifications. Key Performance Indicators to measure and monitor the performance of the Concessionaire has been set forth in Paragraph 10 of this Schedule-K. Deficiencies in compliance or non-compliance by the Concessionaire on these Performance parameters shall constitute a breach of the Agreement. Upon occurrence of any breach hereunder, the Authority shall be entitled to recover Damages as set forth in this Schedule, without prejudice to the rights of the Authority under the Agreement, including Termination thereof.

# Repair/rectification of defects and deficiencies

* 1. The obligations of the Concessionaire in respect of Maintenance Requirements shall include repair and rectification of the defects and deficiencies specified in Annex - II of this Schedule - K within the time limit set forth therein.
  2. The Concessionaire shall at all times maintain an adequate inventory of spares and consumables to meet the Maintenance Requirements.

# Other defects and deficiencies

* 1. In respect of any defect or deficiency not specified in Annex - II of this Schedule- K, the Concessionaire shall undertake repair or rectification in accordance with Good Industry Practice and within the time limit specified by the Independent Engineer.
  2. In respect of any defect or deficiency not specified in Annex - II of this Schedule- K, the Independent Engineer may, in conformity with Good Industry Practice,

specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards, and any deviation or deterioration beyond the permissible limit shall be repaired or rectified by the Concessionaire in accordance with Good Industry Practice and within the time limit specified by the Independent Engineer.

# Extension of time limit

Notwithstanding anything to the contrary specified in this Schedule-K, if the nature and extent of any defect or deficiency justifies more time for its repair or rectification than the time specified herein, the Concessionaire shall be entitled to additional time in conformity the Good Industry Practice. Such additional time shall be determined by the Independent Engineer and conveyed to the Concessionaire and the Authority with reasons thereof.

# Emergency repairs/restoration

Notwithstanding anything to the contrary contained in this Schedule-K, if any defect, deficiency or deterioration in the Project poses a hazard to safety or risk of damage to property, the Concessionaire shall promptly take all reasonable measures for eliminating or minimizing such danger.

# Daily Inspection by the Concessionaire

The Concessionaire shall, through its engineer, undertake a daily visual inspection of the Project and maintain a record thereof in a register to be kept in such form and manner as the independent engineer may specify. Such record shall be kept in safe custody of the Concessionaire and shall be open to inspection by the Authority and the Independent Engineer at any time during working hours.

# Divestment Requirements

All defects and deficiencies specified in this Schedule-K shall be repaired and rectified by the Concessionaire so that the Project conforms to the Maintenance Requirements on the Transfer Date.

# Display of Schedule - K

The Concessionaire shall display copy of this Schedule-K at the site along with the complaint register stipulated in Article 40.

# Key Performance Indicators

* 1. The obligations of the Concessionaire in respect of Maintenance Requirements shall also be evaluated for the performance by the Concessionaire on various performance parameters specified in Annex - III of this Schedule – K.

# ANNEX-I

**(Schedule-K)**

# Project - Operations & Maintenance related requirements

* 1. The Concessionaire shall have renovated, refurbished, upgraded the PCTs, Urinals and Moduar Toilets, and also provided special facilities at certain PCTs alongwith other equipments, fixtures and fittings. The Concessionaire shall now operate and maintain these Project facilities during the Concession Period.
  2. Maintenance covers and includes upkeep, repairs (minor and major), replacement and providing for augmentation needs as required, of all the assets – moveable and fixed, pertaining to and related to the toilet infrastructure that the Concessionaire is expected to operate and maintain.
  3. This includes operation of the PCTs i.e. regular cleaning of the floors, ceilings, (interior) and exterior) walls of the toilets, urinals, bath rooms and other special facilities provided in the PCTs, ensuring the proper functioning of user amenities, provisions of dedicated personnel, supervision and ensuring availability of basic infrastructure requirements such as electricity, proper drainage, sewage, waste removal. More specifically it includes the following:

1. Concessionaire shall ensure that commissioned infrastructure being used by public shall be kept in best quality and operational conditional throughout the Concession period
2. Project Facilities shall operate for atleast two shifts in a day. They shall have a defined opening and closing time. This shall be determined, defined, and displayed

– as a function of the demand and usage pattern around that toilet.

1. Toilet operations must provide for a complete set of the requisite cleaning equipment, consumables, safety gear etc. at all times.
2. Cleaning is a top priority job for the toilet staff. Cleaning cycles have to be developed for each of the sections (men/women) and for each type of infrastructure in the premises (viz., for fittings and wares related to plumbing, doors and walls related to civil, etc.)
3. Cleaning schedules should, as far as possible, be such as to avoid / minimise closure of the toilet during such activities. Lean times during the day or early/end of shift scheduling should be tried.
4. Concessionaire shall ensure that quick cleaning is carried out by the attendant of the PCT after each use.
5. The Concessionaire shall provide twin litterbins inside and outside of the Project Facilities, and disposal of the collected waste up to existing solid waste collection system in the city shall be the responsibility of the Concessionaire.
6. Concessionaire shall plan for periodical and scheduled preventive maintenance of entire infrastructure. Concessionaire shall also obtain prior written approval from the Authority before planning any partial / full closure of the facility for any maintenance works.
7. Spreading user awareness for maintaining the facility clean and hygienic is part of

the Concessionaire’s responsibility

1. Cleanliness covers and includes wall and floor surfaces, ambient air odour, waste disposal, waste water management, etc., The Project Facilities shall be fitted with

sensors for odour control, water leakage detection, people counter, etc., which enables effective maintenance and management

1. It is of paramount importance that the users feel safe and secure, private and confident to use the facility during its working hours. It shall be the responsibility of the Concessionaire to do whatever required, including looking after the access needs, to ensure complete User satisfaction on these aspects.
2. Concessionaire shall deploy staff so that minimum one personnel is available during operational hours (which shall be atleast two shifts in a day) for each toilet who shall be responsible for security and safety of toilet, maintenance of basic sanitary condition inside and around the toilet, regular removal of waste, maintenance of suggestion booklet, reporting of problems, if any, clearing of choking (if any) etc.
3. Manpower resources: Concessionaire is not under any obligation to utilise the present manpower resources of the Authority, neither the permanent nor the temporary staff of the Authority.

o Concessionaire is at freedom to employ the necessary count and quality of manpower resources that may be deemed appropriate. The persons so employed by the Concessionaire shall remain employee of the Concessionaire and the Authority shall have o care or concern with them in any manner.

1. All costs and expenses related to operations and maintenance of the facilities are to be fully borne by the Concessionaire including for utility charges viz., for water and power consumptions.
2. Facility shall be appropriately staffed – on headcount and skill aspects depending on the type and usage of that particular toilet
3. Equipments such as fire-fighting equipments, Inverters, etc. installed in the PCTs shall be regularly serviced as per the technical schedules and kept in proper operational condition
4. Women staff shall be engaged for women section, as much as possible. A separate caretaker for handling complaints from women is to be provided for.
5. Suggestion Booklet: Maintain a suggestion and complaints book in each of the facilities and the copy of the same should be submitted to Authority every month.
6. Recycling facility: Concessionaire shall ensure proper working and maintenance of water/solid waste recycling facility so that it is operational at all times.
7. Display of Information: Each toilet on the outside shall clearly display the information as prescribed. These signages shall be properly maintained to ensure clear visibility and proper aesthetics. In the inside, information as prescribed shall be properly maintained. The Concessionaire shall not display any objectionable materials
8. All maintenance staff shall be provided uniforms, aprons, shoes, identity cards, safety gears etc., and the same shall be periodically replaced for wear and tear reasons.
9. Major maintenance related structural changes that entail substantive modifications with associated costs, and which may warrant closure of part or whole of the facility may be carried out with prior discussion and after prior approval of the Authority.
   1. The Concessionaire shall ensure availability of adequate water at all times for general cleanliness and upkeep of the Project Facilities. Further laying of water line, connection and payment of connection and usage charges shall be the sole responsibility of the Concessionaire. In case of non – feasibility of bore well water supply, the Concessionaire may arrange water at its own cost. The Authority shall assist in application for water connection on best effort basis. Concessionaire shall bear both the capital cost towards the setup of water supply as well as the recurring charges

towards actual consumption, however, get them included within the payment terms under the hybrid annuity construct.

* 1. The Concessionaire shall ensure also adequate electricity supply for proper lightings inside and outside the Project Facilities. Concessionaire shall bear both the capital cost towards the setup of electricity supply, connection and payment of user charges, as well as the recurring charges towards actual consumption, however, get them included within the payment terms under the Hybrid Annuity construct.
  2. For any electrical requirements towards the advertising activities that the Concessionaire may engage, the Concessionaire shall obtain separate connections and have the consumption separately metered. The capital and recurring cost for such advertising activities shall be borne by the Concessionaire throughout the contract period.
  3. Concessionaire shall not allow any posters or stickers of any kind to be placed inside or outside the PCT by any private person other than those allowed to the Concessionaire by the Authority. In case it happens, it shall initiate lodging FIR against the defaulters under the Prevention of Defacement of Public Property Act and take further action for removal of the said posters/ stickers.
  4. The Concessionaire shall not display or exhibit any picture/poste/ statue or other articles in any part of the premises that are repugnant to the general standards of morality. The Concessionaire expressly agrees that the decision of the Authority in this regard shall be conclusive, final and binding on the Concessionaire.
  5. The Concessionaire shall ensure that the Facilities are not used for playing games and any misuse etc.
  6. It shall be the responsibility of the Concessionaire to connect the sewer line to the nearest main trunk sewer line. The connection charges and usage charges shall be responsibility of the Concessionaire.
  7. Though implied, the Authority explicitly disallows the consumption of alcohol by the employees during working hours. Any incidence shall be dealt with severely including the right to terminate the contract.
  8. The Concessionaire shall make sure that all employees in the operation are eligible for health insurance. They shall also comply with the minimum employee benefits, Employee Provident Fund benefits and leave benefits as entitled by Law.
  9. The Concessionaire shall not use the Project Facilities for residential purposes and not keep any animal/motor vehicle or storage of any kind in and around the complex other than the articles required for the cleanliness and maintenance of the Project Facilities
  10. The Concessionaire shall take insurance for all the equipment and facilities.
  11. The Concessionaire shall pay all taxes and duties, fees and charges, rentals and all other levies applicable and payable under provisions of extant laws, for both the Project and for the advertisement activities.
  12. Concessionaire shall deploy, one vehicle containing jetting cum - suction machine, water-tank, cleaning agents / chemicals, disinfectants, stain removing chemicals, spare consumables, spare fittings and fixtures, sanitation-cum maintenance staff, mopping equipments, brushes, brooms, vacuum cleaner, etc. which can undertake a thorough cleaning-cum-maintenance of the PCTs. While the basic cleaning of the PCTs would be undertaken by the person deployed at the PCT, each PCT shall be subject to thorough cleaning-com-maintenance at least once a day. For PCTs having heavy footfall, the frequency of thorough cleaning-cum-maintenance shall be increased for proper maintenance of sanitation.
  13. When the annual repairs and maintenance of works are carried out the splashes and droppings from white washing, colour washing, painting etc., on walls, floor, windows, etc. shall be removed and the surface cleaned simultaneously with the completion of these items of work in the individual rooms, quarters or premises etc. where the work is done without waiting for the actual completion of all the other items of work in the contract.
  14. The Concessionaire shall operate and maintain the Facilities in Environment friendly manner including beautifying the surrounding by provisions of greenery. The Concessionaire shall be bound to allow the checking by Pollution Control Board or any other such statutory/non statutory board or agency at any time during the Concession Period.
  15. A plan for Maintenance and Upkeep that will be carried out on a (i) continuous basis (ii) daily basis (iii) weekly basis (iv) monthly (v) half yearly (vi) annual and (vii) as and when necessary shall be comprehensively drawn out, covering all aspects viz., civil, electrical, and plumbing provisions, and to be complied with.
  16. Concessionaire shall also develop a monitoring and measurement plan surrounding key parameters that need to be covered, approaches and tools that may be used for the same, periodicity of these activities – in sum, an effective cleanliness protocol that the Concessionaire would commit to and practice throughout the term of contract period. In addition, toilet structure shall also be subject to periodic inspections and audits to assess the soundness and safety of the infrastructure.
  17. The Concessionaire shall have the central team at CCMS operate on a 24x7 basis and be responsible for shift-wise monitoring of the various aspects of the Project Facilities. The customer feedback shall also be monitored. The central team shall publish online report on daily basis on the previous day and cumulative performance for the month. These reports shall be generated through automated tool which collects data from sensors located at the Project facilities, user feedback collection mechanisms, and inspection reports on KPI etc.

The Concessionaire shall ensure that there is 24x7 real time monitoring of all KPIs as per Schedule K. Where KPIs cannot be tracked through automated measures, manual supervision, checking and recording is to be conducted by the Concessionaire.

* 1. Concessionaire shall be responsible for all aspects relating to operations and maintenance of the Project Facilities and Authority shall not be responsible for any errors, deficiencies, omissions, or consequences of the provision or otherwise of these services.

# ANNEX-II

**(Schedule-K) Repair/Rectification of Defects and Deficiencies**

The Concessionaire shall repair and rectify the defects and deficiencies specified in this Annex-II of Schedule-K within the time limit set forth herein. The Authority shall impose penalties for non-adherence to the timelines as per the amounts indicated herein. Penalty shall be levied for delay in responsiveness beyond the time limits stipulated.

*Table 9: Maintenance Defect/deficiency - Time limits and Penalty details*

|  |  |  |  |
| --- | --- | --- | --- |
| **Sl.No.** | **Nature of Defect/deficiency** | **Time limits for**  **repair/rectification** | **Penalty per**  **instance per day** |
| 1. | Attending to water stoppages in pipelines – whole or part of the system  Water Shortage | 6 hours | Rs.1000 |
| 2. | Attending to pipe rupture – isolated or  whole system | 1 day | Rs.1000 |
| 3. | Attending to sewage block – isolated or  whole system | 1 day | Rs.1000 |
| 4. | Attending to manpower absence –  primary level, for field level activities | 4 hours | Rs.2500 |
| 5. | Attending to plumbing faults – taps,  tubes, and such fitments | 6 hours | Rs.500 |
| 6. | Attending to any defects / deficiencies in  civil and/or electrical aspects of the Project Facilities | To be replaced within 3 days of such event | Rs.2000 |
| 7. | Alternative arrangements for absence of  supervisory staff for more than a day | 1 day | Rs.1000 |
| 8. | Attending to User complaints behind  cleanliness/hygiene/safety deficiencies | 6 hours | Rs.1000 |
| 9. | Attending to User complaints behind  water/electricity/plumbing deficiencies | 6 hours | Rs.1000 |
| 10. | Responding to report of Inspection team | 1 day | Rs.2000 |
| 11. | Removal of unauthorised handbills/  posters/ sign boards/stickers etc. | 1 day | Rs.1000 |
| 12. | Attending to damages to signage’s | 1 day | Rs.1000 |
| 13. | Removal / addressing restrictions of any nature whatsoever behind access to the  facility | 1 day | Rs.5000 |
| 14. | Removing of cobwebs, dusting, water washing, attending to air purifiers and such other fitments for regular upkeep of  the Facilities | Once in 15 days | Rs.2500 |
| 15. | Attending to faults/ deficiencies in  functioning of the Control room – CCMS | 1 day | Rs.1000 |
| 16. | Deficiencies in conducting ICE programs  and activities | 7 days | Rs.5000 |
| 17. | Replacement of any lost/ stolen/  damaged asset created/ provided for in the PCT | 1 day | Rs.1000 |

|  |  |  |  |
| --- | --- | --- | --- |
| **Sl.No.** | **Nature of Defect/deficiency** | **Time limits for**  **repair/rectification** | **Penalty per**  **instance per day** |
| 18. | Maintenance of Greenery in  /surrounding toilet premises | Daily | Rs. 1000 |
| 19. | Non-Functionality of Sanitary napkin vending machine and safe disposal  systems. | Weekly | Rs. 500 |

The Authority shall have the right to recover penalties if any leviable on the Concessionaire under provisions of this Annex from the periodic O&M Payments due and payable to the Concessionaire by the Authority as per the terms of this Agreement.

The Authority shall, for the purposes of deducting penalties under this Annex, cumulate the penalty amounts over the same period (quarterly) that the O&M Payments are also due and payable to the Concessionaire by the Authority as per the terms of this Agreement.

# ANNEX-III

**(Schedule-K)**

# Key Performance Indicators

1. **Performance Standards during Operation and Maintenance**

The maintenance of the Concessionaire during the Operations period will be monitored by the Independent Engineer throughout the Concession Period, and the performance shall be evaluated on the basis of the below mentioned Key Performance Indicators and the performance thus achieved, shall be evaluated through a quantitative assessment as detailed below.

The IE shall calculate and maintain records of the performance of the Concessionaire both online and offline (hard and soft copies) which shall be accessible to both the Authority and the Concessionaire.

The IE shall collate the performance parameters into a Monthly Performance Report and based on that, calculate the monthly penalty and payment.

# Key Performance Indicators and Performance Score

* + 1. For each Unit, the Concessionaire shall be assessed based on the following Performance Indicators. A set of 26 Key Performance Indicators has been laid out as more detailed in Table 10 below.
    2. The Independent Engineer shall assess the level of performance against each indicator, for each Unit – as either Case 1 or 2 or 3 or 4 as the case may be, and assign the appropriate score.
    3. A weighted score shall thereafter be determined against each indicator based on the respective individual weightages pre-defined for each indicator.
    4. Summation of the weighted scores shall be used to determine the aggregate score for the unit, viz., the Unit Score
    5. Individual Unit Scores for all the Units shall then be summated to arrive at the Final Score for the Project as a whole.
    6. Final Score for the Project, estimated basis the performance matrix and calculation steps as above, and calculated on a monthly basis shall then be translated into a penalty stage and a KPI penalty quantum as further detailed in Clause 2.2.

*Table10: Key Performance Indicators*

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **S No** | **Non Applicability (Note 1)** | **Indicators (Range of Services)** | **Maximum Marks** | **Case 1** | **Marks** | **Case 2** | **Marks** | **Case 3** | **Marks** | **Case 4** | **Marks** | **Score Received ^ (A)** | **Weight (B)** | **Weighted Score (A)\*(B)** |
| KPI 1 | $ | All toilet seats and urinals clean and  usable | 20 | >90% seats are clean | 20 | 60-90%  seats are clean | 15 | 30-60%  seats are clean | 10 | <30%  seats are clean | 0 |  | 0.20 |  |
| KPI 2 |  | Wash basin(s) clean and  usable | 10 | 100% clean | 10 | Partially clean | 7 | Not clean | 4 | Not available | 0 |  | 0.10 |  |
| KPI 3 |  | Water availability at tap outlets | 25 | Water is available in all service counters | 25 | Water is available in  <50% of all service counters | 15 | Water is available outside (in/ around the premises), BUT not inside the  premises | 5 | Water is not available | 0 |  | 0.25 |  |
| KPI 4 |  | Adequate ventilation facility | 20 | Well ventilated and absolutely odour free | 20 |  |  |  |  | Ventilation not available and the Units  "stinks" | 0 |  | 0.20 |  |
| KPI 5 |  | All service counters are well lit with  adequate luminosity | 20 | >90% of the light points are functional | 20 | 60-90% of  the light points are functional | 15 | 30-60%  of the light  points are functional | 10 | <30% of the light points are functional | 0 |  | 0.20 |  |
| KPI 6 |  | Functional and secured bolting arrangements on all doors of all service cubicles | 15 | >90% cubicles have secure and functional bolting arrangements | 15 | 60-90% of  the cubicles have secure and functional bolting arrangemen ts | 10 | 30-60%  of cubicles have secure and functional bolting  arrangem ents | 5 | <30% of cubicles and have secure and functional bolting arrangem ents | 0 |  | 0.15 |  |

Page **68** of **114**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **S No** | **Non Applicability (Note 1)** | **Indicators (Range of Services)** | **Maximum Marks** | **Case 1** | **Marks** | **Case 2** | **Marks** | **Case 3** | **Marks** | **Case 4** | **Marks** | **Score Received ^ (A)** | **Weight (B)** | **Weighted Score (A)\*(B)** |
| KPI 7 |  | Overflow/ spillage/clogg ing of untreated faecal sludge/septag e and sewage  from the Unit | 15 | Yes | 15 |  |  |  |  | No | 0 |  | 0.15 |  |
| KPI 8 |  | Floor is clean and dry  throughout the Unit | 20 | Very clean and absolutely dry | 20 | Clean and dry | 15 | Partially unclean and wet | 10 | Not clean and wet | 0 |  | 0.20 |  |
| KPI 9 |  | Mirrors, if available, are  clean and polished | 5 | Very Clean | 5 | Clean | 3 | Partially clean | 1 | Not clean | 0 |  | 0.05 |  |
| KPI 10 | @, #, $ | Litter Bins are available, together with covers and are maintained clean and dry | 10 | >90% of the available litter bins are covered, clean and dry | 10 | 60-90% of  the available litter bins are covered, clean and dry | 7 | 30-60%  of the available litter bins are covered, clean and dry | 5 | No Bins are available OR <  30% of the available litter bins are covered, clean and  dry | 0 |  | 0.10 |  |
| KPI 11 | $ | Soap / soap dispenser are available and Operational | 10 | Soap Dispenser available and functional with liquid soap / soap bar of good quality available | 10 | No dispenser, but handwashin g Soap of good quality Available | 7 | Handwash Soap available, but unsuited for hand- washing (like say a detergent cake  instead) | 5 | Soap/Dis penser not available | 0 |  | 0.10 |  |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **S No** | **Non Applicability (Note 1)** | **Indicators (Range of Services)** | **Maximum Marks** | **Case 1** | **Marks** | **Case 2** | **Marks** | **Case 3** | **Marks** | **Case 4** | **Marks** | **Score Received ^ (A)** | **Weight (B)** | **Weighted Score (A)\*(B)** |
| KPI 12 |  | Usable taps and fittings with no leakage | 15 | >90% of the available taps and fittings are usable with no leakage whatsoever | 15 | 60-90% of  the available taps and fittings are usable with no leakage whatsoever | 10 | 30-60%  of the available taps and fittings are usable with no leakage whatsoeve  r | 5 | <30% of the available taps and fittings are usable with no leakage whatsoeve  r | 0 |  | 0.15 |  |
| KPI 13 |  | Entrance/ accessibility (like ramp, stairs) to Toilet Unit is barrier free for all  Users | 20 | Yes | 20 |  |  |  |  | No | 0 |  | 0.20 |  |
| KPI 14 |  | Premises are visible to passers-by, with clear  signage | 10 | Signages available and visible both during day and  night | 10 |  |  |  |  | No signage available | 0 |  | 0.10 |  |
| KPI 15 |  | Staff is provided with necessary and sufficient supplies of consumables, cleaning equipment, protective gear and  inventory | 10 | Yes, all 3 (consumables, cleaning equipment and protective gear) available | 10 | Yes, only 2 available | 7 | Yes, only 1  available | 5 | None available | 0 |  | 0.10 |  |
| KPI 16 |  | Roster being maintained for regular cleaning and maintenance  and a | 20 | Yes (Roster and caretaker both available) | 20 | Yes- (caretaker available but roster is not  maintained) | 15 | Yes- (only roster available) | 10 | No (None available) | 0 |  | 0.20 |  |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **S No** | **Non Applicability (Note 1)** | **Indicators (Range of Services)** | **Maximum Marks** | **Case 1** | **Marks** | **Case 2** | **Marks** | **Case 3** | **Marks** | **Case 4** | **Marks** | **Score Received ^ (A)** | **Weight (B)** | **Weighted Score (A)\*(B)** |
|  |  | caretaker is  on duty |  |  |  |  |  |  |  |  |  |  |  |  |
| KPI 17 |  | Project Units are visible on a Locator Platform as a  ‘Public Toilet’ | 20 | Yes | 20 |  |  |  |  | No | 0 |  | 0.20 |  |
| KPI 18 |  | Complaint registration and redressal mechanism is in place and is  functional | 20 | Yes | 20 |  |  |  |  | No | 0 |  | 0.20 |  |
| KPI 19 |  | All walls (inside and outside of the premises) are poster/graffiti  free | 15 | Yes | 15 |  |  |  |  | No | 0 |  | 0.15 |  |
| KPI 20 | @, #, $ | Plants / shrubs in the vicinity of Unit are  well maintained | 10 | Yes | 10 |  |  |  |  | No | 0 |  | 0.10 |  |
| KPI 21 | @, #, $ | Vending machine for sanitary napkins are available and  functional | 10 | Sanitary napkin vending machine is available and functional | 10 |  |  |  |  | Not available | 0 |  | 0.10 |  |
| KPI 22 | @, #, $ | An acceptable (to Authority) arrangement for safe disposal of sanitary napkins is available and  functional | 10 | Arrangement is available and functional | 10 |  |  |  |  | Not available | 0 |  | 0.10 |  |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **S No** | **Non Applicability (Note 1)** | **Indicators (Range of Services)** | **Maximum Marks** | **Case 1** | **Marks** | **Case 2** | **Marks** | **Case 3** | **Marks** | **Case 4** | **Marks** | **Score Received ^ (A)** | **Weight (B)** | **Weighted Score (A)\*(B)** |
| KPI 23 |  | Premises are well lit, both within and outside, without any dark, shadowy areas in the vicinity of the  toilet | 20 | Yes | 20 |  |  |  |  | Not available | 0 |  | 0.20 |  |
| KPI 24 |  | Premises free  of vermin / insects | 10 | Absence of any infestation by Vermin/ Insects | 10 | Minor level of infestations | 5 |  |  | Heavily Infested with Vermin/ins  ects | 0 |  | 0.10 |  |
| KPI 25 |  | Availability of Premises for Users during Operational  hours | 20 | Premises open and available for Users | 20 |  |  |  |  | Unschedul ed/un- notified  closure | 0 |  | 0.20 |  |
| KPI 26 |  | CCTV Facility available and functional | 20 | Arrangement is available and functional | 20 |  |  |  |  | Not available and or non-  functional | 0 |  | 0.20 |  |
| **Unit Score** | | | | | | | | | | | | | | **Summatio n of score across all**  **KPIs (C)** |
| **No of seats/service counters for the particular Unit** | | | | | | | | | | | | | | **[to be**  **filled] (D)** |
| **Total number of seats/ service counters across all Units** | | | | | | | | | | | | | | **3720 (E)** |
| **Weighted Unit Score – TO BE CALCULATED AND CARRIED FORWARD, MANDATORILY ROUNDED UPTO 5 DECIMALS** | | | | | | | | | | | | | | **(D/E) x C**  **= F** |

Note 1: It is clarified by the Authority that while most of the KPI parameters listed hereinabove are relevant and to be applied for all types of units, meaning thereby that they shall be applicable for PCTs, Standalone Urinals, Standalone Bath rooms, and Modular Toilets alike, some a few of the KPI parameters listed hereinabove may be applicable only for certain types of Units and not for others. Table below indicates the exclusion list.

|  |  |
| --- | --- |
| Symbol | Remarks |
| @ | Not applicable in case of Standalone urinals |
| # | Not applicable in case of Modular toilets |
| $ | Not applicable in case of Standalone Bath rooms |

^ - In case any of the said Performance Indicators is not applicable for any of the Project Units, then such range of services will be awarded full maximum marks as though such facility is available and functional (at Case 1 level). This is being done for ease of computation and to bring in standardization across Project Units.

# Penalty Score, Penalty Stage and levy of KPI Penalty amount

* + 1. Subject to provisions of Clause 16 in the Concession Agreement, the aggregate number of seats/service counters across all the Units is 3270 (refer Schedule C – Scope of Services). The Weighted Unit Score of each Unit (372 Units in total in base case) is then summated to arrive at the Final Score as calculated in Table 11 below:

*Table 11: Final Score – KPI related calculations*

|  |  |  |
| --- | --- | --- |
| **Description** |  | **Final Score** |
| Weighted Unit Score (weighted by  seats/service counters) |  | F (from Table 11 above) |
|  |  |  |
| Final Score (FS) is the Weighted Unit Score  **Summated** for all the Project Units |  | Summation of F’s for Units 1 to 372  (FS) |

* + 1. The maximum possible score assuming performance at case 1 levels across all the KPI rows listed in Table 10 above works to 68.50000. Final Score that the Concessionaire may secure is then expressed as a fraction of the maximum possible score, to determine the Effective Performance by the Concessionaire for the particular month for which this exercise would have been carried out by the Independent Engineer, as illustrated with an example in Table 12 below.

*Table 12: Effective Performance Score – KPI related calculations*

|  |  |
| --- | --- |
| **Description** | **Effective Performance score** |
| Concessionaire’s Final Score (FS) | **Say, 43.78562** |
| Concessionaire’s Final Score as fraction of  Maximum Final Score (FM) | 43.78562 / 68.50000 = 63.92% |

* + 1. The Effective Performance score is matched with the graded slab structure as indicated in Table 13 to get to the relevant and applicable Penalty Stage for the particular month, across all the Units, under their (performance) evaluation exercise.

*Table 8: Penalty Stage - KPI related calculations*

|  |  |  |
| --- | --- | --- |
| **Concessionaire’s Final Score as**  **Fraction of Max Final Score (FM)** | **Penalty Stage and Description** | |
| 96% - 100% | O | No problems |
| 86 % - 95% | A | Negligible |
| 76% - 85% | B | Minor |
| 51% - 75% | C | Moderate |
| 26%-50% | D | Major |
| upto 25% | E | Severe |

* + 1. The Penalty Stage shall then determine the quantum of penalties that the Authority shall be authorised to recover from the Concessionaire, as damages towards deficiencies in performances during the period under inspection. The KPI deductions applicable under each of the Penalty Stage is indicated in Table 14 below.

Page **74** of **114**

*Table 9: KPI Deductions – KPI related calculations*

|  |  |  |
| --- | --- | --- |
| **Penalty Stage and Description** | | **KPI DEDUCTION:**  **As %age of O&M Payment (Note 1)** |
| O | No problems | 0.00% |
| A | Negligible | 1.00% |
| B | Minor | 2.00% |
| C | Moderate | 3.50% |
| D | Major | 5.00% |
| E | Severe | 10.00% |
| 4 times E | in 6 months | 25.00% |

Note (1) O&M Payment shall be the then applicable payment amount, determined as per provisions of Clause 23.7 of this Agreement.

For illustration purposes, an effective performance score of 63.92% in say the 3rd month of the 2nd operational year would indicate (i) a penalty stage corresponding to a **moderate** performance, and (ii) attract a deduction of **3.50%** of the O&M Payment applicable for the 3rd month of the 2nd operational year under the Concession.

* + 1. Provided that if the cumulative penalty on account of KPI deductions exceed 5% of the O&M Payment applicable for a 12-month period during any year - continuous period of 12 months, then and in that event, the Authority shall have the right to Terminate the Concession, deeming this as a Termination for Concessionaire Default. The decision of the Authority shall be final and binding on the Concessionaire.

The Parties agree that O&M Payment for the 12-month period under reference in Clause 2.2.5 hereinabove shall be calculated based on the number of days for which the relevant O&M Payment was applicable during the period of calculation.

* + 1. The Authority shall have the right to recover deductions if any leviable on the Concessionaire under provisions of this Annex from the periodic O&M Payments due and payable to the Concessionaire by the Authority as per the terms of this Agreement.
    2. The Authority shall, for the purposes of deducting penalties under this Annex, cumulate the penalty amounts over the same period (quarterly) that the O&M Payments are also due and payable to the Concessionaire by the Authority as per the terms of this Agreement.
    3. For abundant clarity and for avoidance of any doubt, the periodic O&M Payments due and payable by the Authority to the Concessionaire shall be the O&M Payment Less repair/rectification related penalties calculated vide provisions of Annex-II of this Schedule Less KPI related deductions calculated vide provisions of Annex-III of this Schedule Less any other claims/ damages/fees/charges/payments due and payable by the Concessionaire under various other provisions of this Agreement.

# SCHEDULE L

**(See Clause 18.1.1) SAFETY REQUIREMENTS**

# Guiding principles

* + - * 1. Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents on or about the Project Facilities, irrespective of the person(s) at fault.
        2. Safety Requirements apply to all phases of construction, operation and maintenance with emphasis on identification of factors associated with accidents, consideration of the same, and implementation of appropriate remedial measures.
        3. Safety Requirements include measures associated with (user) footfall management, with safety of usage by women, child, differently enabled, weak and senior users and enforcement and emergency response.

# Obligations of the Concessionaire

The Concessionaire shall abide by the following insofar as they relate to safety of the Users:

1. Applicable Laws and Applicable Permits;
2. Provisions of this Agreement; and
3. Good Industry Practice.

# Safety measures during Development Period

* + - * 1. The Concessionaire shall provide to the Independent Engineer, in four copies, the relevant drawings containing the design details that have a bearing on safety of Users (the "Safety Drawings"). The independent Engineer shall review the design details and forward one copy of his recommendations, if any, each to the Authority and the Concessionaire.
        2. The Concessionaire shall incorporate the recommendations of the Independent Engineer in the design of the Project Facilities, as may reasonably be required in accordance with Applicable Laws, Applicable Permits, Manuals and Guidelines of the Authority, Specifications and Standards, and Good Industry Practice.

# Safety measures during Construction Period

* + - * 1. The Independent Engineer shall inspect the Project Facilities to assess the adequacy of safety measures. The Independent Engineer shall submit a safety report recommending a package of additional safety measures, if any, that are considered essential for reducing hazards on the Project Facilities. Such

recommendations shall be processed, mutatis mutandis, and acted upon in the manner set forth in Paragraph 4.4 of this Schedule-L.

* + - * 1. The Concessionaire shall make adequate arrangements during the Construction Period for the safety of workers in construction zones, and notify the Authority and the Independent Engineer about such arrangements.

# Safety measures during Operation Period

The Concessionaire shall develop, implement and administer a surveillance and safety program for Users, including correction of safety violations and deficiencies and all other actions necessary to provide a safe environment in accordance with this Agreement.

# Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Paragraph 2 of this Schedule-L, shall be met in accordance with Article 18, and in particular, safety audit, and costs incidental thereto, shall be met by the Concessionaire.

# SCHEDULE - M

**(See Clause 21.1) SELECTION OF INDEPENDENT ENGINEER**

# Selection of Independent Engineer

* 1. The Authority shall appoint an experienced firm to discharge the functions and duties of an Independent Engineer. Provided, however, that no entity which is owned or controlled by the Authority shall be eligible for appointment as the Independent Engineer hereunder.
  2. In the event of termination of an Independent Engineer appointed in accordance with the provisions of Paragraph 1.1, the Authority shall appoint another firm of Technical Consultants forthwith or may engage a government- owned entity in accordance with the provisions of Paragraph 5 of this Schedule-M.
  3. The Concessionaire may, in its discretion, nominate a representative to participate in the process of selection to be undertaken by the Authority under this Schedule-M.

# Terms of Reference

The Terms of Reference for the Independent e ngineer shall substantially conform to Schedule-N.

# Fee and expenses

All payments made to the Independent Engineer on account of fee and expenses during the Development, Construction and Operation Period shall be borne equally by the Authority and the Concessionaire.

# Selection every three years

No later than 3 (three) years from the date of appointment of Independent Engineer pursuant to the provisions of Paragraph 1 of this Schedule-M, and every 3 (three) years thereafter, the Authority shall engage another firm in accordance with the criteria set forth in this Schedule-M.

1. **Appointment of government entity as Independent Engineer** Notwithstanding anything to the contrary contained in this Schedule, the Authority may in its discretion appoint a government-owned entity as the Independent Engineer; provided that such entity shall be a body corporate having as one of its primary function the provision of consulting, advisory and supervisory services for engineering projects; provided further that a government owned entity which is owned or controlled by the Authority shall not be eligible for appointment as Independent Engineer.

# SCHEDULE – N

**(See Clause 21.2.1)**

# TERMS OF REFERENCE FOR INDEPENDENT ENGINEER

1. **Scope**

These Terms of Reference for the Independent Engineer (the "TOR") are being specified pursuant to the Concession Agreement dated … . . (the "Agreement"), which has been entered into between the Authority and the "Concessionaire") for t h e P r o j e c t on D esign, B uild, F i n a n c e , O perate and Transfer (the "DBFOT Annuity or Hybrid Annuity") basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this TOR.

# Definitions and interpretation

* 1. The words and expressions beginning with or in capital letters used in this TOR and not defined herein but defined in the Agreement shall have, unless repugnant to the context, the meaning respectively assigned to them in the Agreement.
  2. References to Articles, Clauses and Schedules in this TOR shall, except where the context otherwise requires, be deemed to be references to the Articles, Clauses and Schedules of the Agreement, and references to Paragraphs shall be deemed to be references to Paragraphs of this TOR.
  3. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Agreement shall apply, mutatis mutandis, to this TOR.

# Role and functions of the Independent Engineer

* 1. The role and functions of the Independent Engineer shall include the following:
     1. Review of the Drawings and Documents as set forth in Paragraph 4;

(ii) Review, inspection and monitoring of Construction Works as set forth in Paragraph 5; conducting Tests on completion of construction and issuing Completion/ Phased Completion Certificate as set forth in Paragraph 5

1. Review, inspection and monitoring of O&M as set forth in Paragraph 6;
2. Review, inspection and monitoring of Divestment Requirements as set forth in Paragraph 7;
3. Determining, as required under the Agreement, the costs of any works or services and/or their reasonableness;
4. Determining, as required under the Agreement, the period or any extension thereof, for performing any duty or obligation;
5. Assisting the Parties in resolution of Disputes as set forth in Paragraph 9; and
6. Undertaking all other duties and functions in accordance with the Agreement.
   1. The Independent engineer shall discharge its duties in a fair, impartial and efficient manner, consistent with the highest standards of professional integrity and Good Industry Practice.

# Development Period

* 1. During the Development Period, the Independent Engineer shall undertake a detailed review of the Drawings to be furnished by the Concessionaire along with supporting data. The Independent Engineer shall complete such review and send its comments/ observations to the Authority and the Concessionaire within 15 (fifteen) days of receipt of such Drawings. In particular, such comments shall specify the conformity or otherwise of such Drawings with the Scope of the Project and Specifications and Standards.
  2. The Independent Engineer shall review any modified Drawings or supporting Documents sent to it by the Concessionaire and furnish its comments within 7 (seven) days of receiving such Drawings or Documents.
  3. The Independent Engineer shall review the Drawings sent to it by the Safety Consultant in accordance with Schedule-L and furnish its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receiving such Drawings. The Independent Engineer shall also review the Safety Report and furnish its comments thereon to the Authority within 15 (fifteen) days of receiving such report.
  4. The Independent Engineer shall review the detailed design, construction methodology, quality assurance procedures and the procurement, engineering and construction time schedule sent to it by the Concessionaire and furnish its comments within 15 (fifteen) days of receipt thereof.
  5. Upon reference by the Authority, the Independent Engineer shall review and; comment on the contract for construction, operation and maintenance of the Project Facilities, and furnish its comments within 7 (seven) days from receipt of such reference from the Authority.

# Construction Period

* 1. In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Construction Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
  2. The Independent Engineer shall review the monthly progress report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
  3. The Independent Engineer shall inspect the Construction Works and the Project Facilities once every month, preferably after receipt of the monthly progress report

from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out a report of such inspection (the "Inspection Report") setting forth an overview of the status, progress, quality and safety of construction, including the work methodology adopted, the materials used and their sources, and conformity of Construction Works with the Scope of the Project and the Specifications and Standards. In a separate section of the Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in the construction of the Project. The Inspection Report shall also contain a review of the maintenance of the existing lanes in conformity with the provisions of the Agreement. The Independent Engineer shall send a copy of its Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.

* 1. The Independent Engineer may inspect the Project more than once in a month if any lapses, defects or deficiencies require such inspections.
  2. For determining that the Construction Works conform to Specifications and Standards, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests on a sample basis, to be specified by the Independent Engineer in accordance with Good Industry Practice for quality assurance. The Independent Engineer shall issue necessary directions to the Concessionaire for ensuring that the tests are conducted in a fair and efficient manner, and shall monitor and review the results thereof.
  3. In the event that the Concessionaire carries out any remedial works for removal or rectification of any defects or deficiencies, the Independent Engineer shall require the Concessionaire to carry out, or cause to be carried out, tests to determine that such remedial works have brought the Construction Works into conformity with the Specifications and Standards, and the provisions of this Paragraph 5 shall apply to such tests.
  4. In the event that the Concessionaire fails to achieve any of the Project Milestones, the Independent Engineer shall undertake a review of the progress of construction and identify potential delays, if any. If the Independent Engineer shall determine that completion of the Project is not feasible within the time specified in the Agreement, it shall require the Concessionaire to indicate within 15 (fifteen) days the steps proposed to be taken to expedite progress, and the period within which COD shall be achieved. Upon receipt of a report from the Concessionaire, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire forthwith.
  5. If at any time during the Construction Period, the Independent Engineer determines that the Concessionaire has not made adequate arrangements for the safety of workers and Users in the zone of construction or that any work is being carried out in a manner that threatens the safety of the workers and the

Users, it shall make a recommendation to the Authority forthwith, identifying the whole or part of the Construction Works that should be suspended for ensuring safety in respect thereof.

* 1. In the event that the Concessionaire carries out any remedial measures to secure the safety of suspended works and Users, it may, by notice in writing, require the Independent Engineer to inspect such works, and within 3 (three) days of receiving such notice, the Independent Engineer shall inspect the suspended works and make a report to the Authority forthwith, recommending whether or not such suspension may be revoked by the Authority.
  2. If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Independent Engineer shall determine the extension of dates set forth in the Project Completion Schedule, to which the Concessionaire is reasonably entitled, and shall notify the Authority and the Concessionaire of the same.
  3. The Independent Engineer shall carry out, or cause to be carried out, all the Tests specified in Schedule-I and issue a Completion Certificate or Phased Completion Certificate, as the case may be. For carrying out its functions under this Paragraph 5.13 and all matters incidental thereto, the Independent Engineer shall act under and in accordance with the provisions of Article 14 and Schedule-I.
  4. Upon reference from the Authority, the Independent Engineer shall make a fair and reasonable assessment of the costs of providing information, works and services as set forth in Article 16 and certify the reasonableness of such costs for payment by the Authority to the Concessionaire.
  5. The Independent Engineer shall aid and advise the Concessionaire in preparing the Maintenance Manual.
  6. Upon reference from the Authority, the Independent Engineer shall undertake the assessment of cost of civil works, as per applicable schedule of rates, for the reduction of Scope of work as provided in Clause 16.6.1of the Concession Agreement.

# Operation Period

* 1. In respect of the Drawings, Documents and Safety Report received by the Independent Engineer for its review and comments during the Operation Period, the provisions of Paragraph 4 shall apply, mutatis mutandis.
  2. The Independent Engineer shall review the annual Maintenance Program furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 15 (fifteen) days of receipt of the Maintenance

Program.

* 1. The Independent Engineer shall review the monthly status report furnished by the Concessionaire and send its comments thereon to the Authority and the Concessionaire within 7 (seven) days of receipt of such report.
  2. The Independent Engineer shall inspect the Project once every month, preferably after receipt of the monthly status report from the Concessionaire, but before the 20th (twentieth) day of each month in any case, and make out an O&M Inspection Report setting forth an overview of the status, quality and safety of O&M including its conformity with the Maintenance Requirements and Safety Requirements. In a separate section of the O&M Inspection Report, the Independent Engineer shall describe in reasonable detail the lapses, defects or deficiencies observed by it in O&M of the Project. The Independent Engineer shall send a copy of its O&M Inspection Report to the Authority and the Concessionaire within 7 (seven) days of the inspection.
  3. The Independent Engineer may inspect the Project more than once in a month, if any lapses, defects or deficiencies require such inspections.
  4. The Independent Engineer shall in its O&M Inspection Report specify the tests, if any, that the Concessionaire shall carry out, or cause to be carried out, for the purpose of determining that the Project is in conformity with the Maintenance Requirements. It shall monitor and review the results of such tests and the remedial measures, if any, taken by the Concessionaire in this behalf.
  5. In respect of any defect or deficiency referred to in Paragraph 3 of Schedule- K, the Independent Engineer shall, in conformity with Good Industry Practice, specify the permissible limit of deviation or deterioration with reference to the Specifications and Standards and shall also specify the time limit for repair or rectification of any deviation or deterioration beyond the permissible limit.
  6. The Independent Engineer shall determine if any delay has occurred in completion of repair or remedial works in accordance with the Agreement, and shall also determine the Damages, if any, payable by the Concessionaire to the Authority for such delay.
  7. The Independent Engineer shall monitor and review the curing of defects and deficiencies by the Concessionaire as set forth in Clause 19.4.
  8. In the event that the Concessionaire notifies the Independent Engineer of any modifications that it proposes to make to the Project, the Independent Engineer shall review the same and send its comments to the Authority and the Concessionaire within 15 (fifteen) days of receiving the proposal.

# Termination

* 1. At any time, not earlier than 90 (ninety) days prior to Termination but not later than 15 (fifteen) days prior to such Termination, the Independent Engineer shall, in the presence of a representative of the Concessionaire, inspect the Project Facilities for determining compliance by the Concessionaire with the Divestment Requirements set forth in Clause 32.1 and, if required, cause tests to be carried out at the Concessionaire's cost for determining such compliance. If the Independent Engineer determines that the status of the Project is such that its repair and rectification would require a larger amount than the sum set forth in Clause 33.2, it shall recommend retention of the required amount in the Escrow Account and the period of retention thereof.
  2. The Independent Engineer shall inspect the Project once in every 15 (fifteen) days during a period of 90 (ninety) days after Termination for determining the liability of the Concessionaire under Article 33, in respect of the defects or deficiencies specified therein. If any such defect or deficiency is found by the Independent Engineer, it shall make a report in reasonable detail and send it forthwith to the Authority and the Concessionaire.

# Determination of costs and time

* 1. The Independent Engineer shall determine the costs, and/or their reasonableness, that are required to be determined by it under the Agreement.
  2. The Independent Engineer shall determine the period, or any extension thereof, that is required to be determined by it under the Agreement.

# Assistance in Dispute resolution

* 1. When called upon by either Party in the event of any Dispute, the Independent Engineer shall mediate and assist the Parties in arriving at an amicable settlement.
  2. In the event of any disagreement between the Parties regarding the meaning, scope and nature of Good Industry Practice, as set forth in any provision of the Agreement, the Independent Engineer shall specify such meaning, scope and nature by issuing a reasoned written statement relying on good industry practice and authentic literature.

# Other duties and functions

The Independent Engineer shall perform all other duties and functions specified in the Agreement.

# Miscellaneous

* 1. The Independent Engineer shall notify its program of inspection to the Authority and to the Concessionaire, who may, in their discretion, depute their respective representatives to be present during the inspection.
  2. A copy of all communications, comments, instructions, Drawings or Documents sent by the Independent Engineer to the Concessionaire pursuant to this TOR, and a copy of all the test results with comments of the Independent Engineer thereon shall be furnished by the Independent Engineer to the Authority forthwith.
  3. The Independent Engineer shall obtain, and the Concessionaire shall furnish in 2 (two) copies thereof, all communications and reports required to be submitted, under this Agreement, by the Concessionaire to the Independent Engineer shall send 1 (one) of the copies to the Authority along with its comments thereon.
  4. The Independent Engineer shall retain at least one copy each of all Drawings and Documents received by it, including 'as-built' Drawings, and keep them in its safe custody.
  5. Upon completion of its assignment hereunder, the Independent Engineer shall duly classify and list all Drawings, Documents, results of tests and other relevant records, and hand them over to the Authority or such other person as the Authority may specify, and obtain written receipt thereof. Two copies of the said documents shall also be furnished in their editable digital format or in such other medium or manner as may be acceptable to the Authority.
  6. Wherever no period has been specified for delivery of services by the Independent Engineer, the Independent Engineer shall act with the efficiency and urgency necessary for discharging its functions in accordance with Good Industry Practice.

# SCHEDULE – 0

**(See Clause 25.1.2) ESCROW AGREEMENT**

**THIS ESCROW AGREEMENT** is entered into on this the day of 20 AMONGST

1. …… Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at (hereinafter referred to as the "Concessionaire" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes);
2. (insert name and particulars of Lenders' Representative) and having its registered office at acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
3. (insert name and particulars of the Escrow Bank) and having its registered office at (hereinafter referred to as the "Escrow Bank" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
4. \_(GCC) represented by …. (the Commissioner, GCC)…. and having its principal offices at (hereinafter referred to as the "Authority" which expression shall, unless repugnant to the context or meaning hereof, include its administrators, successors and assigns).

# WHEREAS:

1. The Authority has entered into a Concession Agreement dated with the Concessionaire (the "Concession Agreement") for the Project (the "Project") on design, build, operate and transfer (the "DBFOT Annuity or Hybrid Annuity") basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
2. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
3. The Concession Agreement requires the Concessionaire to establish an Escrow Account, inter alia, on the terms and conditions stated therein.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the

Parties agree as follows:

# DEFINITIONS AND INTERPRETATION

* 1. **Definitions**

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them:

**"Agreement"** means this Escrow Agreement and any amendment thereto made in accordance with the provisions contained herein;

**"Concession Agreement"** means the Concession Agreement referred to in Recital (A) above and annexed hereto as Annex-A, and shall include all of its Recitals and Schedules and any amendments made thereto in accordance with the provisions contained in this behalf therein;

**"Cure Period"** means the period specified in this Agreement for curing any breach or default of any provision of this Agreement by the Concessionaire, and shall commence from the date on which a notice is delivered by the Authority or the Lenders' Representative, as the case may be, to the Concessionaire asking the latter to cure the breach or default specified in such notice;

**"Escrow Account"** means an escrow account established in terms of and under this Agreement, and shall include the Sub-Accounts;

**"Escrow Default"** shall have the meaning ascribed thereto in Clause 6.1; **"Lenders' Representative"** means the person referred to as the Lenders' Representative in the foregoing Recitals;

**"Parties"** means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually;

**"Payment Date"** means, in relation to any payment specified in Clause 4.1, the date(s) specified for such payment; and

**"Sub-Accounts"** means the respective sub-accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be credited every month and paid out if due, and if not due in a month, then appropriated proportionately in such month and retained in the respective sub-accounts and paid out therefrom on the Payment Date(s).

# Interpretation

* + 1. References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.
    2. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.
    3. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
    4. The rules of interpretation stated in Clauses 1.2, 1.3 and1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

# ESCROW ACCOUNT

* 1. **Escrow Bank to act as trustee**
     1. The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Authority, the Lenders' Representative and the Concessionaire in connection herewith and authorizes the Escrow Bank to exercise such rights, powers, authorities and discretion as are specifically delegated to the Escrow Bank by the terms hereof together with all such rights, powers, authorities and discretion as are reasonably incidental hereto, and the Escrow Bank accepts such appointment pursuant to the terms hereof.
     2. The Concessionaire hereby declares that all rights, title and interest in and to the Escrow Account shall be vested in the Escrow Bank and held in trust for the Authority, the Lenders' Representative and the Concessionaire, and applied in accordance with the terms of this Agreement. No person other than the Authority, the Lenders' Representative and the Concessionaire shall have any rights hereunder as the beneficiaries of or as third party beneficiaries under this Agreement.

# Acceptance of Escrow Bank

The Escrow Bank hereby agrees to act as such and to accept all payments and other amounts to be delivered to and held by the Escrow Bank pursuant to the provisions of this Agreement. The Escrow Bank shall hold and safeguard the Escrow Account during the term of this Agreement and shall treat the amount in the Escrow Account as monies deposited by the Concessionaire, Senior Lenders or the Authority with the Escrow Bank. In performing its functions and duties under this Agreement, the Escrow Bank shall act in trust for the benefit of, and as agent for, the Authority, the Lenders' Representative and the Concessionaire or their nominees, successors or assigns, in accordance with the provisions of this Agreement.

# Establishment and operation of Escrow Account

* + 1. Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Concessionaire shall open and establish the Escrow Account with the (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.
    2. The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the

maximum rate of interest payable to similar customers on the balance in the said account from time to time.

* + 1. The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.
  1. Escrow Bank's fee: The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1.
  2. Rights of the Parties Save and except as otherwise provided in the Concession Agreement, the rights of the Authority, the Lenders' Representative and the Concessionaire in the monies held the Authority, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account held in the Escrow Account are set forth in their entirety in the escrow account.
  3. Substitution of the Concessionaire : The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Nominated Company.

# DEPOSITS INTO ESCROW ACCOUNT

* 1. Deposits by the Concessionaire
     1. The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:
        1. All monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Authority;
        2. All funds received by the Concessionaire from its shareholders, in any manner or form;
        3. Any other revenues, rentals, deposits or capital receipts, as the case may be, from or in respect of the Project including from advertisement activities

; and

* + - 1. All proceeds received pursuant to any insurance claims.
    1. The Concessionaire may at any time make deposits of its other funds into the

Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

# Deposits by the Authority

The Authority agrees and undertakes that, as and when due and payable, it shall deposit into and/or credit the Escrow Account with:

1. Grant and any other monies disbursed by the Authority to the Concessionaire; and
2. All revenues collected by the Authority in exercise of its rights under the Concession Agreement; and
3. Termination Payments

Provided that, notwithstanding the provisions of Clause 4.1.1, the Authority shall be entitled to appropriate from the aforesaid amounts, any amounts due and payable to it by the Concessionaire, and the balance remaining shall be deposited into the Escrow Account.

# Deposits by Senior Lenders

The Lenders' Representative agrees, confirms and undertakes that the Senior Lenders shall deposit into and/or credit the Escrow Account with all disbursements made by them in relation to or in respect of the Project; provided that notwithstanding anything to the contrary contained in this Agreement, the Senior Lenders shall be entitled to make direct payments to the EPC Contractor under and in accordance with the express provisions contained in this behalf in the Financing Agreements.

# Interest on deposits

The escrow Bank agrees and undertakes that all interest accruing on the balances of the Escrow Account shall be credited to the Escrow Account; provided that the Escrow Bank shall be entitled to appropriate therefrom the fee and expenses due to it from the Concessionaire in relation to the Escrow Account and credit the balance remaining to the Escrow Account.

# WITHDRAWALS FROM ESCROW ACCOUNT

* 1. **Withdrawals during Concession Period**

At the beginning of every month, or at such shorter intervals as the Lenders' Representative and the Concessionaire may by written instructions determine, the Escrow Bank shall withdraw amounts from the Escrow Account and appropriate them in the following order by depositing such amounts in the relevant Sub-Accounts for making due payments, and if such payments are not due in any month, then retain such monies in such Sub-Accounts and pay out therefrom on the Payment Date(s):

1. All taxes due and payable by the Concessionaire for and in respect of the Project;
2. Deleted;
3. All payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
4. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements
5. O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of the Concession Agreement, and certified by the Authority as due and payable to it;
6. Any amounts due and payable to the Authority;
7. Monthly proportionate provision of Debt Service due in an Accounting Year;
8. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire pursuant to the Concession Agreement;
9. Monthly proportionate provision of debt service payments due in an Accounting Year in respect of Subordinated Debt;
10. any reserve requirements set forth in the Financing Agreements; and
11. Balance, if any, in accordance with the instructions of the Concessionaire.

4.1.2 No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

* 1. Withdrawals upon Termination upon Termination of the Concession Agreement, all amounts standing to the credit of the Escrow Account shall, notwithstanding anything in this Agreement, be appropriated and dealt with in the following order:

1. All taxes due and payable by the Concessionaire for and in respect of the Project;
2. Deleted;
3. 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
4. all payments and Damages certified by the Authority as due and payable to it by the Concessionaire pursuant to the Concession Agreement, including any claims in connection with or arising out of Termination;
5. Retention and payments arising out of, or in relation to, liability for defects and deficiencies set forth in Article 33 of the Concession Agreement;
6. Outstanding Debt Service including the balance of Debt Due;
7. Outstanding Subordinated Debt;
8. Incurred or accrued O&M Expenses;
9. Any other payments required to be made under the Concession Agreement; and
10. Balance, if any, in accordance with the instructions of the Concessionaire: Provided that the disbursements specified in Sub-clause (i) of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Authority.

# Application of insufficient funds:

Funds in the Escrow Account shall be applied in the serial order of priority set forth in Clauses 4.1 and 4.2, as the case may be. If the funds available are not sufficient to meet all the requirements, the Escrow Bank shall apply such funds in the serial order of priority until exhaustion thereof.

# Application of insurance proceeds

Notwithstanding anything in this Agreement, the proceeds from all insurance claims, except life and injury, shall be deposited into and/or credited to the Escrow Account and utilized for any necessary repair, reconstruction, reinstatement, replacement, improvement, delivery or installation of the Project, and the balance remaining, if any, shall be applied in accordance with the provisions contained in this behalf in the Financing Agreements.

# Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Authority may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 30 of the Concession Agreement. Any instructions given by the Authority to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Authority hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

# OBLIGATIONS OF THE ESCROW BANK

* 1. **Segregation of funds**

Monies and other property received by the Escrow Bank under this Agreement shall, until used or applied in accordance with this Agreement, be held by the Escrow Bank in trust for the purposes for which they were received, and shall be segregated from other funds and property of the Escrow Bank.

# Notification of balances

7(seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders' Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

# Communications and notices

In discharge of its duties and obligations hereunder, the Escrow Bank:

1. May, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which tight reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;
2. may, in the absence of bad faith or gross negligence on its part, rely upon the authenticity of any communication or document believed by it to be authentic;
3. shall, within 5 (five) business days after receipt, deliver a copy to the Lenders' Representative of any notice or document received by it in its capacity as the Escrow Bank from the Concessionaire or any other person hereunder or in connection herewith; and
4. shall, within 5 (five) business days after receipt, deliver a copy to the Concessionaire of any notice or document received by it from the Lenders' Representative in connection herewith.

# No set off

The Escrow Bank agrees not to claim or exercise any right of set off, banker's lien or other right or remedy with respect to amounts standing to the credit of the Escrow Account. For the avoidance of doubt, it is hereby acknowledged and agreed by the Escrow Bank that the monies and properties held by the Escrow Bank in the Escrow Account shall not be considered as part of the assets of the Escrow Bank and being trust property, shall in the case of bankruptcy or liquidation of the Escrow Bank, be wholly excluded from the assets of the Escrow Bank in such bankruptcy or liquidation.

# Regulatory approvals

The Escrow Bank shall use its best efforts to procure, and thereafter maintain and comply with, all regulatory approvals required for it to establish and operate the Escrow Account. The Escrow Bank represents and warrants that it is not aware of any reason why such regulatory approvals will not ordinarily be granted to the Escrow Bank.

# ESCROW DEFAULT

* 1. **Escrow Default**
     1. Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Authority or the Lenders' Representative:
        1. the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;
        2. the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub• Account in which such transfer should have been made,

within a Cure Period of 5 (five) business days; or

* + - 1. the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.
    1. Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

# TERMINATION OF ESCROW AGREEMENT

* 1. **Duration of the Escrow Agreement**

This Agreement shall remain in full force and effect so long as any sum remains to be advanced or is outstanding from the Concessionaire in respect of the debt, guarantee or financial assistance received by it from the Senior Lenders, or any of its obligations to the Authority remain to be discharged, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement.

# Substitution of Escrow Bank

The Concessionaire may, by not less than 45 (forty five) days prior notice to the Escrow Bank, the Authority and the Lenders' Representative, terminate this Agreement and appoint a new Escrow Bank, provided that the new Escrow Bank is acceptable to the Lenders' Representative and arrangements are made satisfactory to the Lenders' Representative for transfer of amounts deposited in the Escrow Account to a new Escrow Account established with the successor Escrow Bank.

The termination of this Agreement shall take effect only upon coming into force of an Escrow Agreement with the substitute Escrow Bank.

# Closure of Escrow Account

The Escrow Bank shall, at the request of the Concessionaire and the Lenders' Representative made on or after the payment by the Concessionaire of all outstanding amounts under the Concession Agreement and the Financing Agreements including the payments specified in Clause 4.2, and upon confirmation of receipt of such payments, close the Escrow Account and Sub- Accounts and pay any amount standing to the credit thereof to the Concessionaire. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

# SUPPLEMENTARY ESCROW AGREEMENT

* 1. **Supplementary escrow agreement**

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, inter alia, for detailed procedures and documentation for withdrawals from Sub- Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such

as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

# INDEMNITIES

* 1. **General indemnity**
     1. The Concessionaire will indemnify, defend and hold the Authority, Escrow Bank and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.
     2. The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.
     3. The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.

# Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the

event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

# DISPUTE RESOLUTION

* 1. **Dispute resolution**
     1. Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.
     2. The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be Chennai and the language of arbitration shall be English.

# MISCELLANEOUS PROVISIONS

* + 1. **Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State shall have jurisdiction over all matters arising out of or relating to this Agreement.

* + 1. Waiver of sovereign immunity The Authority unconditionally and irrevocably:

1. agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
2. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;
3. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
4. consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the

making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

# Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

# Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized representatives of the Parties.

# Waiver

* + - 1. Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:
         1. Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
         2. shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
         3. shall not affect the validity or enforceability of this Agreement in any manner.
      2. Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.
    1. No third party beneficiaries This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

# Survival

* + - 1. **Termination of this Agreement:**
         1. shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
         2. except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.
      2. All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

# Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute resolution under Clause 10.1 of this Agreement or otherwise.

# Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

# Notices

All notices or other communications to be given or made under this Agreement shall be in writing and shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on a business day, or on a day that is not a business day, the notice shall be deemed to be received on the first business day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

# Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

# Authorized representatives

(a) Each of the Parties shall, by notice in writing, designate their respective authorized representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorized representative by similar notice.

# Original Document

This Agreement may be executed in four counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVRED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN

|  |  |
| --- | --- |
| THE COMMON SEAL OF CONCESSIONAIRE  has been affixed pursuant to the resolution passed by the by the Board of Directors of the Concessionaire has been affixed or and on behalf of pursuant to the resolution passed by the  ……. SENIOR LENDERS by the Board of Directors of the Concessionaire Lenders Representative: at its meeting held on the day of 20…hereunto affixed in the presence of, Director, who has signed these presents in token thereof and Company Secretary / Authorized Officer who has  countersigned the same in token there of | AND DELIVERED  For and on behalf of SENIOR LENDERS by the  Lender's representative |
| (Signature)  (Name) (Designation) (Address) (Fax No.)  (E-mail address)  SIGNED, SEALED AND DELIVERED  For and on behalf of THE ESCROW BANK by THE AUTHORITY by:  (Signature)  (Name) | (Signature)  (Name) (Designation) (Address) (Fax No.)  (E-mail address)  SIGNED, SEALED AND DELIVERED  For and on behalf of THE ESCROW BANK by THE AUTHORITY by:  (Signature)  (Name) |

# SCHEDULE - P

**(See Clause 27.2.1)**

# PANEL OF CHARTERED ACCOUNTANTS

1. **Panel of Chartered Accountants**

Pursuant to the provisions of Clause 27.2.1 of the Agreement, the Authority and the Concessionaire shall prepare a mutually agreed panel of 3 (three) reputable firms of Chartered Accountants having their registered offices in India (the "Panel of Chartered Accountants"). The criteria for preparing such Panel and the procedure to be adopted in this behalf shall be as set forth in this Schedule-P.

# Invitation for empanelment

* 1. The Authority shall invite offers from all reputed firms of Chartered Accountants who fulfil the following eligibility criteria, namely:
     1. the firm should have conducted statutory audit of the annual accounts of at least one hundred companies registered under the Companies Act, 1956, including any re-enactment or amendment thereof, of which at least ten should have been public sector undertakings;
     2. The firm should have at least 5 (five) practicing Chartered Accountants on its rolls, each with a minimum experience of ten years in the profession;
     3. The firm or any of its partners should not have been disqualified or black- listed by the Comptroller and Auditor General of India or the Authority; and
     4. The firm should have an office in Chennai with at least 2 (two) practicing Chartered Accountants on its rolls in Chennai.
  2. Interested firms meeting the eligibility criteria shall be required to submit a statement of their capability including the bio-data of all the practicing Chartered Accountants on its rolls. In particular, each firm shall be required to furnish year-wise information relating to the names of all the companies with an annual turnover exceeding Rs. 2,00,00,000 (Rs. two five crore) whose annual accounts were audited by such firm in any of the preceding 5 (five) Accounting Years

# Evaluation and selection

* 1. The information furnished by each firm shall be scrutinized and evaluated by the Authority and 1 (one) point shall be awarded for each annual audit of the companies specified in Paragraph 2.2 above. (For the avoidance of doubt and by way of illustration, a firm which has conducted audit of the annual accounts of any such company for 5 (five) years shall be awarded 5 (five) points).
  2. The Authority shall prepare a list of all the eligible firms along with the points scored by each such firm and 5 (five} firms scoring the highest points shall be

identified and included in the draft Panel of Chartered Accountants.

# Consultation with the Concessionaire

The Authority shall convey the aforesaid panel of firms to the Concessionaire for scrutiny and comments, if any. The Concessionaire shall be entitled to scrutinize the relevant records of the Authority to ascertain whether the selection of firms has been undertaken in accordance with the prescribed procedure and it shall send its comments, if any, to the Authority within 15 (fifteen) days of receiving the aforesaid panel.

# Mutually agreed panel

* 1. The Authority shall, after considering all relevant factors including the comments, if any, of the Concessionaire, finalize and constitute a panel of 3 (three) firms which shall be deemed to be the mutually agreed Panel of Chartered Accountants.
  2. After completion of every 5 (five) years from the date of preparing the mutually agreed Panel of Chartered Accountants, or such earlier period as may be agreed between the Authority and the Concessionaire, a new panel shall be prepared in accordance with the provisions of this Schedule-P.

# SCHEDULE - Q

**(See Clause 32.4) VESTING CERTIFICATE**

1. GCC (the **"Authority")** refers to the Concession Agreement dated…...

........................................................................ (the **"Agreement")** entered into

between the Authority and ......................... (the **"Concessionaire")** for **….** (the **"Project")** on design, build, finance, operate and transfer **("DBFOT Annuity or Hybrid Annuity")** basis.

1. The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Clauses 32.1 and

32.4 of the Agreement on the basis that upon issue of this Vesting Certificate, the Authority shall be deemed to have acquired, and all title and interest of the Concessionaire in or about the Concession and Project shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.

3 Notwithstanding anything to the contrary contained hereinabove, it shall be a condition of this Vesting Certificate that nothing contained herein shall be construed or interpreted as waiving the obligation of the Concessionaire to rectify and remedy any defect or deficiency in any of the Divestment Requirements and/or relieving the Concessionaire in any manner of the same.

Signed this........................ day of........................., 20............. At. ............................

|  |  |  |  |
| --- | --- | --- | --- |
| AGREED, ACCEPTED AND SIGNED  For and on behalf of CONCESSIONAIRE by  (Designation) (Address) | AGREED, ACCEPTED AND  For and on CONCESSIONAIRE by  (Designation) (Address) | SIGNED  behalf | of |
| In the presence of:  1. | 2. | | |

# SCHEDULE - R

**(See Clause 34.3.1) SUBSTITUTION AGREEMENT**

THIS SUBSTITUTION AGREEMENT is entered into on this the day

of..............20...................

# AMONGST

1. G C C represented by....................... and having its principal offices at

................................ (Hereinafter referred to as the "Authority" which expression shall unless repugnant to the context or meaning thereof include its administrators, successors and assigns);

1. ...........................................Limited, a company incorporated under the provisions of the Companies Act, 2013 and having its registered office at...................

(Hereinafter referred to as the **"Concessionaire"** which expression shall unless repugnant to the context or meaning thereof include its successors and permitted assigns and substitutes);

1. ……………. (insert name and particulars of Lenders' Representative) and having its registered office at…………… acting for and on behalf of the Senior Lenders as their duly authorized agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the **"Lenders' Representative",** which expression shall unless repugnant to the context or meaning thereof include its successors and substitutes);

# WHEREAS:

1. The Authority has entered into a Concession Agreement dated. With the

Concessionaire (the **"Concession Agreement")** for the........................Project (the **"Project")** on design, build, finance, operate and transfer basis (the **"DBFOT Annuity or Hybrid Annuity"),** and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

1. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.
2. Senior Lenders have requested the Authority to enter into this Substitution Agreement for securing their interests through assignment, transfer and substitution of the Concession to a Nominated Company in accordance with the provisions of this Agreement and the Concession Agreement.
3. In order to enable implementation of the Project including its financing, construction, operation and maintenance, the Authority has agreed and undertaken to transfer and assign the Concession to a Nominated Company in accordance with the terms and conditions set forth in this Agreement and the Concession Agreement.

**NOW, THEREFORE,** in consideration of the foregoing and the respective covenants and agreements set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

# DEFINITIONS AND INTERPRETATION

* 1. **Definitions**

In this Substitution Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively assigned to them: **"Agreement"** means this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

**"Financial Default"** means occurrence of a material breach of the terms and conditions of the Financing Agreements or a continuous default in Debt Service by the Concessionaire for a minimum period of 3 (three) months;

**"Lenders' Representative"** means the person referred to as the Lenders' Representative in the foregoing Recitals;

**"Nominated Company"** means a company, incorporated under the provisions of the Companies Act, 1956, including any re-enactment or amendment thereof, selected by the Lenders' Representative, on behalf of Senior Lenders, and proposed to the Authority for assignment/transfer of the Concession as provided in this Agreement;

**"Notice of Financial Default"** shall have the meaning ascribed thereto in Clause 3.2.1; and

**"Parties"** means the parties to this Agreement collectively and "Party" shall mean any of the Parties to this Agreement individually.

# Interpretation

* + 1. References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.
    2. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
    3. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in .the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.
    4. The rules of interpretation stated in Clauses 1.2, 1.3 and1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

# ASSIGNMENT

* 1. **Assignment of rights and title**

The Concessionaire hereby agrees to assign the rights, title and interests in the

Concession to, and in favour of, the Lenders’ Representative pursuant to and in accordance with the provisions of this Agreement and the Concession Agreement by way of security in respect of financing by the Senior Lenders under the Financing Agreements.

# SUBSTITUTION OF THE CONCESSIONAIRE

* 1. **Rights of substitution**
     1. Pursuant to the rights, title and interest assigned under Clause 2.1, the Lenders’ Representative shall be entitled to substitute the Concessionaire by a Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.
     2. The Authority hereby agrees to substitute the Concessionaire by endorsement n the Concession Agreement in favor of the Nominated Company selected by the Lenders’ Representative in accordance with this Agreement. For avoidance of doubt, the Senior Lenders or the Lenders’ Representative shall not be entitled to operate and maintain the Project as Concessionaire either individually or collectively.

# Substitution upon occurrence of financial default

* + 1. Upon occurrence of a Financial Default, the Lenders’ Representative may issue a notice to the Concessionaire (the Notice of Financial Default) alongwith particulars thereof, and send a copy to the Authority for its information and record. A Notice of Financial Default under this Clause 3 shall be conclusive evidence of such Financial Default and it shall be final and binding upon the Concessionaire for the purposes of the Agreement.
    2. Upon issue of a Notice of Financial Default hereunder, the Lenders’ Representative without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by the Nominated Company in accordance with the provisions of this Agreement.
    3. At any time after the Lenders’ Representative has issued a Notice of Financial Default, it may by notice require the Authority to suspend all the rights of the Concessionaire and undertake the operation and maintenance of the Project in accordance with the provisions of Article 30 of the Concession Agreement, and upon receipt of such notice, the Authority shall undertake Suspension under and in accordance with the provisions of the Concession Agreement. The aforesaid Suspension shall be revoked upon substitution of the Concessionaire by the Nominated Company, and in event that such substitution is not completed within 180 (one hundred and eighty) days from the date of such Suspension, the Authority may terminate the Concession Agreement forthwith by issuing a Termination Notice in accordance with the provisions of the Concession Agreement, provided that upon written request from the Lenders’ Representative and the Concessionaire, the Authority may extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days. For the avoidance of doubt, the

Authority expressly agrees and undertakes to terminate the Concession Agreement forthwith, upon receipt of a written request from the Lenders’ Representative at any time after 240 (two hundred and forty) days from the date of Suspension hereunder.

# Substitution upon occurrence of Concessionaire default

* + 1. Upon occurrence of a Concessionaire Default, the Authority shall by a notice inform

the Lenders’ Representative of its intention to issue a Termination Notice and grant

15 (fifteen) days’ time to the Lenders’ Representative to substitute the

Concessionaire by the Nominated Company.

* + 1. In the event that the Lenders' Representative makes a representation to the Authority within the period of 15 (fifteen) days specified in Clause 3.3.1, stating that it intends to substitute the Concessionaire by a Nominated Company, the Lenders' Representative shall be entitled to undertake and complete the substitution of the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement within a period of 180 (one hundred and eighty) days from the date of such representation, and the Authority shall either withhold Termination or undertake Suspension for the aforesaid period of 180 (one hundred and eighty) days; provided that upon written request from the Lenders' Representative and the Concessionaire, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a period not exceeding 90 (ninety) days; provided further that the Lenders' Representative may at any time withdraw its representation hereunder and upon such withdrawal, the Authority may terminate this Agreement in accordance with the provisions hereof.

# Procedure for substitution

* + 1. The Authority and the Concessionaire hereby agree that on or after the date of Notice of Financial Default or the date of representation to the Authority under Clause 3.3.2, as the case may be, the Lenders' Representative may, without prejudice to any of the other rights or remedies of the Senior Lenders, invite, negotiate and procure offers, either by private negotiations or public auction or tenders for the take over and transfer of the Project including the Concession to the Nominated Company upon such Nominated Company's assumption of the liabilities and obligations of the Concessionaire towards the Authority under the Concession Agreement and towards the Senior Lenders under the Financing Agreements.
    2. To be eligible for substitution in place of the Concessionaire, the Nominated Company shall be required to fulfil the eligibility criteria that were laid down by the Authority for short listing the bidders for award of the Concession; provided that the Lenders' Representative may represent to the Authority that all or any of such criteria may be waived in the interest of the Project, and if the Authority determines that such waiver shall not have any material adverse effect on the Project, it may waive all or any of such eligibility criteria.
    3. Upon selection of a Nominated Company, the Lenders' Representative shall request the Authority to:
       1. Accede to transfer to the Nominated Company the right to construct, operate and maintain the Project in accordance with the provisions of the Concession Agreement;
       2. Endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and
       3. Enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.
    4. If the Authority has any objection to the transfer of Concession in favor of the Nominated Company in accordance with this Agreement, it shall within 15 (fifteen) days from the date of proposal made by the Lenders' Representative, give a reasoned order after hearing the Lenders' Representative. If no such objection is raised by the Authority, the Nominated Company shall be deemed to have been accepted. The Authority shall thereupon transfer and endorse the Concession within15 (fifteen) days of its acceptance/deemed acceptance of the Nominated Company; provided that in the event of such objection by the Authority, the Lenders' Representative may propose another Nominated Company whereupon the procedure set forth in this Clause 3.4 shall be followed for substitution of such Nominated Company in place of the Concessionaire.
    5. The transfer of Concession hereunder to a Nominated Company may, notwithstanding anything to the contrary in this Agreement and the Concession Agreement, be undertaken by transfer of no less than 75% (seventy five per cent) of the equity of the Concessionaire to the Nominated Company, and upon such transfer hereunder, the Concessionaire shall be deemed to be the Nominated Company under and in accordance with the provisions of this Agreement and the Concession Agreement.

# Selection to be binding

The decision of the Lenders' Representative and the Authority in selection of the Nominated Company shall be final and binding on the Concessionaire. The Concessionaire irrevocably agrees and waives any right to challenge the actions of the Lenders' Representative or the Senior Lenders or the Authority taken pursuant to this Agreement including the transfer/assignment of the Concession in favor of the Nominated Company. The Concessionaire agrees and confirms that it shall not have any right to seek revaluation of assets of the Project or the Concessionaire's shares. It is hereby acknowledged by the Parties that the rights of the Lenders' Representative are irrevocable and shall not be contested in any proceedings before any court or Authority and the Concessionaire shall have no right or remedy to prevent, obstruct or restrain the Authority or the Lenders' Representative from effecting or causing the

transfer by substitution and endorsement of the Concession as requested by the Lenders' Representative.

# PROJECT AGREEMENTS

* 1. **Substitution of Nominated Company in Project Agreements**

The Concessionaire shall ensure and procure that each Project Agreement contains provisions that entitle the Nominated Company to step into such Project Agreement, in its discretion, in place and substitution of the Concessionaire in the event of such Nominated Company's assumption of the liabilities and obligations of the Concessionaire under the Concession Agreement.

# TERMINATION OF CONCESSION AGREEMENT

* 1. **Termination upon occurrence of Financial Default**

At any time after issue of a Notice of Financial Default, the Lenders' Representative may by a notice in writing require the Authority to terminate the Concession Agreement forthwith, and upon receipt of such notice, the Authority shall undertake Termination under and in accordance with the provisions of Article 31 of the Concession Agreement.

# Termination when no Nominated Company is selected

In the event that no Nominated Company acceptable to the Authority is selected and recommended by the Lenders' Representative within the period of 180 (one hundred and eighty) days or any extension thereof as set forth in Clause 3.3.2, the Authority may terminate the Concession Agreement forthwith in accordance with the provisions thereof.

# Realization of Debt Due

The Authority and the Concessionaire hereby acknowledge and agree that, without prejudice to their any other right or remedy, the Lenders' Representative is entitled to receive from the Concessionaire, without any further reference to or consent of the Concessionaire, the Debt Due upon Termination of the Concession Agreement. For realization of the Debt Due, the Lenders' Representative shall be entitled to make its claim from the Escrow Account in accordance with the provisions of the Concession Agreement and the Escrow Agreement.

# DURATION OF THE AGREEMENT

* 1. **Duration of the Agreement**

This Agreement shall come into force from the date hereof and shall expire at the earliest to occur of the following events:

1. Termination of the Agreement; or
2. No sum remains to be advanced and no sum are outstanding to the Senior Lenders, under the Financing Agreements.

# INDEMNITY

* 1. **General indemnity**
     1. The Concessionaire will indemnify, defend and hold the Authority and the Lenders' Representative harmless against any and all proceedings, actions and third-party claims for any loss, damage, cost and expense of whatever kind and nature arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.
     2. The Authority will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Authority to fulfil any of its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Authority, its officers, servants and agents.
     3. The Lenders' Representative will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Lenders' Representative to fulfil its obligations under this Agreement, materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement, other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Lenders' Representative, its officers, servants and agents.

# Notice and contest of claims

In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 7.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, such approval not to be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

# DISPUTE RESOLUTION

* 1. **Dispute resolution**
     1. Any dispute, difference or claim arising out of or in connection with this Agreement which is not resolved amicably shall be decided by reference to

arbitration to a Board of Arbitrators comprising one nominee each of the Authority, Concessionaire and the Lenders' Representative. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the **"Rules")** or such other rules as may be mutually agreed by the Parties, and shall be subject to provisions of the Arbitration and Conciliation Act, 1996.

* + 1. The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The place of arbitration shall be the capital of the State and the language of arbitration shall be English.

# MISCELLANEOUS PROVISIONS

* 1. **Governing law and jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in Chennai shall have jurisdiction over all matters arising out of or relating to this Agreement.

# Waiver of sovereign immunity

1. The Authority unconditionally and irrevocably agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
2. agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Agreement or any transaction contemplated by this Agreement, no immunity (whether by reason of sovereignty or otherwise) from such proceedings shall be claimed by or on behalf of the Authority with respect to its assets;
3. waives any right of immunity which it or its assets, property or revenues now has, may acquire in the future or which may be attributed to it in any jurisdiction; and
4. consents generally in respect of the enforcement of any judgment or award against it in any such proceedings to the giving of any relief or the issue of any process in any jurisdiction in connection with such proceedings (including the making, enforcement or execution against it or in respect of any assets, property or revenues whatsoever irrespective of their use or intended use of any order or judgment that may be made or given in connection therewith).

# Priority of agreements

In the event of any conflict between the Concession Agreement and this Agreement, the provisions contained in the Concession Agreement shall prevail over this Agreement.

# Alteration of terms

All additions, amendments, modifications and variations to this Agreement shall be effectual and binding only if in writing and signed by the duly authorized

representatives of the Parties

# Waiver

* + 1. Waiver by any Party of a default by another Party in the observance and performance of any provision of or obligations under this Agreement:

1. Shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
2. Shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
3. Shall not affect the validity or enforceability of this Agreement in any manner.
   * 1. Neither the failure by either Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by a Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

# No third party beneficiaries

This Agreement is solely for the benefit of the Parties and no other person or entity shall have any rights hereunder.

# Survival

* + 1. **Termination of this Agreement:**

1. Shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
2. except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of or caused by acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.
   * 1. All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

# Severability

If for any reason whatever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties will negotiate in good faith with a view to agreeing to one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable to such invalid, illegal or unenforceable provision. Failure to agree upon any such provisions shall not be subject to dispute

resolution under Clause 8 of this Agreement or otherwise.

# Successors and assigns

This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

# Notices

All notices or other communications to be given or made under this Agreement shall be in writing, shall either be delivered personally or sent by courier or registered post with an additional copy to be sent by facsimile or e-mail. The address for service of each Party, its facsimile number and e-mail address are set out under its name on the signing pages hereto. A notice shall be effective upon actual receipt thereof, save that where it is received after 5.30 (five thirty) p.m. on any day, or on a day that is a public holiday, the notice shall be deemed to be received on the first working day following the date of actual receipt. Without prejudice to the foregoing, a Party giving or making a notice or communication by facsimile or e-mail shall promptly deliver a copy thereof personally, or send it by courier or registered post to the addressee of such notice or communication. It is hereby agreed and acknowledged that any Party may by notice change the address to which such notices and communications to it are to be delivered or mailed. Such change shall be effective when all the Parties have notice of it.

# Language

All notices, certificates, correspondence and proceedings under or in connection with this Agreement shall be in English.

# Authorized representatives

Each of the Parties shall by notice in writing designate their respective authorized representatives through whom only all communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorized representative by similar notice.

# Original Document

This Agreement may be executed in three counterparts, each of which when executed and delivered shall constitute an original of this Agreement.

# IN WITNESS WHEREOF THE PARTIES HAVE EXECUTED AND DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN

|  |  |
| --- | --- |
| THE COMMON SEAL OFCONCESSIONAIRE  has | SIGNED, SEALED |
| been affixed pursuant to the resolution  passed | AND DELIVERED |
| by the Board of Directors of the | For and behalf of THE AUTHORITY |

|  |  |
| --- | --- |
| Concessionaire by: at its meeting held  on the..............day of the  .............20...........here unto affixed in to  the presence of..................the Director, who has signed these presents in token thereof, Company Secretary / Authorized Officer who has countersigned the same  in token thereof |  |

**Schedule S Deleted**