GREATER CHENNAI CORPORATION

DRAFT CONCESSION AGREEMENT (DCA)

FOR

SELECTION OF A CONCESSIONAIRE FOR DEVELOPMENT OF COMMERCIAL COMPLEX FACILITY AT EVR PERIYAR SALAI IN CHENNAI CITY ON 'DBFOT' BASIS

RFP Ref: S.P.D.C.No. B1/1452/2025
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Greater Chennai Corporation
Ripon Building,
Poonamallee High Road,
Chennai - 600 003,
Tamil Nadu, India
Tel: 044 - 25619270
E-mail: sespecialprojects@gmail.com
Website: www.chennaicorporation.gov.in

Contents

ARTICLE 1: DEFINITIONS AND INTERPRETATION **11**
1.1 Definitions **11**
1.2 Interpretation **11**
1.3 Measurements and arithmetic conventions **13**
1.4 Priority of agreements, clauses and schedules **14**
ARTICLE 2: SCOPE OF THE PROJECT **15**
2.1 Scope of the Project **15**
ARTICLE 3: THE CONCESSION **16**
3.1 The Concession **16**
3.2 Concession Period **17**
ARTICLE 4: CONDITIONS PRECEDENT **18**
4.1 Conditions Precedent **18**
4.2 Damages for delay by the Authority **20**
4.3 Damages for delay by the Concessionaire **20**
4.4 Commencement of Concession Period **21**
4.5 Extension of period for fulfilment of Conditions Precedent **21**
4.6 Termination upon delay **21**
ARTICLE 5: OBLIGATIONS OF THE CONCESSIONAIRE **22**
5.1 Obligations of the Concessionaire **22**
5.2 Obligations relating to Project Agreements **23**
5.3 Obligations relating to Change in Ownership **25**
5.4 Engagement of Contractors **26**
5.5 Obligations relating to employment of foreign nationals **26**
5.6 Obligations relating to employment of trained personnel **27**
5.7 Sole purpose of the Concessionaire **27**
5.8 Obligations relating to taxes and other charges **27**
5.9 Liability for Personnel **27**
5.10 Security and Safety at the Project Site and Project Facility **28**
5.11 Obligations relating to Minimum Development Requirements **28**
5.12 Sub-leasing of Spaces at the Commercial Complex Facility **29**
5.13 Environmental Compliances **29**
5.14 Equity Financing and Deposit Requirements **30**
ARTICLE 6: OBLIGATIONS OF THE AUTHORITY **31**

6.1 Obligations of the Authority 31
6.2 Obligations relating to re-financing 32
ARTICLE 7: REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS 33
7.1 Representations and warranties of the Concessionaire 33
7.2 Representations and warranties of the Authority 35
7.3 Disclosure 36
ARTICLE 8: DISCLAIMER 37
8.1 Disclaimer 37
ARTICLE 9: PERFORMANCE SECURITY 39
9.1 Performance Security 39
9.2 Appropriation of Performance Security 39
9.3 Release of Performance Security 39
ARTICLE 10: RIGHT OF WAY 41
10.1 The Site 41
10.2 Lease, Access and Right of Way 41
10.3 Procurement of the Site 42
10.4 Site to be free from Encumbrances 43
10.5 Protection of Site from Encumbrances 43
10.6 Special/ temporary Right of Way 43
10.7 Access to the Authority 43
10.8 Geological and archaeological finds 44
ARTICLE 11: UTILITIES, ASSOCIATED ROADS AND TREES 45
11.1 Existing utilities and roads 45
11.2 Shifting of obstructing utilities 45
11.3 New utilities and roads 45
11.4 Felling of trees 46
11.5 Deleted 46
ARTICLE 12: CONSTRUCTION OF THE PROJECT 47
12.1 Obligations prior to commencement of construction 47
12.2 Drawings 47
12.3 Construction of the Project 48
12.4 Maintenance during Construction Period 49
ARTICLE 13: MONITORING OF CONSTRUCTION 50
13.1 Monthly progress reports 50
13.2 Deleted 50

13.3 Tests 50
13.4 Delays during construction 51
13.5 Suspension of unsafe Construction Works 51
13.6 Deleted. 51
14.1 Tests 52
14.2 Completion Certificate 52
14.3 Deleted 52
14.4 Deleted 52
14.5 Withholding of Provisional or Completion Certificate 52
14.6 Rescheduling of Tests 52
14.7 Completion Certificate not a cessation of liability 53
ARTICLE 15: ENTRY INTO COMMERCIAL SERVICE 54
15.1 Commercial Operation Date (COD) 54
15.2 Damages for delay 54
ARTICLE 16: DELETED 55
ARTICLE 17: OPERATION AND MAINTENANCE 56
17.1 O&M obligations of the Concessionaire 56
17.2 Maintenance Requirements 57
17.3 Safety, breakdowns and accidents 57
17.4 Overriding powers of the Authority 58
17.5 Restoration of loss or damage to the Project 58
17.6 Modifications to the Project 58
17.7 Excuse from performance of obligations 58
17.8 Authority's right to take remedial measures 59
ARTICLE 18: SAFETY REQUIREMENTS 60
18.1 Safety Requirements 60
18.2 Expenditure on Safety Requirements 60
ARTICLE 19: MONITORING OF OPERATION AND MAINTENANCE 61
19.1 Annual Status Reports 61
19.2 Reports of unusual occurrence 61
a. Death or injury to any person in the Project Facility premises; 61
b. Any damage or obstruction on the Project, which hampers the quality of the services being provided by the Concessionaire; 61
c. Smoke or fire; 61
d. Flooding of the Project; and 61

e. Such other relevant information as may be required by the Authority. 61
ARTICLE 20: DELETED 62
ARTICLE 21: FINANCIAL CLOSE 64
21.1 Financial Close 64
21.2 Termination due to failure to achieve Financial Close 64
ARTICLE 22: REVENUE SHARE AND ANNUAL CONCESSION FEE 66
22.1 Fee payable to the Authority 66
22.2 Mechanism of Payment 68
ARTICLE 23: COLLECTION OF RENTAL CHARGES 69
23.1 Determine, Charge, Collection and Appropriation of Rental Charges 69
23.2 Deleted. 69
23.3 Deleted. 69
ARTICLE 24: ESCROW ACCOUNT 70
24.1 Escrow Account 70
24.2 Deposits into Escrow Account 70
24.3 Withdrawals during Concession Period 70
24.4 Withdrawals upon Termination 71
ARTICLE 25: INSURANCE 73
25.1 Insurance during Concession Period 73
25.2 Insurance Cover 73
25.3 Notices to the Authority 73
25.4 Evidence of Insurance Cover 74
25.5 Remedy for failure to insure 74
25.6 Waiver of subrogation 74
25.7 Concessionaire's waiver 74
25.8 Application of insurance proceeds 75
25.9 Compliance with conditions of insurance policies 75
ARTICLE 26: ACCOUNTS AND AUDIT 76
26.1 Audited accounts 76
26.2 Appointment of auditors 76
26.3 Certification of claims by Statutory Auditors 77
26.4 Set-off 77
26.5 Dispute resolution 77
ARTICLE 27: FORCE MAJEURE 79
27.1 Force Majeure 79

27.2 Non-Political Event 79
27.3 Indirect Political Event 80
27.4 Political Event 80
27.5 Duty to report Force Majeure Event 81
27.6 Effect of Force Majeure Event on the Concession 81
27.7 Allocation of costs arising out of Force Majeure 82
27.8 Termination Notice for Force Majeure Event 83
27.9 Termination Payment for Force Majeure Event 83
27.10 Dispute Resolution 83
27.11 Excuse from performance of obligations 84
ARTICLE 28: Deleted 85
ARTICLE 29: SUSPENSION OF CONCESSIONAIRE'S RIGHTS 86
29.1 Suspension upon Concessionaire Default 86
29.2 Authority to act on behalf of Concessionaire 86
29.3 Revocation of Suspension 87
29.4 Substitution of Concessionaire 87
29.5 Termination 87
ARTICLE 30: TERMINATION 88
30.1 Termination for Concessionaire Default 88
30.2 Termination for Authority Default 91
30.3 Termination Payments 91
30.4 Other rights and obligations of the Authority 92
30.5 Survival of Rights 93
ARTICLE 31: DIVESTMENT OF RIGHTS AND INTEREST 94
31.1 Divestment Requirements 94
31.2 Inspection and cure 95
31.3 Cooperation and assistance on transfer of Project 96
31.4 Vesting Certificate 96
31.5 Divestment costs etc. 96
ARTICLE 32: DEFECTS LIABILITY AFTER TERMINATION 97
32.1 Liability for defects after Termination 97
32.2 Retention in Escrow Account 97
ARTICLE 33: ASSIGNMENT AND CHARGES 99
33.1 Restrictions on assignment and charges 99
33.2 Permitted assignment and charges 99

33.3 Substitution Agreement 99
33.4 Assignment by the Authority 100
ARTICLE 34: CHANGE IN LAW 101
34.1 Costs 101
34.2 No claim 101
ARTICLE 35: LIABILITY AND INDEMNITY 102
35.1 General indemnity 102
35.2 Indemnity by the Concessionaire 102
35.3 Notice and contest of claims 103
35.4 Defense of claims 103
35.5 No consequential claims 104
35.6 Limitation of Liability 104
35.7 Survival on Termination 105
ARTICLE 36: RIGHTS AND TITLE OVER THE PROJECT SITE 106
36.1 Lessee rights 106
36.2 Access rights of the Authority and others 106
36.3 Property taxes 106
36.4 Right to Sub-Lease 106
36.5 Reporting to Authority 107
36.6 Rights to Authority upon Termination of Concession Agreement 107
ARTICLE 37: DISPUTE RESOLUTION 109
37.1 Dispute resolution 109
37.2 Conciliation 109
37.3 Arbitration 109
ARTICLE 38: DISCLOSURE 111
38.1 Disclosure of Specified Documents 111
38.2 Withholding disclosure of Protected Documents 111
ARTICLE 39: DELETED 112
ARTICLE 40: MISCELLANEOUS 113
40.1 Governing law and jurisdiction 113
40.2 Waiver of immunity 113
40.3 Delayed payments 113
40.4 Waiver 114
40.5 Liability for review of Documents 114
40.6 Exclusion of implied warranties etc. 114

40.7 Survival **114**
40.8 Entire Agreement **115**
40.9 Severability **115**
40.10 No partnership **115**
40.11 Third parties **115**
40.12 Successors and assigns **116**
40.13 Notices **116**
40.14 Language **117**
40.15 Counterparts **117**
ARTICLE 41: DEFINITIONS **118**
41.1 Definitions **118**
SCHEDULES **131**
SCHEDULE-A: SITE OF THE PROJECT **132**
SCHEDULE-B: SCOPE OF THE PROJECT **133**
SCHEDULE-C: MINIMUM DEVELOPMENT REQUIREMENT **136**
SCHEDULE-D: DELETED **137**
SCHEDULE-E: APPLICABLE PERMITS **138**
SCHEDULE-F: PERFORMANCE SECURITY **139**
SCHEDULE-G: PROJECT COMPLETION SCHEDULE **142**
SCHEDULE-H: COMPLETION CERTIFICATE **143**
SCHEDULE-I: MAINTENANCE REQUIREMENTS **144**
SCHEDULE-J: SAFETY REQUIREMENTS **148**
SCHEDULE-K: DELETED **150**
SCHEDULE-L: DELETED **151**
SCHEDULE-M: ESCROW AGREEMENT **152**
SCHEDULE-N: VESTING CERTIFICATE **166**
SCHEDULE-O: SUBSTITUTION AGREEMENT **167**
SCHEDULE-P: LEASE AGREEMENT **178**

CONCESSION AGREEMENT

This CONCESSION AGREEMENT ("**Agreement**") is executed on this [●] day of [●] 202__ at Chennai, Tamil Nadu ("**Effective Date**"):

BETWEEN

GREATER CHENNAI CORPORATION, having its principal office at [●] represented by the Commissioner (hereinafter referred to as the "**Authority**", which expression shall, unless it be repugnant to the context or meaning thereof, include its administrators, successors and permitted assigns) of **One Part**.

AND

[● Limited], a special purpose company incorporated under the provisions of the Companies Act, 2013 with Corporate Identity Number (CIN) [●] and having its registered office at [●], represented by its [●] authorized vide Board Resolution dated [●] (hereinafter referred to as the "**Concessionaire**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, permitted assigns and substitutes) of the **Second Part.**

*……the Authority and the Concessionaire shall be collectively referred to as "**Parties**" and individually as a "**Party**"*

WHEREAS:

A. The Greater Chennai Corporation is a statutory authority established under the Chennai City Municipal Corporation Act, 1919 as a body corporate having perpetual succession and a common seal.

B. The Authority has envisaged development of a Commercial Complex Facility on ____ sq. mtr. land belonging to the Authority at *EVR Periyar Salai* in Chennai (the "**Site**") through Public Private Partnership (the "**PPP**") mode on Design, Build, Finance, Operate and Transfer (the "**DBFOT**") basis, in accordance with the terms and conditions to be set forth in an Agreement (the "**Project**").

C. The Authority had accordingly invited Bids by prescribing technical and commercial terms and conditions by its Request for Proposal No. ……. dated ……. (the "**RFP**") for short listing of Bidders for implementation of the Project on DBFOT basis and had shortlisted

certain Bidders including, inter alia, M/s…….…….. {name of the Selected Bidder

D. After evaluation of the Bids received, the Authority had accepted the Bid of the {Selected Bidder} and issued its Letter of Award No. ……. dated ……. (hereinafter called the **"LOA"**) to the {Selected Bidder} requiring, inter alia, the execution of this Agreement within 45 (forty-five) days of the date of issue thereof, subject to submission of all the requisite documents including the constitutional documents, as directed by Authority.

E. The {Selected Bidder} has since promoted and incorporated the Concessionaire as a limited liability company under the Companies Act 2013, and has requested the Authority to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the {Selected Bidder under the LOA} including the obligation to enter into this Concession Agreement pursuant to the LOA for undertaking the Project.

F. By its letter dated the Concessionaire has also joined in the said request of the Selected Bidder to the Authority to accept it as the entity which shall undertake and perform the obligations and exercise the rights of the Selected Bidder including the obligation to enter into this Concession Agreement pursuant to the LOA. The Concessionaire has further represented to the effect that it has been promoted by the Selected Bidder for the purposes hereof.

G. The Authority has agreed to the said request of the Selected Bidder and the Concessionaire, and has accordingly agreed to enter into this Agreement with the Concessionaire for implementation of the Project on Design, Build, Finance, Operate & Transfer basis, subject to and on the terms and conditions set forth hereinafter.

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

PART I: PRELIMINARY

ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement (including those in **Article 41**) shall, unless the context otherwise requires, have the meaning ascribed thereto herein, and the words and expressions defined in the Schedules and used therein shall have the meaning ascribed thereto in the Schedules.

1.2 Interpretation

1.2.1 In this Agreement, unless the context otherwise requires,

(a) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;

(b) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and/ or in the State of Tamil Nadu, and as from time to time may be amended, modified, supplemented, extended or re-enacted;

(c) references to a "**person**" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;

(d) the table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement;

(e) the words "**include**" and "**including**" are to be construed without limitation and shall be deemed to be followed by "**without limitation**" or "**but not limited to**" whether or not they are followed by such phrases;

(f) references to "**construction**" or "**building**" include, unless the context otherwise requires, investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "**construct**" or "**build**" shall be construed accordingly;

(g) references to "**development**" include, unless the context otherwise requires, construction, renovation, refurbishing, augmentation, up-gradation, operation & maintenance and other activities incidental thereto, and "**develop**" shall be construed accordingly;

(h) any reference to any period of time shall mean a reference to that according to Indian Standard Time;

(i) any reference today shall mean a reference to a calendar day;

(j) Reference to a "**business day**" shall be construed as reference to a day (other than a Sunday) on which banks in the State of Tamil Nadu are generally open for business;

(k) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;

(l) references to any date, period shall mean and include such date or period as may be extended pursuant to this Agreement;

(m) any reference to any period commencing "**from**" a specified day or date and "**till**" or "**until**" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this Agreement is not a business day, then the period shall run until the end of the next business day;

(n) the words importing singular shall include plural and vice versa;

(o) References to any gender shall include the other and the neutral gender;

(p) "**lakh**" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);

(q) "**Indebtedness**" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

(r) references to the "**winding-up**", "**dissolution**", "**insolvency**", or "**reorganization**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors;

(s) save and except as otherwise provided in this Agreement, any reference, at any time, to any agreement, lease and sub-lease deed, instrument, license or document of any description shall be construed as reference to that agreement, lease and sub-lease deed,

instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this sub-clause (s) shall not operate so as to increase liabilities or obligations of the Authority hereunder or pursuant hereto in any manner whatsoever;

(t) any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party, as the case may be, in this behalf and not otherwise;

(u) the Schedules and Recitals to this Agreement and the RFP along with any corrigendum/ addendum, forms an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;

(v) references to Recitals, Articles, Clauses, Sub-clauses, Provisos or Schedules in this Agreement shall, except where the context otherwise requires, mean references to Recitals, Articles, Clauses, Sub-clauses, Provisos and Schedules of or to this Agreement, and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this Agreement or of the Schedule in which such reference appears;

(w) the damages payable by either Party to the other of them, as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "**Damages**"); and

(x) time shall be of the essence in the performance of the Parties' respective obligations. If any time period specified herein is extended, such extended time shall also be of the essence.

1.2.2 The rule of construction, if any, that a contract should be interpreted against the parties responsible for the drafting and preparation thereof, shall not apply.

1.2.3 Any word or expression used in this Agreement shall, unless otherwise defined or construed in this Agreement, bear its ordinary English meaning and, for these purposes, the General Clauses Act, 1897 shall not apply.

1.3 Measurements and arithmetic conventions

All measurements and calculations shall be in the metric system and calculations done to 2 (two) decimal places, with the third digit of 5 (five) or above being rounded up and below 5 (five) being rounded down.

1.4 Priority of agreements, clauses and schedules

1.4.1 This Agreement, and all other agreements and documents forming part of or referred to in this Agreement are to be taken as mutually explanatory and, unless otherwise expressly provided elsewhere in this Agreement, the priority of this Agreement and other documents and agreements forming part hereof or referred to herein shall, in the event of any conflict between them, be in the following order:

(a) this Agreement;

(b) Corrigendum/ Addendum;

(c) RFP

(d) all other agreements and documents forming part hereof or referred to herein,

i.e., the Agreement at (a) above shall prevail over the agreements and documents at (b), (c) and (d) above.

1.4.2 Subject to the provisions of Clause 1.4.1, in case of ambiguities or discrepancies within this Agreement, the following shall apply:

a) between two or more Clauses of this Agreement, the provisions of a specific Clause relevant to the issue under consideration shall prevail over those in other Clauses;

b) between the Clauses of this Agreement and the Schedules, the Clauses shall prevail and between Schedules and Annexes, the Schedules shall prevail;

c) between any two Schedules, the Schedule relevant to the issue shall prevail;

d) between the written description on the Drawings and the specifications, the latter shall prevail;

e) between the dimension scaled from the Drawing and its specific written dimension, the latter shall prevail; and

f) between any value written in numerals and that in words, the latter shall prevail.

PART II: THE CONCESSION
ARTICLE 2: SCOPE OF THE PROJECT

2.1 Scope of the Project

The scope of the Project (the "**Scope of the Project**") shall mean and include, during the Concession Period:

(a) plan, design, finance, construction and development of the Project on the Site as set forth in **Schedule-A** in accordance with the requirements specified in **Schedule-B** and **Schedule-C**, Applicable Laws, Applicable Permits (as required from time to time) and in conformity with the Operational Standards set forth in **Schedule D;**

(b) Operation & Maintenance of the Project in accordance with the provisions of this Agreement; and

(c) performance and fulfillment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement.

ARTICLE 3: THE CONCESSION

3.1 The Concession

3.1.1 Subject to and in accordance with the provisions of this Agreement, Applicable Laws and Applicable Permits, the Authority hereby grants to the Concessionaire, the concession set forth herein including the exclusive right, lease and authority to design, construct, operate and maintain the Project and to exercise and enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Agreement (the "**Concession**") , and the Concessionaire hereby accepts the Concession and agrees to implement the Project subject to and in accordance with the terms and conditions set forth herein and transfer the Project to the Authority on the Transfer Date.

3.1.2 Subject to and in accordance with the provisions of this Agreement, the Concession hereby granted shall oblige or entitle (as the case may be) the Concessionaire to:

(a) Right of Way, access and leasehold rights to the Project Site for the purpose of and to the extent conferred by the provisions of this Agreement;

(b) plan, design, finance, construct and develop the Project;

(c) manage, operate and maintain the Project in terms of this Agreement and regulate the use thereof by third parties;

(d) determine, collect and appropriate Rental Charges/ other revenues including maintenance charges, for undertaking commercial activities in the Commercial Complex Facility, including from sub-leasing of built-up spaces and/ or advertising and/or out-sourcing of any services thereat. The Concessionaire shall also have the right to enter into appropriate contractual arrangement with third parties for allowing permissible usage of the built-up spaces in the Commercial Complex Facility for commercial activities;

(e) perform and fulfill all the Concessionaire's obligations under and in accordance with this Agreement including payment of Revenue Share and Annual Concession Fee;

(f) save as otherwise expressly provided in this Agreement, bear and pay all costs, expenses and charges in connection with or incidental to the performance of the obligations of the Concessionaire under this Agreement;

(g) appoint contractors, sub-contractors, agents, advisors and consultants to carry out its obligations under this Agreement in accordance with its terms;

(h) upon Termination of the Concession Period transfer the Project to the Authority in accordance with the terms of this Agreement;

(i) neither assign, transfer or sublet or create any lien or encumbrance on this Agreement, or the Concession hereby granted or on the whole or any part of the Project, nor transfer, lease or part possession thereof, save and except as expressly permitted by this Agreement;

(j) set all standards and frame and apply all internal policies, guidelines and procedures as may be appropriate for safety, security, development, management, operation and/ or maintenance of the Project and the Project Site, subject only to the terms of this Agreement and in accordance with Applicable Permits, Applicable Laws and Good Industry Practice;

(k) exercise such other rights as the Authority may determine as being necessary for the purposes incidental and necessary to implement, manage, operate and maintain the Project; and

(l) do all things incidental or related thereto or which the Concessionaire considers desirable and appropriate to be carried out in connection therewith during the Concession Period.

3.2 Concession Period

3.2.1 Subject to early termination of this Agreement in accordance with its terms, the term of Concession for this Agreement is 35 (thirty five) years from the Appointed Date (the "Concession Period"). The Concession Period is inclusive of Construction Period of 18 (eighteen) months reckoned from the Appointed Date.

ARTICLE 4: CONDITIONS PRECEDENT

4.1 Conditions Precedent

4.1.1 Save and except as expressly provided in Articles 4, 5, 6, 7, 8, 9, 10, 21, 27, 37 and 40, or unless the context otherwise requires, the respective rights and obligations of the Parties under this Agreement shall be subject to the satisfaction in full of the conditions precedent specified in this Clause 4.1 (the "**Conditions Precedent**").

4.1.2 The Authority shall be required to satisfy any or all of the Conditions Precedent set forth in this Clause 4.1.2 within a period of 150 (one hundred and fifty) days from the Effective Date , and the Conditions Precedent required to be satisfied by the Authority prior to the Appointed Date shall be deemed to have been fulfilled when the Authority shall have:

(a) provided peaceful and vacant possession of the land comprising of the Project Site along with the Right of Way, leasehold rights in respect of the same, clear and free from any encumbrances in accordance with the provisions of Article 10 of this Agreement;

(b) reviewed the Development Plan submitted by the Concessionaire and given its comments and observations, if any, within 15 (fifteen) days of its submission to the Authority by the Concessionaire simply from the perspective of its compliance with the (i) Applicable Laws including applicable Development Control Regulations/ Zoning Regulations; (ii) scope of the Project developments as set out under Schedule-B together with provision of Minimum Development Requirement as specified in Schedule-C in conformity with the Operational Standards set forth in Schedule-D; (iii) coverage/ inclusions with regard to any infrastructure including basic amenities & utilities incidental to the Project; and (iv) provisions of this Agreement;

(c) approved the updated/ modified Development Plan submitted by the Concessionaire after incorporating the comments/ suggestions of the Authority, within a period of 15 (fifteen) days. Provided however, the approval granted herein does not constitute the statutory approval or the Applicable Permits that the Concessionaire would be essentially required to otherwise seek as per Applicable Laws from the concerned Government Instrumentality(ies) in relation to the Project;

(d) appointed a dedicated official not below the rank of Superintending Engineer as the Project Officer to act the representative of the Authority for overall monitoring of the Project on behalf of the Authority;

(e) granted Applicable Permits within its power and authority for commencement of the Construction Works by the Concessionaire;

(f) executed the Escrow Agreement along with the Concessionaire, Lenders'

Representative and Escrow Bank;

(g) executed the Substitution Agreement along with the Concessionaire and Lenders' Representative.

Provided, that upon request in writing by the Authority, the Concessionaire may, in its discretion, waive the Conditions Precedent set forth in this Clause 4.1.2.

4.1.3 The Conditions Precedent required to be satisfied by the Concessionaire within a period of 150 (one hundred and fifty) days from the Effective Date of this Agreement shall be deemed to have been fulfilled when the Concessionaire shall have:

(a) prepared and submitted to the Authority, its detailed Development Plan in accordance with the requirements set out under Schedule-B together with provision of appropriate infrastructure including basic amenities & utilities incidental to the Project in conformity with the Operational Standards set forth in Schedule-D and Applicable Laws containing construction methodology, quality assurance procedures, environment management plan and safety management plan. The detailed design shall be submitted to Authority for its review and approval within 30 (thirty) days of the Effective Date. In the event, the Concessionaire plans to develop any additional facilities as a part of the Project Facility, then the proposed design, plan, details, etc. in respect of the same should be essentially provided in the Development Plan.

(b) addressed the comments, observations and incorporated the revisions suggested by the Authority within a period of 7 (seven) days from receipt of the same from the Authority and obtained approval from the Authority on the detailed Development Plan for the Project;

(c) procured all the Applicable Permits as specified in **Schedule-E** (the list is indicative only) unconditionally or if subject to conditions, then all such conditions required to be fulfilled by the date specified therein shall have been satisfied in full and such Applicable Permits are in full force and effect for commencing Construction Works after the Appointed Date;

(d) executed and procured execution of the Escrow Agreement in the form provided in **Schedule-M**;

(e) executed and procured execution of the Substitution Agreement in the form provided in **Schedule-O**;

(f) executed the Financing Agreements, if any, and same shall be delivered to the Authority in 3 (three) true copies thereof, duly attested by a Director of the Concessionaire. However, in case the Project is to be financed entirely (100%) through Equity by the Concessionaire then the Concessionaire shall inform the Authority in writing (duly attested by a Director of the Concessionaire) about the same and shall have

deposited an amount equal to atleast 30% (thirty percent) of the total Equity in advance in the Escrow Account prior to the Appointed Date;

(g) delivered to the Authority 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders;

(h) delivered to the Authority confirmation of the correctness of the representations and warranties set forth in Sub-clauses (j), (k) and (l) of Clause 7.1 of this Agreement;

(i) appointed a qualified and professionally experienced persons (having prior experience of construction management and operating and managing similar projects) as its representative who shall be designated as the "**Construction Manager"** and **"Project Manager**" respectively;

(j) delivered to the Authority a legal opinion from the Indian legal counsel of the Concessionaire with respect to the authority of the Concessionaire to enter into this Agreement and the enforceability of the provisions thereof;

Provided that upon request in writing by the Concessionaire, the Authority may, in its sole discretion, waive any of the Conditions Precedent set forth in this Clause 4.1.3 or grant extension of time for fulfilment thereof, as the case may be or grant any waiver hereunder with such conditions as it may deem fit.

4.1.4 Each Party shall make all reasonable endeavors to satisfy the Conditions Precedent within the time stipulated and shall provide the other Party with such reasonable cooperation as may be required to assist that Party in satisfying the Conditions Precedent for which that Party is responsible.

4.1.5 The Parties shall notify each other in writing at least once a month on the progress made in satisfying the Conditions Precedent. Each Party shall promptly inform the other Party when any Condition Precedent for which it is responsible has been satisfied.

4.2 Damages for delay by the Authority

In the event that (i) the Authority does not procure fulfillment of any or all of the Conditions Precedent set forth in Clause 4.1.2 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of breach of this Agreement by the Concessionaire or due to Force Majeure, the Authority shall pay to the Concessionaire, 0.1% (zero point one per cent) of the Performance Security as Damages for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of Performance Security.

4.3 Damages for delay by the Concessionaire

In the event that (i) the Concessionaire does not procure fulfillment of any or all of the Conditions

Precedent set forth in Clause 4.1.3 within the period specified in respect thereof, and (ii) the delay has not occurred as a result of failure to fulfill the obligations under Clause 4.1.2 or other breach of this Agreement by the Authority, or due to Force Majeure, the Concessionaire shall pay to the Authority, 0.2% (zero point two per cent) of the Performance Security as Damages for each day's delay until the fulfillment of such Conditions Precedent, subject to a maximum of 20% (twenty per cent) of Performance Security and upon reaching such limit, the Authority may, in its sole discretion and subject to the provisions of Clause 9.2, terminate the Agreement. Provided that in the event of delay by the Authority in procuring fulfillment of the Conditions Precedent specified in Clause 4.1.2, no Damages shall be due or payable by the Concessionaire under this Clause 4.3 until the date on which the Authority shall have procured fulfillment of the Conditions Precedent specified in Clause 4.1.2.

4.4 Commencement of Concession Period

The date on which Financial Close is achieved and all the Conditions Precedent specified in Clause 4.1, are satisfied or waived, as the case may be, shall be the Appointed Date which shall be the date of commencement of the Concession Period. For avoidance of doubt, the Parties agree that the Concessionaire may, upon occurrence of the Appointed Date hereunder, by notice convey the particulars thereof to the Authority, and shall thereupon be entitled to commence construction of the Project in accordance with the terms of this Agreement.

4.5 Extension of period for fulfilment of Conditions Precedent

The Parties instead of levying Damages and/ or terminating the Agreement under this Article 4 may mutually agree to extend the time period mentioned hereinabove for the fulfilment of Conditions Precedent for a period not exceeding twice (two times) the original timeline stipulated for fulfilling the Conditions Precedent i.e. not more than 300 (three hundred) days form the Effective Date.

4.6 Termination upon delay

Without prejudice to the provisions of Clauses 4.2 and 4.3 and subject to the provisions of Clause 9.2, the Parties expressly agree in the event the Appointed Date does not occur, for any reason whatsoever, within a period of 150 (one hundred and fifty) days from the Effective Date of this Agreement or the extended period provided in accordance with this Agreement, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and this Agreement shall be deemed to have been terminated by mutual agreement of the Parties. Provided, however, that in the event the delay in occurrence of the Appointed Date is for reasons attributable to the Concessionaire, the Performance Security of the Concessionaire shall be encashed and appropriated by the Authority as Damages thereof.

ARTICLE 5: OBLIGATIONS OF THE CONCESSIONAIRE

5.1 Obligations of the Concessionaire

5.1.1 Subject to and on the terms and conditions of this Agreement, the Concessionaire shall be responsible, at its own cost and expense, for designing, engineering, financing, procurement, construction, operation and maintenance of the Project and observing, fulfilling, complying with and performing all its obligations set out in this Agreement or arising hereunder.

5.1.2 The Concessionaire shall comply with all Applicable Laws and Applicable Permits (including renewals as required), in the performance of its obligations under this Agreement.

5.1.3 Subject to the provisions of Clauses 5.1.1 and 5.1.2, the Concessionaire shall discharge its obligations in accordance with Good Industry Practice and as a reasonable and prudent person.

5.1.4 The Concessionaire shall, at its own cost and expense observe, undertake, comply with and perform, in addition to and not in derogation of its obligations elsewhere set out in this Agreement:

(a) make, or cause to be made, necessary applications to the relevant Government Instrumentalities with such particulars and details as may be required for obtaining/ renewing) Applicable Permits, and keep in force and effect such Applicable Permits in conformity with Applicable Laws;

(b) procure, as required, the appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes, know-how and systems used or incorporated into the Project including for building plans, infrastructure facilities, utilities including power, water supply, drainage, sewerage, fire-fighting, telecommunications, etc. The Concessionaire shall also be liable to procure requisite approval and make payment (if any) for debris disposal;

(c) carry out design, construction and development of the Project Facility in compliance with the approved Development Plan, approved Drawings, Applicable Laws, Applicable Permits, TNCDBR, 2019 with any amendments thereon, and the provisions of this Agreement;

(d) perform and fulfill its obligations under the Financing Agreements or ensure compliance with the Equity Financing and Deposit Requirements in terms of Clause 5.16, as the case may be;

(e) make reasonable efforts to maintain harmony and good industrial relations among the personnel employed by it or its Contractors in connection with the performance of its obligations under this Agreement;

(f) to obtain environmental clearances required for the purposes of the Agreement as may be required. The Authority will provide necessary assistance required for obtaining

such clearances;

(g) ensure and procure that its Contractors comply with all Applicable Permits and Applicable Laws in the performance by them of any of the Concessionaire's obligations under this Agreement;

(h) not do or omit to do any act, deed or thing which may in any manner be violative of any of the provisions of this Agreement;

(i) Maintain proper records of revenues collected from the sublessee who have taken the units on sub-lease, receipts from the Authority and other receipts and provide to the Authority information as per the provisions of this Agreement;

(j) carry out its obligations and duties with regard to the operation and maintenance of the Project Facilities in accordance with the provision of this Agreement. The obligations shall include all works arising from any obligation of the Concessionaire, and all duties not mentioned in this Concession Agreement, but which may be inferred to be necessary for the safe, reliable and efficient operation of the Project;

(k) Employ such qualified and experienced personnel at the Project Facilities as is required to carry out the Services and take care of Operation and Maintenance of the Project;

(l) Purchase and maintain insurance cover as stipulated in Article 25 at its own cost and expense, including towards the premium and all incidental costs;

(m) pay all taxes, duties and outgoings, including utility charges relating to the Project Facilities other than Property Tax;

(n) Pay Annual Concession Fee and Revenue Share to the Authority;

(o) transfer the Project Assets to the Authority upon expiry of the Concession period or termination of this Agreement, in accordance with the provisions of this Agreement;

5.2 Obligations relating to Project Agreements

5.2.1 It is expressly agreed that the Concessionaire shall, at all times, be responsible and liable for all its obligations under this Agreement notwithstanding anything contained in the Project Agreements or any other agreement, and no default under any Project Agreement or agreement shall excuse the Concessionaire from its obligations or liability hereunder.

5.2.2 The Concessionaire shall submit to the Authority the drafts of all Project Agreements or any amendments or replacements thereto, for its review and comments, and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, to the Concessionaire within 15 (fifteen) days of the receipt of such drafts. Within 7 (seven) days

of execution of any Project Agreement or amendment thereto, the Concessionaire shall submit to the Authority a true copy thereof, duly attested by a Director of the Concessionaire, for its record. For the avoidance of doubt, it is agreed that the review and comments hereunder shall be limited to ensuring compliance with the terms of this Agreement. It is further agreed that any failure or omission of the Authority to review and/ or comment hereunder shall not be construed or deemed as acceptance of any such agreement or document by the Authority. No review and/ or observation of the Authority and/ or its failure to review and/ or convey its observations on any document shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner whatsoever. It shall be the responsibility of the Concessionaire to ensure the Project Agreements are in compliance with this Agreement.

5.2.3 The Concessionaire shall not make any addition, replacement or amendments to any of the Financing Agreements without the prior written consent of the Authority if such addition, replacement or amendment has, or may have, the effect of imposing or increasing any financial liability or obligation on the Authority, and in the event that any replacement or amendment is made without such consent, the Concessionaire shall not enforce such replacement or amendment nor permit enforcement thereof against the Authority. For the avoidance of doubt, the Authority acknowledges and agrees that it shall not unreasonably withhold its consent for restructuring or rescheduling of the debt of the Concessionaire.

5.2.4 The Concessionaire shall procure that each of the Project Agreements contains provisions that entitle the Authority to step into such agreement, in its sole discretion, in substitution of the Concessionaire in the event of Termination or Suspension (the "**Covenant**"). For the avoidance of doubt, it is expressly agreed that in the event the Authority does not exercise such rights of substitution within a period not exceeding 90 (ninety) days from the Transfer Date, the Project Agreements shall be deemed to cease to be in force and effect on the Transfer Date without any liability whatsoever on the Authority and the Covenant shall expressly provide for such eventuality. The Concessionaire expressly agrees to include the Covenant in all its Project Agreements and undertakes that it shall, in respect of each of the Project Agreements, procure and deliver to the Authority an acknowledgment and undertaking, in a form acceptable to the Authority, from the counter party(ies) of each of the Project Agreements, whereunder such counter party(ies) shall acknowledge and accept the Covenant and undertake to be bound by the same and not to seek any relief or remedy whatsoever from the Authority in the event of Termination or Suspension.

5.2.5 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that selection or replacement of a contractor for construction or other purposes shall be subject to the prior approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such selection or contract without prior approval of the Authority. For the avoidance of doubt, it is expressly

agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement.

5.3 Obligations relating to Change in Ownership

5.3.1 The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior written approval of the Authority.

5.3.2 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that:

(a) all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial ownership or control of any Equity, in aggregate of 25% (twenty five per cent) or more of the total Equity of the Concessionaire; or

(b) acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or persons acting in concert with him;

shall constitute a Change in Ownership requiring prior written approval of the Authority from national security and public interest perspective, the decision of the Authority in this behalf being final, conclusive and binding on the Concessionaire, and undertakes that it shall not give effect to any such acquisition of Equity or control of the Board of Directors of the Concessionaire without such prior approval of the Authority. For the avoidance of doubt, it is expressly agreed that approval of the Authority hereunder shall be limited to national security and public interest perspective, and the Authority shall endeavor to convey its decision thereon expeditiously. It is also agreed that the Authority shall not be liable in any manner on account of grant or otherwise of such approval and that such approval or denial thereof shall not in any manner absolve the Concessionaire from any liability or obligation under this Agreement. For the purposes of this Clause 5.3.2:

(a) the expression "**acquirer**", "**control**" and "**person acting in concert**" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 2011 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Concessionaire;

(b) the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over

the shares or voting rights of shares of the Concessionaire; and

(c) power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situated in India or abroad) the Equity of the Concessionaire, not less than half of the directors on the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situated in India or abroad, having ultimate control of 25% (twenty five per cent) or more of the Equity of the Concessionaire shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

5.4 Engagement of Contractors

The Concessionaire may engage any Person possessing the requisite skill, expertise and capability for operation and maintenance of the Project Facilities and Services.

Provided:

i. the Concessionaire shall at all times be solely responsible for all its obligations under this Agreement notwithstanding any such engagement and anything contained in any Project Contracts or any other agreement, and no default under any Project Contract or agreement shall excuse the Concessionaire from its obligations or liability hereunder and the Concessionaire shall at all times be solely responsible for non-performance or for any defect, deficiency or delay in installation of the structures/equipment or any part thereof and for the operation and maintenance of the Project/the Project Facilities and Services in accordance with the provisions of this Agreement;

ii. the Concessionaire should have obtained requisite security clearance if required for the Contractor the Concessionaire intends to engage;

iii. the Concessionaire shall ensure that the Project Contracts contain provisions that entitle the Authority to step into such contract in its sole discretion in substitution of the Concessionaire in the event of termination or suspension of this Agreement; and

iv. any contract that it enters with an Affiliate in respect of the Project shall be on an arm's length basis.

5.5 Obligations relating to employment of foreign nationals

The Concessionaire acknowledges, agrees and undertakes that employment of foreign personnel by the Concessionaire and/or its contractors and their subcontractors shall be

subject to grant of requisite regulatory permits and approvals including employment/residential visas and work permits, if any required, and the obligation to apply for and obtain the same shall and will always be of the Concessionaire and, notwithstanding anything to the contrary contained in this Agreement, refusal of or inability to obtain any such permits and approvals by the Concessionaire or any of its contractors or sub-contractors shall not constitute Force Majeure Event, and shall not in any manner excuse the Concessionaire from the performance and discharge of its obligations and liabilities under this Agreement.

5.6 Obligations relating to employment of trained personnel

The Concessionaire shall ensure that the personnel engaged by it in the performance of its obligations under this Agreement are at all times properly trained for their respective function.

5.7 Sole purpose of the Concessionaire

The Concessionaire having been incorporated for the sole purpose of exercising the rights and observing and performing its obligations and liabilities under this Agreement, the Concessionaire or any of its subsidiaries shall not, except with the previous written consent of the Authority, be or become directly or indirectly engaged, concerned or interested in any business other than as envisaged herein.

5.8 Obligations relating to taxes and other charges

The Concessionaire shall pay, at all times during the subsistence of this Agreement, all Taxes, levies, duties, cesses and all other statutory charges in respect of the Project. The Concessionaire shall also make timely payments for all utility services in respect of the Project Site, including water, sewerage, solid waste, electricity, telecommunications, internet, cable charges, etc.

5.9 Liability for Personnel

(a) The Concessionaire shall be solely responsible for complying with all statutory responsibilities and liabilities in respect of the personnel engaged by him and liable for obtaining all mandatory registrations and deposit of contributions under various enactments. If, on account of default of the Concessionaire Authority is compelled to make any payments/contributions or discharge any responsibility/liability of the Concessionaire, Authority shall be entitled to recover and/or set off such amounts/expenses incurred from the amounts due to the Concessionaire without prejudice to the right of Authority to initiate appropriate legal proceedings for recovery of such amounts. The Concessionaire shall indemnify the Authority against all claims whatsoever arising out of his default in respect of the personnel engaged by him under any Statute/Law in force.

(b) The Concessionaire shall maintain and submit all records & returns prescribed under all the Applicable Law to the designated Authorities within the prescribed time limit and also to the Authority's Representative or any officer acting on its behalf whenever demanded.

(c) The Agreement as entered into between the Authority and the Concessionaire shall in no way nullify, reduce, mitigate or absolve the parties of any responsibility, obligation or liability that may devolve upon them under any statutory/mandatory provisions prevailing in India. Liabilities of the Concessionaire in respect of obligatory laws remain unaffected and Concessionaire shall remain responsible for settlement of claims, if any, of third parties who may suffer damages either due to the fault of the Concessionaire or its employees and Associates.

(d) The provisions indicated above are not comprehensive; the Concessionaire shall ensure compliance of all statutory/mandatory provisions under all the Applicable Laws, rules & regulations made by the State Govt./Central Govt. from time to time pertaining to the contract, including all labour laws and the laws as applicable.

(e) If as a result of the Concessionaire's failure to provide any of the statutory benefits under any labour welfare enactments, the liability falls on the Authority, such amounts incurred by the Authority will be recovered from the Concessionaire without prejudice to the right of the Authority such other legal recourse against the Concessionaire including termination of the contract.

5.10 Security and Safety at the Project Site and Project Facility

5.10.1 For security and safety at the Project Site, the Concessionaire shall:

(a) engage and depute trained personnel for maintaining the security and safety inside the Project Site in accordance with Good Industry Practice.

(b) abide by and implement any instructions of the Authority or its authorized Personnel for enhancing the security within and around the Project Site. The Concessionaire shall not be entitled to any compensation for disruption of its operations or loss or damage resulting from the implementation of any instruction of the Authority or its Authorized Representative.

5.11 Obligations relating to Minimum Development Requirements

5.11.1 The Concessionaire is obligated to develop and provide at the Project Site the following mandatory spaces (the "**Minimum Development Requirements**"):

Commercial Complex Facility: RCC (Reinforced Cement Concrete) building with Built-Up-Area of at least 1,00,000 (one lakh) sq.ft., as per approved in the Development Plan.

5.11.2 Deleted

5.11.3 Deleted.

5.11.4 The Concessionaire shall be free to construct and develop the Commercial Complex Facility subject to adhering to Applicable Laws including the local development norms of the Chennai Metropolitan Development Authority (**CMDA**), Applicable Permits and provisions of this Concession Agreement.

5.12 Sub-leasing of Spaces at the Commercial Complex Facility

The Concessionaire shall have the right to sub-lease built up spaces in the Commercial Complex Facility for allowing permissible usage of facility for commercial activities, by entering into appropriate sub-lease deeds with the sub-lessees/ third parties. Subject to clause 36.6, the Concessionaire shall ensure that such sub-lease deed shall, incorporate clauses, that (i) the Sub-Lease Deed(s) shall be co-terminus with this Agreement and shall stand terminated immediately upon Termination of this Agreement (either by efflux of time or pre-mature, as the case may be). In no event the term of such sub-lease(s) shall extend beyond the term of this Agreement and the Commercial Complex Facility shall be handed back to the Authority free of such sub-leases; (ii) the Sub-lessees shall not create any Encumbrance on the taken up commercial space; (iii) the Sub-Lease Deed(s) shall become effective with the right of usage allowed to sub-lessees, from the respective date(s) of issuance of the occupation certificate/ completion certificate from the concerned Government Instrumentality subject to the Concessionaire also having received Completion Certificate from the Authority under this Agreement; and (iv) the terms of such sub-lease(s) shall not be contrary to or in derogation of the terms of this Agreement.

5.12.1 All deeds or contractual arrangements with sub-lessees/ third parties shall specifically stipulate the aforesaid covenant of termination of the sub-lessees/ third parties rights and further that the sub-lessee/ third party shall not have any claim whatsoever against the Authority for any such termination. The Concessionaire shall prepare a draft standard format of the sub-lease deed/ contract which the Concessionaire intends to sign with the sub-lessees. The Concessionaire shall furnish the draft of such deed or contractual arrangement to the Authority for its review. The Authority shall be entitled to incorporate such clauses as Authority may consider appropriate to protect Authority's interest. The Concessionaire shall adopt the format so approved with the covenants stipulated by the Authority and the Concessionaire shall not incorporate or change in them that would have adverse effect on the covenants incorporated by the Authority. In case of any deviation from the above mentioned standard format under any particular circumstances, which supersedes or adversely effects Authority's terms and covenants, the prior written consent of the Authority shall be taken before entering into any such agreement with sub-lessees. The Concessionaire shall submit the copy of the executed and signed sub-lease deed(s)/ contracts to the Authority for its records within 30 (thirty) days of its execution. The sub-lessee/s shall pay the Rental Charges etc. under the sub-lease deeds directly into the Escrow Account.

5.13 Environmental Compliances

The Concessionaire shall, at all times, ensure that all aspects of the Project Facilities and processes employed in the construction and maintenance thereof shall conform with the laws

pertaining to environment, health and safety aspects, policies and guidelines related thereto. The Concessionaire shall obtain and maintain from time to time all necessary clearances from empowered Government Agencies and for this purpose shall carry out the necessary environmental impact assessment studies and implement appropriate environment management plans in respect of the Project Facilities.

5.14 Equity Financing and Deposit Requirements

5.14.1 In the event that the Total Project Cost is to be financed entirely (100%) through Equity by the Concessionaire, the Concessionaire shall be required to deposit thirty percent (30%) of the total Equity in advance into the Escrow Account prior to the Appointed Date.

5.14.2 The remaining seventy percent (70%) of the total Equity shall be deposited by the Concessionaire into the Escrow Account progressively and in advance, in accordance with the approved Development Plan so as to ensure that sufficient funds are available for the implementation of the Project in accordance with the terms of this Agreement.

5.14.3 The deposits made by the Concessionaire under this provision shall be utilized exclusively for the development and implementation of the Project, as per the terms specified in the Concession Agreement and the Escrow Agreement.

5.14.4 Any failure to deposit the required equity funds in the manner prescribed above shall constitute an Escrow Default and be subject to the provisions governing defaults under the Escrow Agreement and the Concession Agreement.

ARTICLE 6: OBLIGATIONS OF THE AUTHORITY

6.1 Obligations of the Authority

6.1.1 The Authority shall, at its own cost and expenses undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

6.1.2 The Authority agrees to provide support to the Concessionaire and undertakes to observe, comply with and perform, subject to and in accordance with the provisions of this Agreement and Applicable Laws, the following:

(a) upon written request from the Concessionaire, and subject to the Concessionaire complying with Applicable Laws, provide recommendation in the name of the Concessionaire for procuring Applicable Permits (if any) required from any Government Instrumentality for construction, operation and maintenance of the Project, subject to the Concessionaire submitting its applications complete in all respect in a timely manner;

(b) granted Applicable Permits within its power and authority for commencement of the Construction Works by the Concessionaire;

(c) upon written request from the Concessionaire provide recommendation in the name of the Concessionaire for obtaining Applicable Permits including environmental clearances;

(d) upon written request from the Concessionaire, provide recommendation in the name of the Concessionaire for obtaining access to all necessary infrastructure utilities, such as electricity at rates and on terms no less favorable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent services; However, the Concessionaire shall be responsible for paying any utility charges associated with the use of such utilities by them.

(e) procure that no barriers are erected or placed on or about the Project by any State Government Instrumentality or persons claiming through or under it, except for reasons of Emergency, national security or law and order or collection of inter-state taxes;

(f) provide recommendation in the name of the Concessionaire for procuring police assistance for regulation of movement of public/ traffic, removal of trespassers and security on or at the Project Site whenever requested by the Concessionaire in writing;

(g) not do or omit to do any act, deed or thing which may, in any manner be violative of any of the provisions of this Agreement;

Notwithstanding anything in this Article, the Authority shall not be required to provide any financial support or financial assistance to the Concessionaire.

6.2 Obligations relating to re-financing

Upon request made by the Concessionaire to this effect, the Authority shall, in conformity with any regulations or guidelines that may be notified by the Government or the Reserve Bank of India, as the case may be, permit and enable the Concessionaire to secure refinancing, in whole or in part, of the Debt Due on such terms as may be agreed upon between the Concessionaire and the entity providing such refinancing; provided, however, that the refinancing hereunder shall always be subject to the prior written consent of the Authority, which consent shall not be unreasonably withheld. For the avoidance of doubt, the tenure of debt refinanced hereunder may be determined mutually between the lenders and the Concessionaire, but the repayment thereof shall be completed no later than 1 (one) year prior to expiry of the Concession Period. Further the refinancing documents should not contain any clause which is inconsistent with the Concession Agreement and in case of any disagreement/ inconsistency /interpretation issue, the Concession Agreement shall alone prevail over any other agreements including financing / refinancing agreements.

ARTICLE 7: REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

7.1 Representations and warranties of the Concessionaire

The Concessionaire represents and warrants to the Authority that:

(a) it is duly organized and validly existing under the laws of jurisdiction of its incorporation, and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(b) it has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;

(c) it has taken all necessary corporate and other actions under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement and to validly exercise its rights and perform its obligations under this Agreement;

(d) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement;

(e) {the Selected Bidder and their Associates} has the financial standing and resources to fund the required Equity and to raise the debt necessary for undertaking and implementing the Project in accordance with this Agreement;

(f) this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof, and its obligations under this Agreement will be legally valid, binding and enforceable obligations against it in accordance with the terms hereof;

(g) it is subject to the laws of India, and hereby, expressly and irrevocably waives any immunity in any jurisdiction in respect of this Agreement or matters arising hereunder including any obligation, liability or responsibility hereunder;

(h) the information furnished in the Bid and as updated on or before the Effective Date of this Agreement is true and accurate in all respects as on the date of this Agreement;

(i) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under, or accelerate performance required by any of the terms of its Memorandum and Articles of Association or any Applicable Laws or any covenant, contract, agreement, arrangement, understanding, decree or order to which it is a party or by which it or any of its properties or assets is bound or affected;

(j) there are no actions, suits, proceedings, or investigations pending or, to its knowledge, threatened against it at law or in equity before any court or before any other judicial,

quasi-judicial or other authority, the outcome of which may result in the breach of this Agreement or which individually or in the aggregate may result in any material impairment of its ability to perform any of its obligations under this Agreement;

(k) it has no knowledge of any violation or default with respect to any order, writ, injunction or decree of any court or Government Instrumentality which may result in any Material Adverse Effect on its ability to perform its obligations under this Agreement and no fact or circumstance exists which may give rise to such proceedings that would adversely affect the performance of its obligations under this Agreement;

(l) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have a Material Adverse Effect on its ability to perform its obligations under this Agreement;

(m) it shall at no time undertake or permit any Change in Ownership except in accordance with the provisions of Clause 5.3 and that the Concessionaire shall hold a minimum issued and paid-up equity capital of 100% (one hundred percent) in the Concessionaire till the 5th (fifth) anniversary of the COD and atleast 51% (fifty one percent) till the 10th (tenth) anniversary of the COD;

(n) the Selected Bidder is duly organized and validly existing under the laws of the jurisdiction of its incorporation or registration, as the case may be, and has requested the Authority to enter into this Agreement with the Concessionaire pursuant to the Letter of Award, and has agreed to and unconditionally accepted the terms and conditions set forth in this Agreement;

(o) all its rights and interests in the Project shall pass to and vest in the Authority on the Transfer Date / Termination, free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Authority, and that none of the Project Assets shall be acquired by it, subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in this Agreement.

(p) no representation or warranty by it contained herein or in any other document furnished by it to the Authority or to any Government Instrumentality in relation to Applicable Permits contains or will contain any untrue or misleading statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading;

(q) no sums, in cash or kind, have been paid or will be paid, by it or on its behalf, to any person by way of fees, commission or otherwise for securing the Concession or entering into this Agreement or for influencing or attempting to influence any officer or employee of the Authority in connection therewith;

(r) all information provided by the Selected Bidder in response to the Request for Proposals or otherwise, is to the best of its knowledge and belief, true and accurate in all material respects;

(s) all undertakings and obligations of the Concessionaire and/or Selected Bidder arising from the Request for Proposals or otherwise shall be binding on the Concessionaire as if they form part of this Agreement; and

(t) it has the financial standing and capacity to undertake the Project in accordance with the terms of this Agreement.

7.2 Representations and warranties of the Authority

The Authority represents and warrants to the Concessionaire that:

(a) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated herein and that it has taken all actions necessary to execute this Agreement, exercise its rights and perform its obligations, under this Agreement;

(b) it has taken all necessary actions under Applicable Laws to authorize the execution, delivery and performance of this Agreement;

(c) it has the financial standing and capacity to perform its obligations under this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(e) it has complied with Applicable Laws in all material respects;

(f) it has good and valid right to the Project Site and has power and authority to grant leasehold rights in respect thereto to the Concessionaire.

(g) it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Instrumentality which may result in any Material Adverse Effect on the Authority's ability to perform its obligations under this Agreement;

(h) all information provided by it in response to the Request for Proposals, including amendments thereto or disclosures thereunder, in connection with the Project is, to the best of its knowledge and belief, true and accurate in all material respects;

(i) upon the Concessionaire paying the Revenue Share and the Annual Concession Fee and performing the covenants herein, it shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Concessionaire, except in accordance with this Agreement;

(j) It has the right, power and authority to manage and operate the Project up to the Appointed Date;

(k) It is duly organized and validly existing under the laws of India;

7.3 Disclosure

In the event that any occurrence or circumstance comes to the attention of either Party that renders any of its aforesaid representations or warranties untrue or incorrect, such Party shall immediately notify the other Party of the same. Such notification shall not have the effect of remedying any breach of the representation or warranty that has been found to be untrue or incorrect nor shall it adversely affect or waive any right, remedy or obligation of either Party under this Agreement.

ARTICLE 8: DISCLAIMER

8.1 Disclaimer

8.1.1 The Concessionaire acknowledges that prior to the execution of this Agreement, the Concessionaire has, after a complete and careful examination, made an independent evaluation of the Request for Proposal, Scope of the Project, Operational Standards, Site, Maintenance Requirements, existing structures, local conditions and all information provided by the Authority or obtained, procured or gathered otherwise, and has determined to its satisfaction the accuracy or otherwise thereof and the nature and extent of difficulties, risks and hazards as are likely to arise or may be faced by it in the course of performance of its obligations hereunder. The Authority makes no representation whatsoever, express, implicit or otherwise, regarding the accuracy, adequacy, correctness, reliability and/or completeness of any assessment, assumptions, statement or information provided by it and the Concessionaire confirms that it or any entity claiming under it shall have no claim whatsoever against the Authority in this regard.

8.1.2 The Concessionaire acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above and hereby acknowledges and agrees that the Authority shall not be liable for the same in any manner whatsoever to the Concessionaire, the Selected Bidder and/or its/ their Associates or any person claiming through or under any of them.

8.1.3 The Parties agree that any mistake or error in or relating to any of the matters set forth in Clause 8.1.1 above shall not vitiate this Agreement or render it voidable.

8.1.4 In the event that either Party becomes aware of any mistake or error relating to any of the matters set forth in Clause 8.1.1 above, that Party shall immediately notify the other Party, specifying the mistake or error; provided, however, that a failure on part of the Authority to give any notice pursuant to this Clause 8.1.4 shall not prejudice the disclaimer of the Authority contained in Clause 8.1.1 and shall not in any manner shift to the Authority any risks assumed by the Concessionaire pursuant to this Agreement.

8.1.5 Except as specifically set out in this Agreement, all risk relating to the Project shall be borne by the Concessionaire and the Authority shall not be liable in any manner for such risks or consequences thereof.

PART III DEVELOPMENT AND OPERATIONS

ARTICLE 9: PERFORMANCE SECURITY

9.1 Performance Security

9.1.1 Prior to the signing of this Agreement, the Concessionaire has provided an unconditional and irrevocable guarantee from a Bank for a sum equivalent to Rs. 2,00,00,000/- (Rupees Two Crores only) in the form set forth in **Schedule-F** (the "**Performance Security**") for the performance of its obligations during the Concession Period under this Agreement.

9.1.2 The Concessionaire shall keep and maintain the Bank Guarantee furnished towards Performance Security valid and in full force and effect at all times during the term of this Agreement (through periodic renewals, if any required), at least one month prior to the expiry of the subsisting Bank Guarantee furnished as Performance Security. In the event the Concessionaire fails to provide the renewed/ extended Bank Guarantee towards Performance Security at least one month prior to the expiry of the subsisting Bank Guarantee, so as to maintain the Performance Security (of the applicable amount) valid throughout the term of the Agreement, the Authority shall have the right to forfeit and appropriate the subsisting Bank Guarantee furnished to it as Performance Security. Failure of the Concessionaire to maintain the Performance Security in full force and effect throughout the term, in accordance with the provisions hereof, shall constitute an event of default by the Concessionaire in terms hereof.

9.2 Appropriation of Performance Security

Upon occurrence of a Concessionaire Default or failure to meet any Condition Precedent, or failure to remedy such default in the Cure Period, the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate from the Performance Security the amounts due to it for and in respect of such Concessionaire Default or for failure to meet any Condition Precedent. Upon such encashment and appropriation from the Performance Security, the Concessionaire shall, within 15 (fifteen) days thereof, replenish, in case of partial appropriation, to the original level of the Performance Security, and in case of appropriation of the entire Performance Security provide a fresh Performance Security, as the case may be, failing which the Authority shall be entitled to terminate this Agreement in accordance with the provisions herein. Upon such replenishment or furnishing of a fresh Performance Security, as the case may be, the Concessionaire shall be entitled to an additional Cure Period of 90 (ninety) days for remedying the Concessionaire Default or for satisfying any Condition Precedent, and in the event of the Concessionaire not curing its default or meeting such Condition Precedent within such Cure Period, the Authority shall be entitled to encash and appropriate such Performance Security as Damages, and to terminate this Agreement in accordance with Article 30.

9.3 Release of Performance Security

The Performance Security shall remain in force and effect throughout the period of Concession

Agreement and shall be released within 6 (six) months after the expiry of Concession Period, provided, however, that the Performance Security shall not be released and shall be kept alive by the Concessionaire if the Concessionaire is in breach of this Agreement. Upon request made by the Concessionaire for release of the Performance Security along with the necessary particulars which establish satisfaction of the requirements specified in this Clause 9.3, the Authority shall release the Performance Security forthwith.

ARTICLE 10: RIGHT OF WAY

10.1 The Site

The site of the Project shall comprise the land with assets as described in Schedule-A and in respect of which the Right of Way shall be provided and granted by the Authority to the Concessionaire on lease basis under and in accordance with this Agreement (the **"Project Site"**). For the avoidance of doubt, it is hereby acknowledged and agreed that references to the Project Site shall be construed as references to the land required for the Project as set forth in Schedule-A.

10.2 Lease, Access and Right of Way

10.2.1 The Authority hereby grants to the Concessionaire access to the Project Site for carrying out any surveys, investigations and Tests that the Concessionaire may deem necessary, it being expressly agreed and understood that the Authority shall have no liability whatsoever in respect of survey, investigations, inspections and Tests carried out or work undertaken by the Concessionaire on or about the Site pursuant hereto in the event of Termination or otherwise.

10.2.2 In consideration of the Project, this Agreement and the warranties and representations on the part of the Concessionaire herein contained, the Authority, in accordance with the terms and conditions set forth herein, hereby grants to the Concessionaire, commencing from the Appointed Date, leasehold rights in respect of Project Site (the land, along with any buildings, constructions or immovable assets, if any, thereon) which is described, delineated and shown in **Schedule-A** hereto (the "**Leased Premises**"), on an "*as is where is*" basis, free of any Encumbrances, to develop, operate and maintain the said Leased Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Leased Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period and, for the purposes permitted under this Agreement, and for no other purpose whatsoever. The Concessionaire understands and accepts that the grant of lease in terms hereof does not entitle it to transfer, mortgage or create Encumbrances on the Leased Premises in any manner.

10.2.3 The lease, access and right of way granted under this Agreement to the Concessionaire shall always be subject to right of way of the Authority and/or their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement. It is expressly agreed that the lease granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Authority to terminate the lease, upon the Termination of this Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Site by the Concessionaire or its sub-lessee, the lease in respect of the Project Site shall automatically terminate, without any further act of the Parties, upon Termination of this Agreement.

10.2.4 The Concessionaire hereby irrevocably appoints the Authority (acting directly or through a nominee) to be its true and lawful attorney, to execute and sign in the name of the Concessionaire a transfer or surrender of the lease granted hereunder at any time after the Concession Period has expired or has been terminated earlier in terms hereof, a sufficient proof of which will be the declaration of any duly authorized officer of the Authority, and the Concessionaire consents to it being registered for this purpose.

10.2.5 Deleted.

10.3 Procurement of the Site

10.3.1 Pursuant to the Effective Date, the Authority Representative and the Concessionaire shall, on a mutually agreed date and time, inspect the Project Site and prepare a memorandum containing an inventory of the Project Site including the vacant land, buildings, structures, road works, trees and any other immovable property on or attached to the Project Site, free from Encumbrances. Signing of the memorandum, in 2 (two) counterparts (each of which shall constitute an original), by the authorised representatives of the Parties shall, subject to the provisions of Clause 10.2.2, be deemed to constitute a valid Right of Way to the Concessionaire for free and unrestricted use and development of the Project Site during the Concession Period under and in accordance with the provisions of this Agreement and for no other purpose whatsoever.

10.3.2 Deleted.

10.3.3 Deleted.

10.3.4 On and after signing the memorandum referred to in Clause 10.3.1, and until the Transfer Date, the Concessionaire shall maintain a round-the-clock vigil over the Project Site and shall ensure and procure that no encroachment thereon takes place, and in the event of any encroachment or occupation on any part thereof, the Concessionaire shall report such encroachment or occupation forthwith to the Authority and undertake its removal at its cost and expenses.

10.3.5 Deleted.

10.3.6 Subject to the Sub-clauses of this Clause 10.3, the Authority hereby warrants that:

i. The Project Site belongs to and is vested with the Authority and that the Authority has full powers to hold, dispose of and deal with the same; consistent and interlaid with the provisions of this Agreement and that the Concessionaire shall, in respect of the Project Site, have no liability regarding any compensation payment on account of land acquisition or rehabilitation/ resettlement of any person affected thereby.

ii. The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the whole Project Site during the Concession Period.

10.4 Site to be free from Encumbrances

Subject to the provisions of Clause 10.3, the Project Site shall be made available by the Authority to the Concessionaire pursuant hereto free from all Encumbrances and occupations and without the Concessionaire being required to make any payment to the Authority on account of any costs, compensation, expenses and charges for the acquisition and use of the Project Site for the duration of the Concession Period, except insofar as otherwise expressly provided in this Agreement. For the avoidance of doubt, it is agreed that existing rights of access, easements, privileges, liberties and appurtenances to the Leased Premises shall not be deemed to be Encumbrances. It is further agreed that the Concessionaire accepts and undertakes to bear any and all risks arising out of the inadequacy or physical condition of the Project Site.

10.5 Protection of Site from Encumbrances

During the Concession Period, the Concessionaire shall protect the Project Site from any and all encroachments and shall not place or create nor permit any Contractor or other person claiming through or under the Concessionaire to place or create any Encumbrance or security interest over all or any part of the Project Site or the Project Assets, or on any rights of the Concessionaire therein or under this Agreement, save and except as otherwise expressly set forth in this Agreement.

10.6 Special/ temporary Right of Way

The Concessionaire shall bear all costs and charges for any special or temporary right of way required by it in connection with access to the Project Site. The Concessionaire shall obtain at its cost such facilities on or outside the Project Site as may be required by it for the purposes of the Project and the performance of its obligations under this Agreement.

10.7 Access to the Authority

10.7.1 The lease, right of way and right to the Project Site granted to the Concessionaire hereunder shall always be subject to the right of way of the Authority and their employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement.

10.7.2 The Concessionaire shall allow free access to the Project Site at all times for the Authorized Representatives of the Authority, Lenders, and for the persons duly authorized by any Government Instrumentality to inspect the Project or to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons, reasonable assistance necessary to carry out their respective duties and functions.

10.7.3 The Concessionaire shall, for the purpose of operation and maintenance of any utility specified in Article 11, allow free access to the Site at all times for the authorized persons of the controlling body of such utility.

10.8 Geological and archaeological finds

It is expressly agreed that mining, geological or archaeological rights do not form part of the lease granted to the Concessionaire under this Agreement and the Concessionaire hereby acknowledges that it shall not have any mining rights or interest in the underlying minerals, fossils, antiquities, structures or other remnants or things either of particular geological or archaeological interest and that such rights, interest and property on or under the Site shall vest in and belong to the Authority or the concerned Government Instrumentality. The Concessionaire shall take all reasonable precautions to prevent its workmen or any other person from removing or damaging such interest or property and shall inform the Authority forthwith of the discovery thereof and comply with such instructions as the concerned Government Instrumentality may reasonably give for the removal of such property. For the avoidance of doubt, it is agreed that (a) any reasonable expenses incurred by the Concessionaire hereunder shall be reimbursed by the Authority; and (b) if required, the Authority shall, at its sole discretion, grant reasonable extension of the Project Completion Schedule for any delay caused as a direct consequence of any discovery, and any such delay shall not be attributable to the Concessionaire.

ARTICLE 11: UTILITIES, ASSOCIATED ROADS AND TREES

11.1 Existing utilities and roads

Notwithstanding anything to the contrary contained herein, the Concessionaire shall ensure that the respective entities owning the existing roads, Right of Way or utilities on, under or above the Site are enabled by it to keep such utilities in continuous satisfactory use, if necessary, by providing suitable temporary or permanent diversions with the authority of the controlling body of that road, right of way or utility, and the Authority shall, upon written request from the Concessionaire, initiate and undertake at the Concessionaire's cost, legal proceedings for acquisition of any Right of Way necessary for such diversion.

11.2 Shifting of obstructing utilities

The Concessionaire shall, subject to Applicable Laws and with prior approval of the Authority, undertake shifting of any utility including electric lines, water pipes and telephone cables, to an appropriate location or alignment within or outside the Site if and only if such utility causes or shall cause a material adverse effect on the construction, operation or maintenance of the Project. The cost of such shifting shall be borne by the Authority or by the entity owning such utility, if the Authority so directs, and in the event of any delay in shifting thereof, the Concessionaire shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay on the part of the entity owning such electric lines, water pipes or telephone cables in granting the approval or approving the estimates, as the case may be.

11.3 New utilities and roads

11.3.1 The Concessionaire shall allow, subject to such conditions as the Authority may specify, access to, and use of the Project Site for laying telephone lines, water pipes, electric cables or other public utilities. Where such access or use causes any financial loss to the Concessionaire, it may require such user to pay compensation or damages as per Applicable Laws. For the avoidance of doubt, it is agreed that use of the Site under this Clause 11.3 shall not in any manner relieve the Concessionaire of its obligation to maintain the Project in accordance with this Agreement and any damage caused by such use shall be restored forthwith.

11.3.2 The Authority may, by notice require the Concessionaire to connect any adjoining road / electric lines / water supply / cabling / fencing and other necessary infrastructure utilities to the Project Site. Upon receipt of a notice hereunder, the connecting portion thereof to the Site shall be constructed by the Concessionaire at the Authority's cost in accordance with Article 16, and the maintenance of any such infrastructure thereof if assigned by the Authority may be considered by the Concessionaire.

11.4 Felling of trees

The Authority shall assist the Concessionaire in obtaining the Applicable Permits for felling of trees to be identified by the Authority for this purpose if and only if such trees cause a Material Adverse Effect on the development, construction, operation or maintenance of the Project. The cost of such felling shall be borne by the Authority, and in the event of any delay in felling thereof for reasons beyond the control of the Concessionaire, it shall be excused for failure to perform any of its obligations hereunder if such failure is a direct consequence of delay in the felling of trees. For the avoidance of doubt, the Parties hereto agree that the felled trees shall be deemed to be owned by the Authority and shall be disposed in such manner and subject to such conditions as the Authority may in its sole discretion deem appropriate.

11.5 Deleted

ARTICLE 12: CONSTRUCTION OF THE PROJECT

12.1 Obligations prior to commencement of construction

Prior to commencement of Construction Works, the Concessionaire shall in compliance with Project Development Plan prepare detailed drawings and:

(a) submit to the Authority its detailed design, drawings, construction methodology, quality assurance procedures, and the procurement, engineering and construction time schedule for completion of the Project in accordance with the Project Completion Schedule as set forth in **Schedule-G**;

(b) undertake, do and perform all such acts, deeds and things as may be necessary or required before commencement of construction under and in accordance with this Agreement, the Applicable Laws, Applicable Permits, applicable specifications and standards including obtaining approval of the competent authority in respect of the detailed design of the Project; and all other approvals from the Authority and/or other concerned Government Instrumentality(ies) as required for commencement of construction and completion of construction; and

(c) make its own arrangements for quarrying of materials needed for the Project under and in accordance with the Applicable Laws and Applicable Permits.

12.2 Drawings

In respect of the Concessionaire's obligations relating to the Drawings of the Project, the following shall apply:

(a) The Concessionaire shall prepare and submit, with reasonable promptness and in such sequence as is consistent with the Project Completion Schedule, 1 (one) copy of each of all Drawings. The Drawings should be prepared compliant with the permissible Floor Space Index for the Project/ Project Site as per applicable local norms, maximum height upto which the Project Facilities can be constructed in accordance with applicable Tamil Nadu Combined Development and Building Rules (TNCDBR) with any amendments thereon.

(b) By submitting the Drawings to the Authority, the Concessionaire shall be deemed to have represented that it has determined and verified that the design and engineering and the same are in conformity with the Scope of the Project, Development Plan, Applicable Laws, Applicable Permits and Good Industry Practice.

(c) Without prejudice to the foregoing provisions of this Clause 12.2, the Concessionaire shall submit to the Authority for review and comments, its Drawings relating to the Project and the Authority shall have the right but not the obligation to undertake such review and provide its comments, if any, within 30 (thirty) days of the receipt of such

Drawings. The provisions of this Clause 12.2 shall apply *mutatis mutandis* to the review and comments hereunder.

(d) No review and/or observation of the Authority and/or its failure to review and/or convey its observations on any Drawings shall relieve the Concessionaire of its obligations and liabilities under this Agreement in any manner nor shall the Authority be liable for the same in any manner.

(e) Within 90 (ninety) days of COD, the Concessionaire shall furnish to the Authority, a complete set of as-constructed Drawings, in 2 (two) hard copies and in its editable digital format or in such other medium or manner as may be acceptable to the Authority, reflecting the Project as actually designed, engineered and constructed, including the layout of the Project and setback lines, if any, of the structures forming part of the Project Facilities.

12.3 Construction of the Project

12.3.1 On or after the Appointed Date, the Concessionaire shall undertake construction of the Project as specified in Schedule-B and Schedule-C to conform to Operational Standards set forth in Schedule D. The 550th (five hundred and fiftieth) day from the Appointed Date shall be the scheduled date for completion of construction of the Project (the "**Scheduled Completion Date**") and the Concessionaire agrees and undertakes that construction shall be completed before the Scheduled Completion Date.

12.3.2 The Concessionaire shall construct and develop the Project in accordance with the Project Completion Schedule set forth in Schedule-G. In the event that the Concessionaire fails to achieve any Project Milestone within a period of 60 (sixty) days from the date set forth for such Project Milestone in Schedule-G, unless such failure has occurred due to Force Majeure or for reasons attributable to the Authority, it shall pay Damages to the Authority in a sum calculated at the rate of 0.2% (zero point two per cent) of the amount of Performance Security for delay of each day until such Project Milestone is achieved and in the event, the Project Milestone is not achieved even after 90 days from the date set forth for such Project Milestone in Schedule-G, then w.e.f. the 91st day, the applicable rate of Damages shall be 0.3% (zero point three per cent) of the amount of Performance Security for each day of delay beyond the 90th day until the relevant Project Milestone is achieved; provided that if any or all Project Milestones or the Scheduled Completion Date are extended in accordance with the provisions of this Agreement, the dates set forth in Schedule-G shall be deemed to be modified accordingly and the provisions of this Agreement shall apply as if Schedule-G has been amended as above; provided further that in the event Project Completion is achieved on or before the Scheduled Completion Date, the Damages paid under this Clause 12.3.2 shall be refunded by the Authority to the Concessionaire, but without any interest thereon. For the avoidance of doubt, it is agreed that recovery of Damages under this Clause 12.3.2 shall be without prejudice to the rights of the

Authority under this Agreement, including the right of Termination thereof.

12.3.3 In the event that the Project is not completed and COD does not occur within 180 (one hundred and eighty) days from the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Authority shall be entitled to terminate this Agreement. Without prejudice to the Authority's rights under this Agreement and/or any other right that it may have under Applicable Laws or equity, the Authority may in its sole discretion choose not to terminate this Agreement after the said period of 180 (one hundred and eighty) days and allow for a weekly extension beyond such period of 180 (one hundred and eighty) days; provided that the Concessionaire agrees and pays the Damages calculated in accordance with Clause 12.3.2 above, for each day of such extension and in the event of the Concessionaire failing to make payment of Damages then the Authority shall recover the same by appropriating the requisite sum by encashing the Performance Security. To the extent that the Authority has agreed to allow for an extension and the Concessionaire has paid the Damages as stated above, the Authority shall not terminate this Agreement in accordance with the provisions of this Clause 12.3.3. Notwithstanding the foregoing, the Parties agree that this Article shall not prejudice, in any manner whatsoever, the Authority's right of Termination under any other provision of this Agreement.

12.4 Maintenance during Construction Period

During the Construction Period, the Concessionaire shall not cause any damage to the existing roads along and shall ensure that the traffic worthiness and safety are at no time materially inferior as compared to their condition 7 (seven) days prior to the date of this Agreement, provided that the Concessionaire may, at its cost, interrupt and divert the flow of traffic if such interruption and diversion is necessary for the efficient progress of the Construction Works and conforms to Good Industry Practice along with permission from the appropriate authority(ies), including the police authority; provided further that such interruption and diversion shall be undertaken by the Concessionaire only with the prior written approval of the Authority which approval shall not be unreasonably withheld.

ARTICLE 13: MONITORING OF CONSTRUCTION

13.1 Monthly progress reports

During the Construction Period, the Concessionaire shall, no later than 7 (seven) days after the close of each month, furnish to the Authority a monthly report on progress of the Construction Works and shall promptly give such other relevant information as may be required by the Authority.

13.2 Deleted

13.3 Tests

13.3.1 For determining that the Construction Works conforms to the requirements of this Agreement, Applicable Laws and Applicable Permits including specifications and standards prescribed by the Authority (and where no standards are prescribed by the Authority then as per specifications and standards prescribed by the State Government or any State Government Instrumentality for similar nature of developments, the Authority shall require the Concessionaire to carry out or cause to be carried out Tests, at such time and frequency and in such manner as may be specified by the Authority from time to time, in accordance with Good Industry Practice for quality assurance. The Concessionaire shall, with due diligence, carry out or cause to be carried out all the Tests in accordance with the instructions of the Authority and furnish the results thereof to the Authority. For the avoidance of doubt, the costs to be incurred towards such Tests or any Tests which is undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the Concessionaire. Provided, however, that the Authority may, instead of carrying out the tests specified hereunder, at its option decide to witness, or participate in, any of the tests to be undertaken by the Concessionaire for its own quality assurance in accordance with Good Industry Practice, and in such an event, the Concessionaire shall cooperate with, and provide the necessary assistance to, the Authority for discharging its functions hereunder. For the avoidance of doubt, the costs to be incurred on any test which is undertaken for determining the rectification of any defect or deficiency in construction shall be borne solely by the Concessionaire.

13.3.2 In the event that results of any Tests conducted under this Clause 13.3 establish any defects or deficiencies in the Construction Works, the Concessionaire shall carry out remedial measures and furnish a report in this behalf to the Authority. The Authority shall require the Concessionaire to carry out or cause to be carried out Tests to determine that such remedial measures have brought the Construction Works into compliance with the requirements set forth in Clause 13.3.1, and the procedure set forth in this Clause 13.3, shall be repeated until such Construction Works conform to such requirements. For the avoidance of doubt, it is agreed that Tests pursuant to this Clause 13.3 shall be undertaken in addition to and independent of the Tests that shall be carried out by the Concessionaire for its own quality assurance in accordance with Good Industry Practice. It is also agreed that a copy of the results of such Tests shall be sent by

the Concessionaire to the Authority forthwith.

13.4 Delays during construction

Without prejudice to the provisions of Clause 12.3.3, if the Concessionaire does not achieve any of the Project Milestones or the Authority shall have reasonably determined that the rate of progress of Construction Works is such that commissioning of the Project is not likely to be achieved by the Scheduled Completion Date, it shall notify the Concessionaire to this effect, and the Concessionaire shall, within 15 (fifteen) days of such notice, by a communication inform the Authority in reasonable detail about the steps it proposes to take to expedite progress and the period within which it shall achieve Project Completion.

13.5 Suspension of unsafe Construction Works

13.5.1 The Authority may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, such work threatens the safety of the public. Provided, however, that in case of an Emergency, the Authority may *suo moto* issue the notice referred to hereinabove.

13.5.2 The Concessionaire shall, pursuant to the notice under Clause 13.5.1, suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the Authority and thereupon carry out remedial measures to secure the safety of suspended works. The Concessionaire may, by notice, require the Authority to inspect such remedial measures forthwith and upon completion of inspection, the Authority shall either revoke such suspension or instruct the Concessionaire to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the Authority, and the procedure set forth in this Clause 13.5 shall be repeated until the suspension hereunder is revoked.

13.5.3 Subject to the provisions of Clause 27.7, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of suspension (the "**Preservation Costs**"), shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the Authority, the Preservation Costs shall be borne by the Authority.

13.5.4 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Authority shall determine any extension of the dates set forth in the Project Completion Schedule to which the Concessionaire is reasonably entitled, whereupon the Authority shall extend such Project Completion Schedule dates. In the event that the Scheduled Completion Date is extended pursuant hereto, the Concession Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Completion Date.

13.6 Deleted**.**

ARTICLE 14: COMPLETION CERTIFICATE

14.1 Tests

14.1.1 Deleted

14.1.2 All Tests shall be conducted at the cost and expense of the Concessionaire. The Authority reserves the right to observe, monitor and review the results of the Tests and if it is reasonably anticipated or determined by the Authority during the course of any Test that the performance of the Project or any part thereof does not meet the requirements of this Agreement, it shall have the right to suspend or delay such Test and require the Concessionaire to remedy and rectify the defects or deficiencies. Upon completion of each Test, the Concessionaire shall provide to the the Authority copies of all Test data including detailed Test results. For the avoidance of doubt, it is expressly agreed that the Authority may require the Concessionaire to carry out or cause to be carried out additional Tests, in accordance with Good Industry Practice, for determining the compliance of the Project with requirements of this Agreement, Applicable Laws and Applicable Permits including specifications and standards prescribed by the Authority (and where no standards are prescribed by the Authority then as per specifications and standards prescribed by the State Government or any State Government Instrumentality for similar nature of developments).

14.2 Completion Certificate

Upon completion of Construction Works and the Authority determining the Tests to be successful, it shall forthwith issue to the Concessionaire and the Authority a certificate substantially in the form set forth in **Schedule-H** (the "**Completion Certificate**").

14.3 Deleted

14.4 Deleted

14.5 Withholding of Completion Certificate

14.5.1 If the Authority is of the opinion that the Project is not fit and safe for commercial service, it shall notify the Concessionaire of the defects and deficiencies in the Project and withhold issuance of the Completion Certificate. Upon receipt of such notice, the Concessionaire shall remedy and rectify such defects or deficiencies and thereupon Tests shall be undertaken in accordance with this Article 14. Such procedure shall be repeated as necessary until the defects or deficiencies are rectified.

14.5.2 Deleted

14.6 Rescheduling of Tests

If the Authority is unable to issue the Completion Certificate because of events or circumstances on account of which the Tests could not be held or had to be suspended, the Concessionaire shall be entitled to re-schedule the Tests and hold the same as soon as reasonably practicable.

14.7 Completion Certificate not a cessation of liability

The issuance of Completion Certificate shall not in any way alter the liability of the Concessionaire, constitute a waiver of unfulfilled obligations, bar remedy or rectification of defects or constitute an acceptance of the Construction Works.

Notwithstanding the issuance of the Completion Certificate under this Article 14, the Concessionaire shall be required to obtain the requisite completion certificate/ occupation certificate/ consent to operate/ readiness certificate, as the case may be, from the concerned State Government Instrumentality(ies) as per Applicable Laws of GoTN/ Central Govt. prior to commencing operation of either the Commercial Complex Facility.

ARTICLE 15: ENTRY INTO COMMERCIAL SERVICE

15.1 Commercial Operation Date (COD)

The Project shall be deemed to be complete when the Completion Certificate for the Project Facility is issued and accordingly the commercial operation date of the Project shall be the date on which such Completion Certificate is issued (the "**COD**"). The Project shall enter into commercial service on COD whereupon the Concessionaire shall be entitled to demand and collect Rental Charges in accordance with the provisions of Article 23 subject to the Concessionaire having obtained requisite completion certification/ occupation certificate/ readiness certificate, as the case may be, from the concerned State Government Instrumentality(ies) as per Applicable Laws of GoTN/ Central Govt. for allowing occupation and commencing operations.

15.2 Damages for delay

Subject to the provisions of Clauses 12.3 and 15.1 above, if COD does not occur prior to the 61st (sixty first) day after the Scheduled Completion Date, unless the delay is on account of reasons attributable to the Authority or due to Force Majeure, the Concessionaire shall pay Damages to the Authority in a sum calculated at the rate of 0.2% (zero point two per cent) of the amount of Performance Security for delay of each day until Project Completion is achieved. In case the Project Completion is not achieved by the Concessionaire even by the end of the 61st day then w.e.f. the 62nd day the applicable rate of Damages shall be 0.3% (zero point three per cent) of the amount of Performance Security for delay of each day until the Project Completion is achieved in terms of this Agreement. In the event, the Concessionaire fails to achieve Project Completion within a period of 180 (one hundred and eighty) days from Scheduled Completion Date, without prejudice to the other rights of the Authority under this Agreement, the Authority shall have the right to terminate the Agreement for Concessionaire Default.

ARTICLE 16: DELETED

ARTICLE 17: OPERATION AND MAINTENANCE

17.1 O&M obligations of the Concessionaire

17.1.1 During the Operation Period, the Concessionaire shall operate and maintain the Project Facilities in accordance with this Agreement. The obligations of the Concessionaire hereunder shall include:

i. undertaking operation and maintenance of the Project Facilities in an efficient, coordinated and economical manner, in compliance with the Specifications and Standards;

ii. ensuring safe, hygienic and efficient functioning of the Project Facilities including prevention of loss or damage thereto, during normal operating conditions;

iii. undertaking operation and maintenance of the Project Facilities in accordance with the Specification and Standards, operation and maintenance manual provided by the Original Equipment Manufacturers (OEMs) and the terms of this Agreement to ensure that the Concessionaire is able to optimally use the Project Facilities during the Operation Period such that the Project is self-sustained;

iv. carrying out periodic preventive maintenance of the Project Facilities;

v. undertaking routine maintenance including prompt repairs of all elements and components of the Project Facilities to ensure compliance with the Maintenance Requirements and the Specifications and Standards;

vi. undertaking major maintenance, replacement of components and parts, repairs to structures, and repairs and development of support facilities, including the Project Facilities;

vii. providing round the clock security at the Project Site and preventing with the assistance of the concerned law enforcement agencies, any encroachments on or unauthorized entry in to the Project Site;

viii. protection of environment and provision of equipment and materials therefor in accordance with the Applicable Laws, Applicable Permits, terms of this Agreement and Good Industry Practice;

ix. operation and maintenance of all communication, control and administrative systems necessary for the efficient operation of the project facilities in conformity with Good Industry Practice;

x. complying with Safety Requirements; and

xi. operation and maintenance of all Project Assets diligently and efficiently and in accordance with Applicable Laws, Applicable Permits, Good Industry Practice and provisions of this Agreement;

17.1.2 The Concessionaire shall remove promptly from the Project Site all surplus construction machinery and materials, waste materials (including hazardous materials and waste water), rubbish and other debris (including, without limitation, accident debris) and keep the Project facilities in a clean, tidy and orderly condition, and in conformity with Applicable Laws, Applicable Permits and Good Industry Practice.

17.1.3 If the Concessionaire fails to comply with any directions issued by the Authority or any Government Instrumentality acting under any Applicable Laws, as the case may be, on account of its any act of omission or commission in relation of the maintenance obligations herein, and consequently becomes liable to pay any fine, penalty or interest under the provisions of Applicable Laws, then the same shall be borne solely by the Concessionaire without any liability of the Authority. For avoidance of doubt, payment of any penalty/ fine/ interest under the provisions of the Applicable Laws shall be in addition to and independent of the Damages payable under this Agreement. In the event the Authority is required to pay any penalty/ fine/ interest to the Government Instrumentality on account of any act of omission or commission of the Concessionaire in relation to the Project being implemented, then the Authority shall be entitled to be indemnified by the Concessionaire under Article 35.

17.2 Maintenance Requirements

The Concessionaire shall procure that at all times during the Operation Period, the Project Facilities are maintained in accordance with the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice (the "Maintenance Requirements"), as more specifically set out in Schedule I.

17.3 Safety, breakdowns and accidents

The Concessionaire shall ensure safe conditions at the Project Site for its users, and in the event of unsafe conditions, damage, breakdowns and accidents, it shall follow the relevant operating procedures in conformity with the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice. In the event of occurrence of any damage, breakdowns and/or accidents, the Concessionaire shall undertake removal of relevant obstruction and debris without delay.

The Concessionaire's responsibility for rescue operations in the Project Facilities shall include safe evacuation of all its users, visitors and staff from the affected area as an initial response to any particular incident requiring evacuation and shall also include prompt and safe removal of dangerous spills, leakages, debris or any other obstruction, which may endanger or interrupt the safe operations of the Project Facilities.

17.4 Overriding powers of the Authority

17.4.1 If in the reasonable opinion of the Authority, the Concessionaire is in material breach of its obligations under this Agreement and in particular, the Maintenance Requirements, and such breach is causing or is likely to cause material hardship or danger to any person or property, the Authority may, without prejudice to any of its rights under this Agreement including Termination thereof, by notice require the Concessionaire to take reasonable measures immediately for removing such hardship or danger as the case may be.

17.4.2 In the event that the Concessionaire, upon notice under Clause 17.4.1, fails to rectify or remove any hardship or danger within a reasonable period, the Authority may take over the performance of any or all the obligations of the Concessionaire to the extent deemed necessary by it for removing such hardship or danger; provided that the exercise of such overriding powers by the Authority shall be of no greater scope and of no longer duration than is reasonably required in the circumstances which caused the exercise of such overriding power by the Authority; provided further that any costs and expenses incurred by the Authority in discharge of its obligations hereunder shall be deemed to be O&M Expenses, and the Authority shall be entitled to recover them from the Concessionaire in accordance with the provisions of Article 17 along with the Damages specified therein.

17.5 Restoration of loss or damage to the Project

Save and except as otherwise expressly provided in this Agreement, in the event that the Project or any part thereof suffers any loss or damage during the Concession Period from any cause whatsoever, the Concessionaire shall, at its cost and expense, rectify and remedy such loss or damage forthwith so that the Project conforms to the provisions of this Agreement.

17.6 Modifications to the Project

The Concessionaire shall not carry out any material modifications to the Project, save and except where such modifications are necessary for the Project to operate in conformity with the Maintenance Requirements, Good Industry Practice, Applicable Permits and Applicable Laws; provided that the Concessionaire shall notify the Authority with a copy to the Authority of the proposed modifications along with particulars thereof at least 15 (fifteen) days before commencing work on such modifications and shall reasonably consider any suggestions that the Authority may make within 7 (seven) days of receiving the Concessionaire's proposal. For the avoidance of doubt, all modifications made hereunder shall comply with the Applicable Laws and the provisions of this Agreement.

17.7 Excuse from performance of obligations

The Concessionaire shall not be considered in breach of its obligations under this Agreement if any part of the Project is not available to public on account of any of the following for the duration

thereof:

(a) an event of Force Majeure;

(b) measures taken to ensure the safe use of the Project except when unsafe conditions occurred because of failure of the Concessionaire to perform its obligations under this Agreement; or

(c) compliance with a request from the Authority or the directions of any Government Instrumentality, the effect of which is to close all or any part of the Project.

Provided, that any such non-availability and particulars thereof shall be notified by the Concessionaire to the Authority without any delay.

17.8 Authority's right to take remedial measures

In the event the Concessionaire does not maintain, repair and/or rectify any defects and deficiencies in the Project Facilities or any part thereof in conformity with the Maintenance Requirements and fails to commence remedial works within [15 (fifteen)] days of receipt of the O&M Inspection Report or notice in this behalf from the Authority, as the case may be, the Authority, without prejudice to its rights under this Agreement including Termination thereof, be entitled to undertake such remedial measures at the risk and cost of the Concessionaire, and to recover its cost from Concessionaire. In addition to recovery of the aforesaid cost, a sum equal to 20% (twenty per cent) of such cost shall be paid by the Concessionaire to the Authority as Damages.

ARTICLE 18: SAFETY REQUIREMENTS

18.1 Safety Requirements

The Concessionaire shall comply with the provisions of this Agreement, Applicable Laws, Applicable Permits and Good Industry Practice for securing the safety of the Project Facilities, and safety of persons present in the Project Site premises. In particular, the Concessionaire shall develop, administer a surveillance and safety program for providing a safe environment on or about the Project, and shall comply with the safety requirements and guidelines set forth in **Schedule-J** (the "**Safety Requirements**").

18.2 Expenditure on Safety Requirements

Unless otherwise expressly provided in this Agreement, all costs and expenses arising out of or relating to Safety Requirements shall be borne by the Concessionaire.

ARTICLE 19: MONITORING OF OPERATION AND MAINTENANCE

19.1 Annual Status Reports

19.1.1 During Operation Period, the Concessionaire shall, no later than [7 (seven)] days after the close of every Accounting Year, furnish to the Authority an annual report, in a mutually agreed format, stating in reasonable detail the status of sub-leasing of the facilities, condition of the Project Facilities, including its compliance or otherwise with the Maintenance Requirements and the Safety Requirements, and shall promptly give such other relevant information as may be required by the Authority. In particular, such report shall separately identify and state in reasonable detail the defects and deficiencies that require rectification.

19.2 Reports of unusual occurrence

19.2.1 The Concessionaire shall notify the Authority, by facsimile or e-mail, a report in case of any accidents and unusual occurrences on the Project relating to the safety and security of its users and the Project. A quarterly summary of such reports shall also be sent within 3 (three) days of the closing of each quarter, as the case may be. For the purposes of this Clause 19.2, accidents and unusual occurrences on the Project shall include:

a. Death or injury to any person in the Project Facility premises;

b. Any damage or obstruction on the Project, which hampers the quality of the services being provided by the Concessionaire;

c. Smoke or fire;

d. Flooding of the Project; and

e. Such other relevant information as may be required by the Authority.

ARTICLE 20: DELETED

PART IV: FINANCIAL COVENANT

ARTICLE 21: FINANCIAL CLOSE

21.1 Financial Close

21.1.1 Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within a period of 150 (one hundred fifty) days from the date of this Agreement. In the event of delay in achieving the Financial Close, the Concessionaire shall be entitled to a further period not exceeding 90 (ninety) days, subject to payment of Damages to the Authority in a sum calculated at the rate of 0.5% (zero point five per cent) of the Performance Security for each day of delay, provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 150 (one hundred and fifty) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the Authority in procuring satisfaction of the Conditions Precedent specified in Clause 4.1.2 or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of Clause 4.3.

21.1.2 The Concessionaire shall provide to the Authority 3 (three) copies of the Financial Package and Financial Model furnished by it to the prospective Senior Lenders. As and when such Financial Package is agreed with the Senior Lenders, with or without modifications, and such agreement is confirmed by the signing of the agreed Financial Package by both the Concessionaire and the Senior Lenders, a copy of the same shall be furnished by the Concessionaire to the Authority forthwith. Where the Project is proposed to be financed through 100% Equity by the Concessionaire, then the Concessionaire shall furnish confirmation to this effect in writing to the Authority along with the Financial Model and supporting documents as required by the Authority, forthwith within the time period specified in Clause 21.1.1.

21.2 Termination due to failure to achieve Financial Close

21.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 27.6.1, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 21.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties.

21.2.2 Upon Termination under Clause 21.2.1, the Authority shall be entitled to encash the Performance Security and appropriate the proceeds thereof as Damages; provided, however, that if Financial Close has not occurred due to Force Majeure or as a result of the Authority being in default of any of its obligations under Clause 4.2, it shall, upon Termination, release the Performance Security along with the Damages due and payable under Clause 4.2.

ARTICLE 22: REVENUE SHARE AND ANNUAL CONCESSION FEE

22.1 Fee payable to the Authority

22.1.1 Subject to the provisions of this Agreement and in consideration of the Concessionaire accepting the concession to perform and discharge its obligations in accordance with the terms, conditions and convenants set forth in this Agreement, the Concessionaire agrees to pay to the Authority the following:

i. Annual Concession Fee

ii. Revenue Share

22.1.2 The Concessionaire, commencing from the Appointed Date shall pay to the Authority the Annual Concession Fee as below:

Timeline	Amount (exclusive of applicable taxes)
Appointed Date = A	INR 1.52 crores
A + 12 months	INR 1.60 crores
A + 24 months	INR 1.68 crores
A + 36 months	INR 1.76 crores
A + 48 months	INR 1.85 crores
A + 60 months	INR 1.94 crores
A + 72 months	INR 2.04 crores
A + 84 months	INR 2.14 crores
A + 96 months	INR 2.25 crores
A + 108 months	INR 2.36 crores
A + 120 months	INR 2.48 crores
A + 132 months	INR 2.60 crores
A + 144 months	INR 2.73 crores
A + 156 months	INR 2.87 crores
A + 168 months	INR 3.01 crores
A + 180 months	INR 3.16 crores
A + 192 months	INR 3.32 crores
A + 204 months	INR 3.48 crores
A + 216 months	INR 3.66 crores
A + 228 months	INR 3.84 crores
A + 240 months	INR 4.03 crores
A + 252 months	INR 4.23 crores
A + 264 months	INR 4.45 crores
A + 276 months	INR 4.67 crores

Timeline	**Amount (exclusive of applicable taxes)**
A + 288 months	INR 4.90 crores
A + 300 months	INR 5.15 crores
A + 312 months	INR 5.40 crores
A + 324 months	INR 5.67 crores
A + 336 months	INR 5.96 crores
A + 348 months	INR 6.26 crores
A + 360 months	INR 6.57 crores
A + 372 months	INR 6.90 crores
A + 384 months	INR 7.24 crores
A + 396 months	INR 7.60 crores
A + 408 months	INR 7.99 crores

22.1.3 Apart from the Annual Concession Fee, the Concessionaire shall pay the Authority **_____ (insert the Quoted Revenue Share in figures and in words) percentage of the Gross Revenue** generated from the Project facilities.

22.1.4 The payment towards revenue sharing has to be made to the Authority on quarterly basis. The Gross Revenue generated till 30th June, 30th September, 31st December and 31st March of every year shall be the basis for estimation of Revenue Share payment and the GST invoice made till the end of the quarter shall form the basis.

22.1.5 The payments towards the Annual Concession Fee shall be made by the Concessionaire to the Authority every year within 15 (fifteen) days from the anniversary of the Appointed Date as per the timelines specified under clause 22.1.2. The payments towards Revenue Share have to be remitted to the Authority on or before the stipulated date given below:

Quarter	Due date for remittance of revenue sharing payment
Apr-Jun	15th July
Jul-Sep	15th Oct
Oct-Dec	15th Jan
Jan-Mar	15th Apr

If 15th is a banking holiday in Chennai, the amount has to be remitted on the next working day.

22.1.6 All amounts due and payable by the Concessionaire under the provisions of this Agreement shall be paid on or before the date stipulated in clause 22.1.2, 22.1.4 and 22.1.5. In the event of delay

beyond such period the Concessionaire shall pay interest for the period of delay, calculated at the rate of SBI MCLR + 3% per annum.

22.1.7 The Parties agree that any liability arising on account of GST and all other applicable taxes and levies on the Annual Concession Fee and Revenue Share payable by the Concessionaire to the Authority, shall be borne by the Concessionaire only.

22.2 Mechanism of Payment

22.2.1 The payments towards Annual Concession Fee and Revenue Share shall be done through the Escrow Account as per provisions and Article 24 of this Agreement.

ARTICLE 23: COLLECTION OF RENTAL CHARGES

23.1 Determine, Charge, Collection and Appropriation of Rental Charges

23.1.1 On and from the COD till the Transfer Date, the Concessionaire shall have the sole and exclusive right to determine, demand, collect and appropriate Rental Charges from the sub-leasing of the Project Facilities, proceeds from sale of goods and provisioning of other services at the Project, fee & charges from sub-leasing of built up spaces of every description and kind, provided by the Concessionaire at the Project, in accordance with the provisions of this Agreement.

23.1.2 Deleted

23.1.3 The Concessionaire shall be free to determine and charge the Rental Charges in respect of the use of any part of the Project Facility or value added services/ facilities thereat, as it deems fit, from time to time.

23.1.4 Deleted

23.1.5 The Authority expressly recognizes the right of the Concessionaire or its employees, staff or its agents acting on behalf of the Concessionaire (i) to levy, demand, collect, retain, and to appropriate Rental Charges in accordance with the terms of this Concession Agreement; and (ii) to exercise all rights and remedies available under Applicable Laws and under this Concession Agreement for the recovery of Rental Charges.

23.2 Deleted.

23.3 Deleted.

ARTICLE 24: ESCROW ACCOUNT

24.1 Escrow Account

24.1.1 The Concessionaire shall, prior to the Appointed Date, open and establish an Escrow Account with a Bank (the "**Escrow Bank**") in accordance with this Agreement read with the Escrow Agreement.

24.1.2 The nature and scope of the Escrow Account are fully described in the agreement (the "**Escrow Agreement**") to be entered into amongst the Concessionaire, the Authority, the Escrow Bank and the Senior Lenders through the Lenders' Representative (if any), which shall be substantially in the form set forth in **Schedule-M**.

24.2 Deposits into Escrow Account

24.2.1 The Concessionaire shall deposit or cause to be deposited the following inflows and receipts into the Escrow Account:

(a) all monies received in relation to the Project from any source, including the Senior Lenders and the Authority (if any);

(b) all funds received by the Concessionaire from its shareholders, in any manner or form including deposit of the required Equity funds in the manner prescribed under Clause 5.14;

(c) all funds constituting the Financial Package;

(d) all Rental Charges, and other revenues including revenues from the usage of the Project Facilities in respect of the Project;

(e) all rentals, deposits or capital receipts, or insurance claims as the case may be;

(f) all proceeds received pursuant to any insurance claims;

(g) all fees, charges, service taxes, duties levied and collected by the Concessionaire; and

(h) all payments by the Authority, after deduction of any outstanding payments.

Provided that the Senior Lenders may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

24.3 Withdrawals during Concession Period

24.3.1 The Concessionaire shall, at the time of opening the Escrow Account, give irrevocable instructions, by way of an Escrow Agreement, to the Escrow Bank instructing, inter alia, that deposits in the Escrow Account shall be appropriated in the following order every month, or at shorter intervals as necessary, and if not due in a month, then appropriated proportionately in such month and retained in the Escrow Account and paid out therefrom in the month when due:

(a) all taxes due and statutory payments due and payable by the Concessionaire for and in

respect of the Project;

(b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;

(c) Revenue Share due and payable to the Authority in the month when due;

(d) Annual Concession Fee due and payable to the Authority in the month when due;

(e) O&M Expenses, if any, subject to the ceiling, as referenced from the Financial Model submitted as part of the Financing Agreements;

(f) O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Authority as due and payable to it;

(g) monthly proportionate provision of Debt Service due in an Accounting Year;

(h) all payments, penalties and Damages certified by the Authority as due and payable to it by the Concessionaire;

(i) any reserve requirements set forth in the Financing Agreements; and

(j) balance, if any, in accordance with the instructions of the Concessionaire.

24.3.2 The Concessionaire shall not in any manner modify the order of payment specified in Clause 24.3.1, except with the prior written approval of the Authority.

24.4 Withdrawals upon Termination

24.4.1 Notwithstanding anything to the contrary contained in this Agreement, all amounts standing to the credit of the Escrow Account shall, upon Termination, be appropriated in the following order:

(a) all taxes and statutory payments due and payable by the Concessionaire for and in respect of the Project;

(b) Debt Due less insurance as per the provisions of this Agreement;

(c) outstanding Revenue share and Annual Concession Fee, if any;

(d) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire;

(e) retention and payments relating to the liability for defects and deficiencies set forth herein;

(f) outstanding Debt Service Payments including the balance of Debt Due;

(g) incurred or accrued O&M Expenses;

(h) any other payments required to be made under this Agreement; and

(i) balance, if any, in accordance with the instructions of the Concessionaire.

Provided that no appropriations shall be made under Sub-clause (i) of this Clause 24.4.1 until a Vesting Certificate has been issued by the Authority under the provisions of this Agreement.

24.4.2 The provisions of this Article 24 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 24.4.1 have been discharged.

ARTICLE 25: INSURANCE

25.1 Insurance during Concession Period

The Concessionaire shall affect and maintain at its own cost, during Concession Period, such insurances for such maximum sums as may be required under the Financing Agreements, and the Applicable Laws, and such insurances as may be necessary or prudent in accordance with Good Industry Practice. The Concessionaire shall also affect and maintain such insurances as may be necessary for mitigating the risks that may devolve on the Authority as a consequence of any act or omission of the Concessionaire during the Construction Period. The Concessionaire shall procure that in each insurance policy, the Authority shall be a co-insured and that the insurer shall pay the proceeds of insurance into the Escrow Account. For the avoidance of doubt, the level of insurance to be maintained by the Concessionaire after repayment of Senior Lenders' dues in full shall be determined on the same principles as applicable for determining the level of insurance prior to such repayment of Senior Lenders' dues.

25.2 Insurance Cover

Without prejudice to the provision contained in Clause 25.1, the Concessionaire shall, during the Concession Period and Defect Liability Period, procure and maintain Insurance Cover including but not limited to the following:

(a) loss, damage or destruction of the Project Assets, including assets handed over by the Authority to the Concessionaire, at replacement value;

(b) comprehensive third-party liability insurance including injury to, or death of personnel of the Authority or others caused by the Project;

(c) the Concessionaire's general liability arising out of the Concession;

(d) liability to third parties for goods or property damage;

(e) workmen's compensation insurance; and

(f) any other insurance that may be necessary to protect the Concessionaire and its employees, including all Force Majeure Events that are insurable at commercially reasonable premiums and not otherwise covered in items(a) to (e) above.

25.3 Notices to the Authority

No later than 45 (forty-five) days prior to commencement of the Concession Period, the Concessionaire shall by notice furnish to the Authority, in reasonable detail, information in respect of the insurances that it proposes to effect and maintain in accordance with this Article. Within 30 (thirty) days of receipt of such notice, the Authority may require the Concessionaire to effect and maintain such other insurances as may be necessary pursuant hereto, and in the event of any difference or disagreement relating to any such insurance, the Dispute Resolution

Procedure provided in Article 37 shall apply.

25.4 Evidence of Insurance Cover

All insurances obtained by the Concessionaire in accordance with this Article 25 shall be maintained with insurers on terms consistent with Good Industry Practice. Within 15 (fifteen) days of obtaining any insurance cover, the Concessionaire shall furnish to the Authority, notarized true copies of the certificate(s) of insurance, copies of insurance policies and premia payment receipts in respect of such insurance, and no such insurance shall be cancelled, modified, or allowed to expire or lapse until the expiration of at least 45 (forty five) days after notice of such proposed cancellation, modification or non-renewal has been delivered by the Concessionaire to the Authority.

25.5 Remedy for failure to insure

If the Concessionaire shall fail to effect and keep in force all insurances for which it is responsible pursuant hereto, the Authority shall have the option to either keep in force any such insurances and pay such premia and recover the costs thereof from the Concessionaire, or in the event of computation of a Termination Payment, treat an amount equal to the Insurance Cover as deemed to have been received by the Concessionaire.

25.6 Waiver of subrogation

All insurance policies in respect of the insurance obtained by the Concessionaire pursuant to this Article shall include a waiver of any and all rights of subrogation or recovery of the insurers thereunder against, inter alia, the Authority, and its assigns, successors, undertakings and their subsidiaries, affiliates, employees, insurers and underwriters, and of any right of the insurers to any set-off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of any such person insured under any such policy or in any way connected with any loss, liability or obligation covered by such policies of insurance.

25.7 Concessionaire's waiver

The Concessionaire hereby further releases, assigns and waives any and all rights of subrogation or recovery against, inter alia, the Authority and its assigns, undertakings and their subsidiaries, affiliates, employees, successors, insurers and underwriters, which the Concessionaire may otherwise have or acquire in or from or in any way connected with any loss, liability or obligation covered by policies of insurance maintained or required to be maintained by the Concessionaire pursuant to this Agreement (other than third party liability insurance policies) or because of deductible clauses in or inadequacy of limits of any such policies of insurance.

25.8 Application of insurance proceeds

The proceeds from all insurance claims, except life and injury, shall be paid to the Concessionaire by credit to the Escrow Account and it shall, notwithstanding anything to the contrary contained in Clause 24.3 apply such proceeds 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.

25.9 Compliance with conditions of insurance policies

The Concessionaire expressly acknowledges and undertakes to fully indemnify the Authority from and against all direct and indirect losses, damages and claims arising from the Concessionaire's failure to comply with conditions imposed by the insurance policies effected in accordance with this Agreement.

ARTICLE 26: ACCOUNTS AND AUDIT

26.1 Audited accounts

26.1.1 The Concessionaire shall maintain books of accounts recording all its receipts (including all Rental Charges, revenues derived/collected by it from or on account of the Project and/or its use), income, expenditure, payments (including payments from the Escrow Account), assets and liabilities, in accordance with this Agreement, Good Industry Practice, Applicable Laws and Applicable Permits. The Concessionaire shall provide 2 (two) copies of its Balance Sheet, Cash Flow Statement and Profit and Loss Account, along with a report thereon by its Statutory Auditors, within 90 (ninety) days of the close of the Accounting Year to which they pertain and such audited accounts, save and except where expressly provided to the contrary, shall form the basis of payments by either Party under this Agreement. The Authority shall have the right to inspect the records of the Concessionaire during office hours and require copies of relevant extracts of books of accounts, duly certified by the Statutory Auditors, to be provided to the Authority for verification of basis of payments, and in the event of any discrepancy or error being found, the same shall be rectified and such rectified account shall form the basis of payments by either Party under this Agreement.

26.1.2 The Concessionaire shall, within 30 (thirty) days of the close of each quarter of an Accounting Year, furnish to the Authority its unaudited financial results in respect of the preceding quarter, in the manner and form prescribed by the Securities and Exchange Board of India for publication of quarterly results by the companies listed on a stock exchange.

26.1.3 On or before the 31st (thirty-first) day of May each Year, the Concessionaire shall provide to the Authority, for the preceding Accounting Year, a statement duly audited by its Statutory Auditors giving summarized information on revenues derived from the Project, and such other information as the Authority may reasonably require.

26.2 Appointment of auditors

26.2.1 The Concessionaire shall appoint, and have during the subsistence of this Agreement as its Statutory Auditors, a firm having at least 3 (three) chartered accountants on its rolls. All fees and expenses of the Statutory Auditors shall be borne by the Concessionaire.

26.2.2 The Concessionaire may terminate the appointment of its Statutory Auditors after a notice of 45 (forty-five) days to the Authority, subject to the replacement Statutory Auditors being appointed as per the provisions of the Companies Act.

26.2.3 Notwithstanding anything to the contrary contained in this Agreement, the Authority shall have the right, but not the obligation, to appoint at its cost from time to time and at any time, another firm (the "**Additional Auditors**") to audit and verify all those matters, expenses, costs, realisations and things which the Statutory Auditors are required to do, undertake or certify pursuant to this Agreement.

26.3 Certification of claims by Statutory Auditors

Any claim or document provided by the Concessionaire to the Authority in connection with or relating to receipts, income, payments, costs, expenses, accounts or audit, and any matter incidental thereto shall be valid and effective only if certified by its Statutory Auditors. For the avoidance of doubt, such certification shall not be required for exchange of information in the normal course of business.

26.4 Set-off

In the event any amount is due and payable by the Authority to the Concessionaire, it may set-off any sums payable to it by the Concessionaire and pay the balance remaining. Any exercise by the Authority of its rights under this Clause shall be without prejudice to any other rights or remedies available to it under this Agreement or otherwise.

26.5 Dispute resolution

In the event of there being any difference between the findings of the Additional Auditor and the certification provided by the Statutory Auditors, such Auditors shall meet to resolve the differences and if they are unable to resolve the same, such Dispute shall be resolved by the Authority by recourse to the Dispute Resolution Procedure.

PART V FORCE MAJEURE AND TERMINATION

ARTICLE 27: FORCE MAJEURE

27.1 Force Majeure

As used in this Agreement, the expression "**Force Majeure**" or "**Force Majeure Event**" shall mean occurrence in India of any or all of Non-Political Event, Indirect Political Event and Political Event, as defined in Clauses 27.2, 27.3, 27.4 respectively, if it affects the performance by the Party claiming the benefit of Force Majeure (the "**Affected Party**") of its obligations under this Agreement and which act or event (i) is beyond the reasonable control of the Affected Party, and (ii) the Affected Party could not have prevented or overcome by exercise of due diligence and following Good Industry Practice, and (iii) has Material Adverse Effect on the Affected Party.

27.2 Non-Political Event

A Non-Political Event shall mean one or more of the following acts or events:

(a) act of God, epidemic, pandemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Project Site);

(b) strikes or boycotts (other than those involving the Concessionaire, Contractors or their respective employees/representatives, or attributable to any act or omission of any of them) interrupting supplies and services to the Project for a continuous period of 24 (twenty four) hours and an aggregate period exceeding 7 (seven) days in an Accounting Year, and not being an Indirect Political Event set forth herein;

(c) any failure or delay of a Contractor but only to the extent caused by another Non-Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

(d) any judgment or order of any court of competent jurisdiction or statutory authority made against the Concessionaire in any proceedings for reasons other than (i) failure of the Concessionaire to comply with any Applicable Law or Applicable Permit, or (ii) on account of breach of any Applicable Law or Applicable Permit or of any contract, or (iii) enforcement of this Agreement, or (iv) exercise of any of its rights under this Agreement by the Authority;

(e) the discovery of geological conditions, toxic contamination or archaeological remains on the Project Site that could not reasonably have been expected to be discovered through inspection; or

(f) any event or circumstances of a nature analogous to any of the foregoing.

27.3 Indirect Political Event

An Indirect Political Event shall mean one or more of the following acts or events:

(a) an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, riot, insurrection, terrorist or military action, civil commotion or politically motivated sabotage;

(b) any political or economic upheaval, disturbance, movement, struggle or similar occurrence which could not have been anticipated or foreseen by a prudent person and which causes the operation of the Project to be financially unviable or otherwise not feasible;

(c) industry-wide or State-wide strikes or industrial action for a continuous period of 24 (twenty four) hours and exceeding an aggregate period of 7 (seven) days in an Accounting Year;

(d) any civil commotion, boycott or political agitation which prevents collection of revenue by the Concessionaire for an aggregate period exceeding 7 (seven) days in an Accounting Year;

(e) failure of the Authority to permit the Concessionaire to continue the Scope of Work, with or without modifications, in the event of stoppage of such works after discovery of any geological or archaeological finds or for any other reason;

(f) any failure or delay of a Contractor to the extent caused by any Indirect Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor;

(g) any Indirect Political Event that causes a Non-Political Event; or

(h) any event or circumstances of a nature analogous to any of the foregoing.

27.4 Political Event

A Political Event shall mean one or more of the following acts or events by or on account of any State Government Instrumentality:

(a) Change in Law, only if consequences thereof cannot be dealt with under and in accordance with the provisions of Article 34 resulting in Material Adverse Effect;

(b) compulsory acquisition in national interest or expropriation of any Project Assets or rights of the Concessionaire or of the Contractors;

(c) unlawful or unauthorized or without jurisdiction revocation of, or refusal to renew or grant without valid cause, any clearance, license, permit, authorization, no objection certificate, consent, approval or exemption required by the Concessionaire or any

of the Contractors to perform their respective obligations under this Agreement and the Project Agreements; provided that such delay, modification, denial, refusal or revocation did not result from the Concessionaire's or any Contractor's inability or failure to comply with any condition relating to grant, maintenance or renewal of such clearance, license, authorization, no objection certificate, exemption, consent, approval or permit;

(d) any failure or delay of a Contractor but only to the extent caused by another Political Event and which does not result in any offsetting compensation being payable to the Concessionaire by or on behalf of such Contractor; or

(e) any event or circumstance of a nature analogous to any of the foregoing.

27.5 Duty to report Force Majeure Event

27.5.1 Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other Party forthwith. Any notice pursuant hereto shall include full particulars of:

(a) the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this article with evidence in support thereof;

(b) the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under this Agreement;

(c) the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event;

(d) Any other information relevant to the Affected Party's claim.

27.5.2 The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other Party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 7 (seven) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Agreement.

27.5.3 For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (and not less than weekly) reports containing information as required by Clause 27.5.1, and such other information as the other Party may reasonably request the Affected Party to provide.

27.6 Effect of Force Majeure Event on the Concession

27.6.1 Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set

forth in Clause 4.1 for fulfillment of Conditions Precedent and in Clause 22.1.1 for achieving Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

27.6.2 At any time after the Appointed Date, if any Force Majeure Event occurs:

(a) before COD, the Construction Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration for which such Force Majeure Event subsists; or

(b) after COD, whereupon the Concessionaire is unable to operate the Project Facility or any part thereof and collect Rental Charges from the Project Facility despite making best efforts or it is directed by the Authority or any State Government Instrumentality to suspend the collection thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, as certified by its statutory auditor along with supporting documents, equal in length to the period during which the Concessionaire was prevented from collection of fee on account thereof.

27.7 Allocation of costs arising out of Force Majeure

27.7.1 Upon occurrence of any Force Majeure Event prior to the Appointed Date, the Parties shall bear their respective costs and no Party shall be required to pay to the other Party any costs thereof.

27.7.2 Upon occurrence of a Force Majeure Event after the Appointed Date, the costs incurred and attributable to such event and directly relating to the Project (the "**Force Majeure Costs**") shall be allocated and paid as follows:

27.7.2.1 upon occurrence of a Non-Political Event, the Parties shall bear their respective Force Majeure Costs and neither Party shall be required to pay to the other Party any costs thereof;

27.7.2.2 upon occurrence of an Indirect Political Event, all Force Majeure Costs attributable to such Indirect Political Event, and not exceeding the Insurance Cover for such Indirect Political Event as certified by its Statutory Auditor along with supporting documents, shall be borne by the Concessionaire, and to the extent Force Majeure Costs exceed such Insurance Cover, one half of such excess amount shall be reimbursed by the Authority to the Concessionaire; and

27.7.2.3 upon occurrence of a Political Event, all Force Majeure Costs attributable to such Political Event as certified by its Statutory Auditor along with supporting documents, shall be reimbursed by the Authority to the Concessionaire provided that no Force Majeure Costs shall be payable by the Authority if the Concession Period is increased as per Clause 27.6.2 so that the Concessionaire recovers the certified Force Majeure Costs.

For the avoidance of doubt, Force Majeure Costs may include interest payments on debt, O&M Expenses, any increase in the cost of Construction Works on account of inflation and all

other costs directly attributable to the Force Majeure Event but shall not include loss of revenues or debt repayment obligations and for determining such costs information contained in the Financial Package may be relied upon to the extent that such information is relevant.

27.7.3 Save and except as expressly provided in this Article 27, neither Party shall be liable in any manner whatsoever to the other Party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.

27.8 Termination Notice for Force Majeure Event

If a Force Majeure Event subsists for a period of 180 (one hundred and eighty) days or more within a continuous period of 365 (three hundred and sixty five) days, either Party may in its discretion terminate this Agreement by issuing a Termination Notice to the other Party without being liable in any manner whatsoever, save as provided in this Article 27, and upon issue of such Termination Notice, this Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such Termination Notice, the Party intending to issue the Termination Notice shall inform the other Party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the Termination Notice.

27.9 Termination Payment for Force Majeure Event

27.9.1 If Termination is on account of a Non-Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to 90% (ninety per cent) of the Debt Due less Insurance Cover.

27.9.2 If Termination is on account of an Indirect Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount equal to:

27.9.2.1 Debt Due less Insurance Cover; provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due; and

27.9.2.2 100% (one hundred per cent) of the Adjusted Equity.

27.9.3 If Termination is on account of a Political Event, the Authority shall make a Termination Payment to the Concessionaire in an amount that would be payable as if it were an Authority Default.

27.10 Dispute Resolution

In the event that the Parties are unable to agree in good faith about the occurrence or existence of a Force Majeure Event, such Dispute shall be finally settled in accordance with the Dispute Resolution Procedure; provided that the burden of proof as to the occurrence or existence of

such Force Majeure Event shall be upon the Party claiming relief and/or excuse on account of such Force Majeure Event.

27.11 Excuse from performance of obligations

If the Affected Party is rendered wholly or partially unable to perform its obligations under this Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:

(a) the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(b) the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other Party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and

(c) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party notice to that effect and shall promptly resume performance of its obligations hereunder.

ARTICLE 28: Deleted

ARTICLE 29: SUSPENSION OF CONCESSIONAIRE'S RIGHTS

29.1 Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, the Authority shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to:

(a) suspend all rights of the Concessionaire under this Agreement; and

(b) exercise such rights itself and perform the obligations hereunder or authorize any other person to exercise or perform the same on its behalf during such suspension (the "**Suspension**").

Suspension hereunder shall be effective forthwith upon issue of notice by the Authority to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders/ Lenders' Representative, the Authority shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

29.2 Authority to act on behalf of Concessionaire

29.2.1 During the period of Suspension, the Authority shall, on behalf of the Concessionaire, collect all revenues under and in accordance with this Agreement and deposit the same in the Escrow Account. The Authority shall be entitled to make withdrawals from the Escrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension and thereafter for defraying the expenses specified in Clause 24.3.

29.2.2 During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the Authority for discharging the obligations of the Concessionaire under and in accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the Authority for all costs incurred during such period. The Concessionaire hereby sub-leases, the Authority or any other person authorised by it under Clause 29.1 to use during Suspension, all Intellectual Property belonging to or licenced to the Concessionaire with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Concessionaire in performing its obligations under the Agreement.

29.3 Revocation of Suspension

29.3.1 In the event that the Authority shall have rectified or removed the cause of Suspension within a period not exceeding 90 (ninety) days from the date of Suspension, it shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement. For the avoidance of doubt, the Parties expressly agree that the Authority may, in its discretion, revoke the Suspension at any time, whether or not the cause of Suspension has been rectified or removed hereunder.

29.3.2 Upon the Concessionaire having cured the Concessionaire Default within a period not exceeding 90 (ninety) days from the date of Suspension, the Authority shall revoke the Suspension forthwith and restore all rights of the Concessionaire under this Agreement.

29.4 Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice thereunder from the Lenders' Representative, the Authority shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 29.1 for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Lenders.

29.5 Termination

29.5.1 At any time during the period of Suspension under this Article, the Concessionaire may by notice require the Authority to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 29.4, the Authority shall, within 15 (fifteen) days of receipt of such notice, terminate this Agreement under and in accordance with Article 30 as if it is a Concessionaire Default under Clause 30.1.

29.5.2 Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 29.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, *mutatis mutandis*, to such Termination as if a Termination Notice had been issued by the Authority upon occurrence of a Concessionaire Default.

ARTICLE 30: TERMINATION

30.1 Termination for Concessionaire Default

30.1.1 Subject to Applicable Laws and save as otherwise provided in this Agreement, in the event that any of the defaults specified below shall have occurred, and the Concessionaire fails to cure the default within the Cure Period set forth below, or where no Cure Period is specified, then within a Cure Period of 60 (sixty) days, the Concessionaire shall be deemed to be in default of this Agreement (the "**Concessionaire Default**"), unless the default has occurred solely as a result of any breach of this Agreement by the Authority or due to Force Majeure. In addition to default events set forth elsewhere in this Agreement, the defaults referred to herein shall include the following:

(a) the Performance Security has been encashed and appropriated in accordance with Clause 9.2 and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 15 (fifteen) days;

(b) subsequent to the replenishment or furnishing of fresh Performance Security in accordance with Clause 9.2, the Concessionaire fails to meet any Condition Precedent or cure the Concessionaire Default, as the case may be, for which whole or part of the Performance Security was appropriated within an additional Cure Period of 90 (ninety) days;

(c) the Concessionaire does not achieve the latest outstanding Project Milestone due in accordance with the provisions of Schedule-G and continues to be in default for 60 (sixty) days;

(d) the Concessionaire abandons or manifests intention to abandon the construction or operation of the Project without the prior written consent of the Authority;

(e) Project Completion does not occur within the period specified in Clause 12.3.3;

(f) the Concessionaire fails to rectify Operational Standards mentioned in Schedule-D even after issuance of notice by the Authority granting Cure Period of upto 30 (thirty) days from date of issuance of such notice;

(g) the Concessionaire has failed to make two consecutive payments of Revenue Share to the Authority or Annual Concession Fee beyond a period of 90 days from the date specified in this Agreement;

(h) an Escrow Default has occurred, and the Concessionaire fails to cure the default within a Cure Period of 15 (fifteen) days;

(i) upon occurrence of a Financial Default, the Lenders' Representative has by notice required the Authority to undertake Suspension or Termination, as the case may be, in accordance with the Substitution Agreement and the Concessionaire fails to cure the

default within the Cure Period specified hereinabove;

(j) a breach of any of the Project Agreements by the Concessionaire has caused a Material Adverse Effect;

(k) the Concessionaire creates any Encumbrance in breach of this Agreement;

(l) the Concessionaire repudiates this Agreement or otherwise takes any action or evidences or conveys an intention not to be bound by the Agreement;

(m) a Change in Ownership has occurred in breach of the provisions of Clause 5.3;

(n) there is a transfer, pursuant to law either of (i) the rights and/or obligations of the Concessionaire under any of the Project Agreements, or of (ii) all or part of the assets or undertaking of the Concessionaire, and such transfer causes a Material Adverse Effect;

(o) an execution levied on any of the assets of the Concessionaire has caused a Material Adverse Effect;

(p) the Concessionaire is adjudged bankrupt or insolvent, or if a trustee or receiver is appointed for the Concessionaire or for the whole or material part of its assets that has a material bearing on the Project;

(q) the Concessionaire has been, or is in the process of being liquidated, dissolved, wound-up, amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect;

(r) occurrence of any Insolvency Event;

(s) the Concessionaire has been or is in the process of being amalgamated or reconstituted in a manner that would cause, in the reasonable opinion of the Authority, a Material Adverse Effect or the Concessionaire is ordered to be wound up by Court except for the purpose of amalgamation or reconstruction provided that, as part of such amalgamation or reconstruction, the entire property, assets and undertaking of the Concessionaire are transferred to the amalgamated or reconstructed entity and that the amalgamated or reconstructed entity has unconditionally assumed the obligations of the Concessionaire under this Agreement and the Project Agreements; and provided that:

(i) the amalgamated or reconstructed entity has the capability and operating experience necessary for the performance of its obligations under this Agreement and the Project Agreements;

(ii) the amalgamated or reconstructed entity has the financial standing to perform its obligations under this Agreement and the Project Agreements and has a

credit worthiness at least as good as that of the Concessionaire as at the Appointed Date; and

(iii) each of the Project Agreements remains in full force and effect;

(t) any representation or warranty of the Concessionaire herein contained which is, as of the date hereof, found to be materially false, incorrect or misleading or the Concessionaire is at any time hereafter found to be in breach thereof;

(u) non-adherence with Service Level Indicators as provided in Schedule-I at three instances in a continuous calendar year;

(v) the Concessionaire has failed to fulfill any obligation, for which failure Termination has been specified in this Agreement;

(w) the Concessionaire issues a Termination Notice in violation of this Agreement; or

(x) the Concessionaire commits a default in complying with any other provision of this Agreement if such default causes a Material Adverse Effect on the Authority;

(y) misappropriation of income from the Project or non-deposit of any cash inflow into Escrow account.

30.1.2 Without prejudice to any other rights or remedies which the Authority may have under this Agreement, upon occurrence of a Concessionaire Default, the Authority shall be entitled to terminate this Agreement by issuing a Termination Notice to the Concessionaire; provided that before issuing the Termination Notice, the Authority shall by a notice inform the Concessionaire of its intention to issue such Termination Notice and grant 15 (fifteen) days to the Concessionaire to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice, subject to the provisions of Clause 30.1.3.

30.1.3 The Authority shall, if there be Senior Lenders, send a copy of its notice of intention to issue a Termination Notice referred to in Clause 30.1.2 to inform the Lenders' Representative and grant 15 (fifteen) days to the Lenders' Representative, for making a representation on behalf of the Senior Lenders stating the intention to substitute the Concessionaire in accordance with the Substitution Agreement. In the event the Authority receives such representation on behalf of Lenders, it shall, in its discretion, either withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of such representation or exercise its right of Suspension, as the case may be, for enabling the Lenders' Representative to exercise the Lenders' right of substitution in accordance with the Substitution Agreement.

Provided that the Lenders' Representative may, instead of exercising the Lenders' right of substitution, procure that the default specified in the notice is cured within the aforesaid period of 180 (one hundred and eighty) days, and upon such curing thereof, the Authority shall

withdraw its notice referred to above and restore all the rights of the Concessionaire:

Provided further 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 such further period not exceeding 90 (ninety) days, as the Authority may deem appropriate.

30.2 Termination for Authority Default

30.2.1 In the event that any of the defaults specified below shall have occurred, and the Authority fails to cure such default within a Cure Period of 90 (ninety) days or such longer period as has been expressly provided in this Agreement, the Authority shall be deemed to be in default of this Agreement (the "**Authority Default**") unless the default has occurred as a result of any breach of this Agreement by the Concessionaire or due to Force Majeure. The defaults referred to herein shall include the following:

(a) the Authority fails to provide, within a period of 90 (ninety) days from the Appointed Date, the Right of Way; or

(b) the Authority repudiates this Agreement or otherwise takes any action that amounts to or manifests an irrevocable intention not to be bound by this Agreement.

30.2.2 Without prejudice to any other right or remedy which the Concessionaire may have under this Agreement, upon occurrence of an Authority Default, the Concessionaire shall, subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement by issuing a Termination Notice to the Authority; provided that before issuing the Termination Notice, the Concessionaire shall by a notice inform the Authority of its intention to issue the Termination Notice and grant 15 (fifteen) days to the Authority to make a representation, and may after the expiry of such 15 (fifteen) days, whether or not it is in receipt of such representation, issue the Termination Notice.

30.3 Termination Payments

30.3.1 Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to: 90% (ninety per cent) of the Debt Due less Insurance Cover, provided that if any insurance claims forming part of the Insurance Cover are not admitted and paid, then 80% (eighty per cent) of such unpaid claims shall be included in the computation of Debt Due. For the avoidance of doubt, the Concessionaire hereby acknowledges that 70% (seventy per cent) of the Debt Due less Insurance Cover shall be due and payable to the Concessionaire on account of a Concessionaire Default occurring prior to COD.

30.3.2 Upon Termination on account of an Authority Default, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount equal to:

(a) Debt Due; and

(b) 120% (one hundred and twenty per cent) of the Adjusted Equity.

30.3.3 Termination Payment shall become due and payable to the Concessionaire within 30 (thirty) days of a demand being made by the Concessionaire to the Authority with the necessary particulars, and in the event of any delay, the Authority shall pay interest at a rate equal to 2% (two per cent) above the prevailing SBI MCLR on the amount of Termination Payment remaining unpaid; provided that such delay shall not exceed 90 (ninety) days. For the avoidance of doubt, it is expressly agreed that Termination Payment shall constitute full discharge by the Authority of its payment obligations in respect thereof hereunder.

30.3.4 Upon Termination on expiry of the Concession Period by efflux of time, no Termination Payment shall be due and payable to the Concessionaire. At the end of the Concession Period, all Project Assets shall be transferred to the Authority at free of cost.

30.3.5 The Concessionaire expressly agrees that Termination Payment under this Article 30 shall constitute a full and final settlement of all claims of the Concessionaire on account of Termination of this Agreement for any reason whatsoever and that the Concessionaire or any shareholder thereof shall not have any further right or claim under any law, treaty, convention, contract or otherwise.

30.4 Other rights and obligations of the Authority

Upon Termination for any reason whatsoever, the Authority shall:

(a) take possession and control of the Project forthwith;

(b) take possession and control of all materials, implements, plants and equipment, if any, on or about the Project Site;

(c) be entitled to restrain the Concessionaire and any person claiming through or under the Concessionaire from entering upon the Project Site or any part of the Project; and

(d) require the Concessionaire to comply with the Divestment Requirements set forth in Clause 31.1; and

(e) succeed upon election by the Authority, without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements as the Authority may in its discretion deem appropriate, and shall upon such election be liable to the Contractors only for compensation accruing and becoming due and payable to them under the terms of their respective Project Agreements from and after the date the Authority elects to succeed to the interests of the Concessionaire. For the avoidance of doubt, the Concessionaire acknowledges and agrees that all sums claimed by such Contractors as being due and owing for works and services performed or accruing on account of any act, omission or event prior to

such date shall constitute debt between the Concessionaire and such Contractors, and the Authority shall not in any manner be liable for such sums. It is further agreed that in the event the Authority elects to cure any outstanding defaults under such Project Agreements, the amount expended by the Authority for this purpose shall be deducted from the Termination Payment.

30.5 Survival of Rights

Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Article 30.3.5, any Termination pursuant to the provisions of this Agreement shall be without prejudice to the accrued rights of either Party including its right to claim and recover money damages, insurance proceeds, security deposits, and other rights and remedies, which it may have in law or contract. All rights and obligations of either Party under this Agreement, including Termination Payments and Divestment Requirements, shall survive the Termination to the extent such survival is necessary for giving effect to such rights and obligations.

ARTICLE 31: DIVESTMENT OF RIGHTS AND INTEREST

31.1 Divestment Requirements

31.1.1 Upon Termination, the Concessionaire shall comply with and conform to the following Divestment Requirements:

(a) notify to the Authority forthwith the location and particulars of all Project Assets created during the Concession Period;

(b) deliver forthwith the actual or constructive possession of the Project and Project Site, free and clear of all Encumbrances, save and except to the extent set forth in the Substitution Agreement;

(c) cure all defects and deficiencies so that the Project is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets and the Project Site shall be handed over on '*as is where is'* basis after bringing them to a safe condition;

(d) deliver and transfer the Project Site and Project Facilities in good working condition subject to normal wear and tear including warranties, guarantees, and any required operational licenses;

(e) deliver and transfer relevant records, reports, Intellectual Property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete '*as built*' Drawings as on the Transfer Date, For the avoidance of doubt, the Concessionaire represents and warrants that the Intellectual Property delivered hereunder shall be adequate and complete for the design, engineering, construction, operation and maintenance of the Project and shall be assigned to the Authority free of any Encumbrance;

(f) Ensure that all the details of existing contracts including AMC agreements, guarantees and warranties, maintenance manuals etc. is handed over to the Authority;

(g) transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;

(h) execute such deeds of conveyance, documents and other writings as the Authority may reasonably require for conveying, divesting and assigning all the rights, title and interest of the Concessionaire in the Project, including manufacturers' warranties in respect of any plant or equipment and the right to receive outstanding insurance claims to the extent due and payable to the Authority, absolutely unto the Authority or its nominee; and

(i) comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title and interest of the Concessionaire in the Project, free from all Encumbrances, absolutely unto the Authority or to its nominee.

31.1.2 Subject to the exercise by the Authority of its rights under this Agreement or under any of the Project Agreements the Parties shall continue to perform their obligations under this Agreement, notwithstanding the issuance of any Termination Notice, until the Termination of this Agreement becomes effective in accordance with its terms.

31.2 Inspection and cure

31.2.1 Not earlier than 30 (thirty) days prior to Termination but not later than 7 (seven) days prior to the effective date of such Termination, the Authority shall verify, after giving due notice to the Concessionaire of the time, date and venue of such verification, compliance by the Concessionaire with the Maintenance Requirements, and if required, cause appropriate Tests to be carried out at the Concessionaire's cost for this purpose. Defaults, if any, in the Maintenance Requirements shall be cured by the Concessionaire at its cost and the provisions of Article 35 shall apply, mutatis mutandis, in relation to curing of defects or deficiencies under this Article 31.

31.2.2 Upon the expiry of the Concession by efflux of time and in the normal course, the Concessionaire shall at the end of the Concession Period, hand over encumbrance free and peaceful possession of the Project Assets in good working conditions except for normal wear and tear including Project Site at no cost to the Authority. The handing over process shall be initiated at least 6 (six) months before the actual date of expiry of the Concession Period by a joint inspection by the Authority and the Concessionaire. Two rounds of joint inspection shall be conducted.

i. Round 1: A joint inspection will be conducted between 180 days and 120 days prior to the Transfer Date in order to identify any defects.

ii. Round 2: A joint inspection will be conducted between 30 days and 15 days prior to the Transfer Date in order to identify and address any left-out defects.

31.2.3 Failure to rectify any defects or failure to comply on the part of the Concessionaire under this Clause, shall entitle the Authority to recover the actual costs incurred in rectifying/ remedying such defect/ deficiency, including a sum equal to 10% (ten per cent) of such cost shall be paid by the Concessionaire to the Authority as Damages. The decision of the Authority shall be final and binding.

For this purpose, Authority shall without prejudice to any other right/remedy available to it, under this Agreement, have the right to set off any amounts due, if any, and payable by the Authority to the Concessionaire to the extent required/ available and to recover deficit amount,

if any, from the Escrow Account/ Concessionaire and/ or to appropriate the Performance Security, as the case may be

31.3 Cooperation and assistance on transfer of Project

31.3.1 The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth handover of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the public, other members of the public or the lawful occupiers of any part of the Project Site.

31.3.2 The Parties shall provide to each other, 9 (nine) months prior to the Transfer Date in the event of Termination by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the Authority, its concessionaire or agent may reasonably require for operation of the Project until the expiry of 6 (six) months after the Transfer Date.

31.3.3 Deleted

31.4 Vesting Certificate

The divestment of all rights, title and interest in the Project shall be deemed to be complete on the date when all of the Divestment Requirements have been fulfilled, and the Authority shall, without unreasonable delay, thereupon issue a certificate substantially in the form set forth in **Schedule-N** (the "**Vesting Certificate**"), which will have the effect of constituting evidence of divestment by the Concessionaire of all of its rights, title and interest in the Project, and their vesting in the Authority pursuant hereto. It is expressly agreed that any defect or deficiency in the Divestment Requirements shall not in any manner be construed or interpreted as restricting the exercise of any rights by the Authority or its nominee on, or in respect of, the Project on the footing that all Divestment Requirements have been complied with by the Concessionaire.

31.5 Divestment costs etc.

31.5.1 The Concessionaire shall bear and pay all costs incidental to divestment of all of the rights, of the Concessionaire in the Project Assets in favor of the Authority upon Termination, save and except that all stamp duties payable on any deeds or Documents executed by the Concessionaire in connection with such Divestment shall be borne by the Authority.

31.5.2 In the event of any Dispute relating to matters covered by and under this Article 31, the Dispute Resolution Procedure shall apply.

ARTICLE 32: DEFECTS LIABILITY AFTER TERMINATION

32.1 Liability for defects after Termination

The Concessionaire shall be responsible for all defects and deficiencies in the Project for a period of 12 (twelve) months after Termination, and it shall have the obligation to repair or rectify, at its own cost, all defects and deficiencies observed by the Authority in the Project during the aforesaid period. In the event that the Concessionaire fails to repair or rectify such defect or deficiency within a period of 15 (fifteen) days from the date of notice issued by the Authority in this behalf, the Authority shall be entitled to get the same repaired or rectified at the Concessionaire's risk and cost so as to make the Project conform to the Maintenance Requirements. All costs incurred by the Authority hereunder shall be reimbursed by the Concessionaire to the Authority within 15 (fifteen) days of receipt of demand thereof, and in the event of default in reimbursing such costs, the Authority shall be entitled to recover the same from the Escrow Account under the provisions of Clause 32.2 or from the Performance Guarantee provided thereunder. For the avoidance of doubt, the provisions of this Article 32 shall not apply if Termination occurs prior to COD.

32.2 Retention in Escrow Account

32.2.1 Notwithstanding anything to the contrary contained in this Agreement, but subject to the provisions of Clause 32.2.3, a sum equal to the Performance Security shall be retained in the Escrow Account for a period of 365 (one hundred and twenty) days after Termination for meeting the liabilities, if any, arising out of or in connection with the provisions of Clause 32.1.

32.2.2 Without prejudice to the provisions of Clause 32.2.1, the Authority shall carry out an inspection of the Project at any time between 210 (two hundred and ten) and 180 (one hundred and eighty) days prior to the Termination and if it recommends that the status of the Project is such that a sum larger than the amount stipulated in Clause 32.2.1 should be retained in the Escrow Account and for a period longer than the aforesaid 365 (three hundred and sixty five) days, the amount determined by the Authority shall be retained in the Escrow Account for the period specified by it.

32.2.3 The Concessionaire may, for the performance of its obligations under this Article, provide to the Authority a guarantee from a Bank for a sum equivalent to the amount determined under Clause 32.2.1 or 32.2.2 as the case may be, and for the period specified therein, substantially in the form set forth in Schedule-F (the "**Performance Guarantee**"), to be modified, mutatis mutandis, for this purpose, and the Authority shall, without prejudice to its other rights and remedies hereunder or in law, be entitled to encash and appropriate the required amounts from the Performance Guarantee for undertaking the repairs or rectification at the Concessionaire's risk and cost in accordance with the provisions of this Article 32. Upon furnishing of a Performance Guarantee under this Clause 32.2.3, the retention of funds in the Escrow Account in terms of Clause 32.2.1 or 32.2.2, as the case may be, shall be dispensed with.

PART VI OTHER PROVISIONS

ARTICLE 33: ASSIGNMENT AND CHARGES

33.1 Restrictions on assignment and charges

33.1.1 Subject to Clauses 33.2 and 33.3, this Agreement shall not be assigned by the Concessionaire to any person, save and except with the prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

33.1.2 Subject to the provisions of Clause 33.2, the Concessionaire shall not create nor permit to subsist any Encumbrance, or otherwise transfer or dispose of all or any of its rights and benefits under this Agreement or any Project Agreement to which the Concessionaire is a party, except with prior consent in writing of the Authority, which consent the Authority shall be entitled to decline without assigning any reason.

33.2 Permitted assignment and charges

33.2.1 The restraints set forth in Clause 33.1 shall not apply to:

(a) liens arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Project;

(b) mortgages/pledges/hypothecation of goods/assets other than Project Assets and their related documents of title, arising or created in the ordinary course of business of the Project, and as security only for indebtedness to the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project. For the avoidance of doubt, the Senior Lenders would be entitled to create a lien on the Escrow Account, subject to and without prejudice to the rights of the Authority under this Agreement;

(c) assignment of rights, interest and obligations of the Concessionaire to or in favour of the Lenders' Representative as nominee and for the benefit of the Lenders, to the extent covered by and in accordance with the Substitution Agreement as security for financing provided by Senior Lenders under the Financing Agreements; and

(d) liens or encumbrances required by any Applicable Law.

33.2.2 The Parties agree that any assignment under this Article 33 shall be subject to the approvals and consents required therefore under Applicable Laws. Provided, however, that the grant of any consent or approval under Applicable Laws shall not oblige the Authority to grant its approval to such assignment, save and except as provided herein.

33.3 Substitution Agreement

33.3.1 The Lenders' Representative, on behalf of Senior Lenders, may exercise the right to substitute the Concessionaire pursuant to the agreement for substitution of the Concessionaire (the "**Substitution Agreement**") to be entered into amongst the Concessionaire, the Authority and the Lenders' Representative, on behalf of Lenders, substantially in the form set forth in **Schedule-O**.

33.3.2 Upon substitution of the Concessionaire under and in accordance with the Substitution Agreement, the Nominated Company substituting the Concessionaire shall be deemed to be the Concessionaire

under this Agreement and shall enjoy all rights and be responsible for all obligations of the Concessionaire under this Agreement as if it were the Concessionaire; provided that where the Concessionaire is in breach of this Agreement on the date of such substitution, the Authority shall by notice grant a Cure Period of 120 (one hundred and twenty)] days to the Concessionaire for curing such breach.

33.4 Assignment by the Authority

Notwithstanding anything to the contrary contained in this Agreement, the Authority may, after giving 60 (sixty) days' notice to the Concessionaire, assign and/ or transfer any of its rights and benefits and/or obligations under this Agreement to an assignee who is, in the reasonable opinion of the Authority, capable of fulfilling all of the Authority's then outstanding obligations under this Agreement.

ARTICLE 34: CHANGE IN LAW

34.1 Costs

34.1.1 Any increase in costs or reduction in net after tax return or other financial burden, due to Change in Law shall be borne by the respective Parties. Provided however, if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance, the Change in Law shall be deemed to be a Political Event, whereupon the provisions with respect thereto shall apply.

34.2 No claim

Notwithstanding anything to the contrary contained in this Agreement, the Authority shall not in any manner be liable to reimburse to the Concessionaire any sums on account of a Change in Law.

ARTICLE 35: LIABILITY AND INDEMNITY

35.1 General indemnity

35.1.1 The Concessionaire will indemnify, defend, save and hold harmless the Authority and its officers, servants, agents, Government Instrumentalities and Government owned and/or controlled entities/enterprises, (the "**Authority Indemnified Persons**") against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Concessionaire of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Concessionaire or from any negligence of the Concessionaire under contract or tort or on any other ground whatsoever, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Authority Indemnified Persons.

35.1.2 The Authority will indemnify, defend, save and hold harmless the Concessionaire against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of (i) defect in title and/or the rights of the Authority in the Project Site, and/or (ii) breach by the Authority of any of its obligations under this Agreement or any related agreement, which materially and adversely affect the performance by the Concessionaire of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Concessionaire, its subsidiaries, affiliates, contractors, servants or agents, the same shall be the liability of the Concessionaire.

35.2 Indemnity by the Concessionaire

Without limiting the generality of Clause 35.1 the Concessionaire shall fully indemnify, hold harmless and defend the Authority and the Authority Indemnified Persons from and against any and all loss and/or damages arising out of or with respect to:

(a) failure of the Concessionaire to comply with Applicable Laws and Applicable Permits;

(b) payment of taxes required to be made by the Concessionaire in respect of the income or other taxes of the Concessionaire's contractors, suppliers and representatives; or

(c) non-payment of amounts due as a result of materials or services furnished to the Concessionaire or any of its contractors which are payable by the Concessionaire or any of its contractors.

35.2.1 Without limiting the generality of the provisions of this Article 35, the Concessionaire shall fully indemnify, hold harmless and defend the Authority Indemnified Persons from and against any and all suits, proceedings, actions, claims, demands, liabilities and damages which the Authority Indemnified Persons may hereafter suffer, or pay by reason of any demands, claims, suits or proceedings arising out of claims of infringement of any domestic or foreign patent rights, copyrights or other intellectual property, proprietary or confidentiality rights with respect to any

materials, information, design or process used by the Concessionaire or by the Concessionaire's Contractors in performing the Concessionaire's obligations or in any way incorporated in or related to the Project. If in any such suit, action, claim or proceedings, a temporary restraint order or preliminary injunction is granted, the Concessionaire shall make every reasonable effort, by giving a satisfactory bond or otherwise, to secure the revocation or suspension of the injunction or restraint order. If, in any such suit, action, claim or proceedings, the Project, or any part thereof or comprised therein, is held to constitute an infringement and its use is permanently enjoined, the Concessionaire shall promptly make every reasonable effort to secure for the Authority a license, at no cost to the Authority, authorizing continued use of the infringing work. If the Concessionaire is unable to secure such license within a reasonable time, the Concessionaire shall, at its own expense, and without impairing the specifications and standards prescribed by the Authority (and where no standards are prescribed by the Authority then as per specifications and standards prescribed by the State Government or any State Government Instrumentality for similar nature of developments), either replace the affected work, or part, or process thereof with non- infringing work or part or process or modify the same so that it becomes non- infringing.

35.3 Notice and contest of claims

In the event that either Party receives a claim or demand from a third party in respect of which it is entitled to the benefit of an indemnity under this Article 35 (the "**Indemnified Party**") it shall notify the other Party (the "**Indemnifying Party**") within 15 (fifteen) days of receipt of the claim or demand 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 or demand, it may conduct the proceedings in the name of the Indemnified Party, subject to the Indemnified Party being secured against any costs involved, to its reasonable satisfaction.

35.4 Defense of claims

35.4.1 The Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and reasonable costs and expenses thereof shall be indemnified by the Indemnifying Party. If the Indemnifying Party acknowledges in writing its obligation to indemnify the Indemnified Party in respect of loss to the full extent provided by this Article, the Indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding, liabilities, payments and obligations at its expense and through the counsel of its choice; provided it gives prompt notice of its intention to do so to the Indemnified Party and reimburses the Indemnified Party for the reasonable cost and expenses incurred by the Indemnified Party prior to the assumption by the Indemnifying Party of such defense. The Indemnifying Party shall not be entitled to settle or compromise any claim, demand, action, suit or proceeding without the prior written consent of the Indemnified Party, unless the Indemnifying Party provides such security to the Indemnified Party as shall be reasonably required by the Indemnified Party to secure the loss to be indemnified hereunder to the extent so compromised or settled.

35.4.2 If the Indemnifying Party has exercised its rights under Clause 35.3 the Indemnified Party shall not be entitled to settle or compromise any claim, action, suit or proceeding without the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld or delayed).

35.4.3 If the Indemnifying Party exercises its rights under Clause 35.3, the Indemnified Party shall nevertheless have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless:

(a) the employment of counsel by such party has been authorized in writing by the Indemnifying Party;

(b) the Indemnified Party shall have reasonably concluded that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defense of such action;

(c) the Indemnifying Party shall not, in fact, have employed independent counsel reasonably satisfactory to the Indemnified Party, to assume the defense of such action and shall have been so notified by the Indemnified Party; or

(d) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party either:

(i) that there may be specific defenses available to it which are different from or additional to those available to the Indemnifying Party; or

(ii) that such claim, action, suit or proceeding involves or could have a Material Adverse Effect upon it beyond the scope of this Agreement:

Provided that if Sub-clauses (b), (c) or (d) of Clause 35.4.3 shall be applicable, the counsel for the Indemnified Party shall have the right to direct the defense of such claim, demand, action, suit or proceeding on behalf of the Indemnified Party, and the reasonable fees and disbursements of such counsel shall constitute legal or other expenses hereunder.

35.5 No consequential claims

Notwithstanding anything to the contrary contained in this Article, the indemnities herein provided shall not include any claim or recovery in respect of any cost, expense, loss or damage of an indirect, incidental or consequential nature, including loss of profit, except as expressly provided in this Agreement.

35.6 Limitation of Liability

Notwithstanding anything to the contrary in this Agreement, the liability of one Party towards the other Party for any damages or compensation of any nature whatsoever under this Agreement, save and except where amounts exceeding the Total Project Cost are specifically prescribed in this Agreement as Termination Payment, shall not exceed the Total Project Cost. The limitation

hereunder shall not apply to any or all liabilities in respect of third parties. The Parties agree that the Concessionaire's liability will be uncapped in case of any liabilities arising due to: (a) any amount payable as indemnity to the Authority due to its acts or omissions or fraud, gross negligence and wilful misconduct; (b) breach of any Applicable Laws or any Applicable Permits; (c) any claims or loss on account of Intellectual Property rights violation by the Concessionaire; (d) any personal bodily injury or death of any person caused by, arising out of or in connection with its performance of this Agreement; or (e) any loss of or physical damage to property of the Authority or any third part.

35.7 Survival on Termination

The provisions of this Article 35 shall survive Termination.

ARTICLE 36: RIGHTS AND TITLE OVER THE PROJECT SITE

36.1 Lessee rights

For the purpose of this Agreement, the Concessionaire shall have rights to the use of the Project Site as a Lessee subject to and in accordance with this Agreement, and to this end, it may regulate the entry and use of the Project by third parties in accordance with and subject to the provisions of this Agreement.

36.2 Access rights of the Authority and others

The Concessionaire shall allow free access to the Project Site at all times for the Authority and its authorized representatives, Lenders, and for the persons and vehicles duly authorized by any State Government Instrumentality to inspect the Project or to investigate any matter within their authority, and upon reasonable notice, the Concessionaire shall provide to such persons reasonable assistance necessary to carry out their respective duties and functions.

The Concessionaire shall, for the purpose of operation and maintenance of any utility or road specified in Article 11, allow free access to the Project Site at all times for the authorized persons and vehicles of the controlling body of such utility or road.

36.3 Property taxes

All property taxes due and payable during the Concession Period with respect to the Project Site, including taxes relating to the buildings constructed on the Project Site and Stamp Duties, if any, due and payable on the grant of lease shall be paid by the Concessionaire and shall not be reimbursed or payable by the Authority.

36.4 Right to Sub-Lease

Subject to the terms and conditions of this Agreement and Applicable Laws, the Concessionaire shall have the right to sub-lease, or otherwise permit the use and occupation of the Built-Up Area within the Project Assets to suitable end-users (hereinafter referred to as "Sub-Lessees") for the purposes permitted under this Agreement and the Project.

The Concessionaire's right to sub-lease shall be subject to the following conditions:

a. Permitted Use: Each sub-lease shall strictly limit the use of the Sub-Leased Area to the purposes permitted under this Agreement, primarily for commercial facilities, or as otherwise approved by the Authority.

b. No Superior Rights: No sub-lease shall create any right, title, or interest in favour of the Sub-Lessee that is superior to or inconsistent with the rights granted to the Concessionaire under this Agreement. The Concessionaire shall ensure that all sub-lease deeds explicitly state that the Sub-Lessee's rights are solely those of a user and are subject and subordinate to the terms of this Concession Agreement.

c. Term of Sub-Lease: The term of any sub-lease shall not exceed the remaining term of this Concession Agreement.

d. Compliance with Agreement: The Concessionaire shall ensure that all sub-lease agreements contain covenants binding the Sub-Lessees to comply with all relevant provisions of this Concession Agreement, Applicable Laws, and Applicable Permits, including but not limited to maintenance standards, utility payments, and operational guidelines.

e. Indemnity: The Concessionaire shall ensure that each sub-lease deed includes a comprehensive indemnity clause whereby the Sub-Lessee indemnifies the Concessionaire and the Authority against any claims, liabilities, losses, damages, costs, and expenses arising from the Sub-Lessee's breach of its obligations, non-compliance with laws, or any acts/omissions within the Sub-Leased Area. Nothing in any sub-lease agreement shall be construed to create a partnership, joint venture, agency, or employment relationship between any Sub-Lessee and the Authority. The Authority shall not be held liable for any claims arising from the Concessionaire's or any Sub-Lessee's performance or non-performance of their respective obligations under any sub-lease deed.

f. Transferability of Sub-Lease: The Concessionaire shall ensure that the sub-lease deeds restrict the Sub-Lessee from further sub-leasing or transferring the Sub-Leased Area without the prior written consent of the Concessionaire and, where required by the Authority, the prior written approval of the Authority.

36.5 Reporting to Authority

The Concessionaire shall, upon request, provide the Authority with copies of all executed sub-lease agreements and any other information pertaining to the sub-leasing arrangements within the Project.

36.6 Rights to Authority upon Termination of Concession Agreement

a. In the event of termination of this Concession Agreement prior to its expiry, the Authority shall have the sole discretion to decide whether to continue with the existing sub-lease agreements.

b. If the Authority decides to continue with any sub-lease deed, such sub-lease agreements shall stand transferred and novated to the Authority or its Nominated Company, and the Authority or its Nominated Company shall assume the rights and responsibilities of the Concessionaire under such sub-lease agreements.

c. If the Authority decides not to continue with a sub-lease deed, the Concessionaire shall be solely responsible for refunding any advance payments (including security deposits and advance rent) to the affected Sub-Lessees as per the terms of the respective sub-lease deeds. The Authority's obligation, if any, to make such refunds shall be limited to the amount of Termination Payment payable to the Concessionaire under this Agreement, and only to the extent the Concessionaire fails to make such refunds.

ARTICLE 37: DISPUTE RESOLUTION

37.1 Dispute resolution

37.1.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "**Dispute**") shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 37.2.

37.1.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non-privileged records, information and data pertaining to any Dispute.

37.2 Conciliation

In the event of any Dispute between the Parties, either Party may arrive at an amicable settlement thereof. Failing mediation, either Party may require such Dispute to be referred to the Secretary / Principal Secretary / Additional Chief Secretary of the Administrative Department, Government of Tamil Nadu, of the Authority and the Chairman of the Board of Directors of the Concessionaire for amicable settlement, and upon such reference, the said persons shall meet no later than 7 (seven) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 7 (seven) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 37.1.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 37.3.

37.3 Arbitration

37.3.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 37.2, shall be finally decided by reference to arbitration by an arbitral tribunal constituted in accordance with Clause 37.3.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the Nani Palkhivala Arbitration Centre, Chennai (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. The place of such arbitration shall be the Chennai and the language of arbitration proceedings shall be English.

37.3.2 There shall be an arbitral tribunal comprising three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so selected and in the event of disagreement between the two arbitrators, the appointment shall be made in accordance with the Rules.

37.3.3 The arbitral tribunal shall make a reasoned award (the "**Award**"). Any Award made in any

arbitration held pursuant to this Article shall be final and binding on the Parties as from the date it is made, and the Concessionaire and the Authority agree and undertake to carry out such Award without delay.

37.3.4 The Concessionaire and the Authority agree that an Award may be enforced against the Concessionaire and/or the Authority, as the case may be, and their respective assets wherever situated.

37.3.5 This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

ARTICLE 38: DISCLOSURE

38.1 Disclosure of Specified Documents

The Concessionaire shall make available for inspection by any person, copies of this Agreement during normal business hours on all working days at the Concessionaire's office.

38.2 Withholding disclosure of Protected Documents

Notwithstanding the provisions of Clauses 38.1, the Authority shall be entitled to direct the Concessionaire, from time to time, to withhold the disclosure of Protected Documents the disclosure of which the Authority is entitled to withhold under the provisions of the Right to Information Act, 2005 to any person in pursuance of the aforesaid Clause.

ARTICLE 39: DELETED

ARTICLE 40: MISCELLANEOUS

40.1 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, Tamil Nadu shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

40.2 Waiver of immunity

Each Party unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) 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 Party with respect to its assets;

(c) 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

(d) 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).

40.3 Delayed payments

40.3.1 The Parties hereto agree that payments due from one Party to the other Party under the provisions of this Agreement shall be made within the period set forth therein, and if no such period is specified, within 30 (thirty) days of receiving a demand along with the necessary particulars. In the event of delay beyond such period, the defaulting Party shall pay interest for the period of delay calculated at a rate equal to 2% (two per cent) above the prevailing SBI MCLR, and recovery thereof shall be without prejudice to the rights of the Parties under this Agreement including Termination thereof.

40.3.2 Unless otherwise specified, any interest payable under this Agreement shall accrue on a daily outstanding basis and shall be compounded on the basis of quarterly rests.

40.4 Waiver

40.4.1 Waiver, including partial or conditional waiver, by either Party of any default by the other Party in the observance and performance of any provision of or obligations under this Agreement:

(a) 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;

(b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

(c) shall not affect the validity or enforceability of this Agreement in any manner.

40.4.2 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 the other Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

40.5 Liability for review of Documents

Except to the extent expressly provided in this Agreement

(a) no review, comment or approval by the Authority, of any Project Agreement, Document or Drawing submitted by the Concessionaire nor any observation or inspection of the construction, operation or maintenance of the Project nor the failure to review, approve, comment, observe or inspect hereunder shall relieve or absolve the Concessionaire from its obligations, duties and liabilities under this Agreement, Applicable Laws and Applicable Permits; and

(b) The Authority shall not be liable to the Concessionaire by reason of any review, comment, approval, observation or inspection referred to in sub-clause (a) above.

40.6 Exclusion of implied warranties etc.

This Agreement expressly excludes any warranty, condition or other undertaking implied at law or by custom or otherwise arising out of any other agreement between the Parties or any representation by either Party not contained in a binding legal agreement executed by both Parties. Further, the Parties agree that there is no express or implied warranty or guarantee given by the Authority to the Operator of any minimum business or minimum sales or revenue generation at the Project Facility and no term of this Agreement shall be interpreted to imply any such warranty or guarantee.

40.7 Survival

40.7.1 Termination shall:

(a) Not relieve the Concessionaire or the Authority, as the case may be, of any obligations

hereunder which expressly or by implication survive Termination hereof; and

(b) except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, 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.

40.7.2 All obligations surviving Termination shall only survive for a period of 3 (three) years following the date of such Termination.

40.8 Entire Agreement

This Agreement and the Schedules together with the Annexes, constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn. For the avoidance of doubt, the Parties hereto agree that any obligations of the Concessionaire arising from the Request for Proposals shall be deemed to form part of this Agreement and treated as such.

40.9 Severability

If for any reason whatsoever, 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 the Dispute Resolution Procedure set forth under this Agreement or otherwise.

40.10 No partnership

This Agreement shall not be interpreted or construed to create an association, joint venture or partnership between the Parties, or to impose any partnership obligation or liability upon either Party, and neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

40.11 Third parties

This Agreement is intended solely for the benefit of the Parties and their respective successors and permitted assigns, and nothing in this Agreement shall be construed to create any duty to, standard of care with reference to, or any liability to, any person not a party to this Agreement.

40.12 Successors and assigns

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

40.13 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

(a) in the case of the Concessionaire, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the person set out below or to such other person as the Concessionaire may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside Chennai may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the Concessionaire may from time to time designate by notice to the Authority.

{Attention:

Designation:

Address:

Fax No:

Email :}

(b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand at the address given below and be addressed to the person named below with a copy delivered to the Authority Representative or such other person as the Authority may from time to time designate by notice to the Concessionaire; provided that if the Concessionaire does not have an office in Chennai it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier.

{Name:

Designation:

Address:

Fax No:

Email :}; and

(c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post, it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile

or e-mail, it shall be deemed to have been delivered on the working day following the date of its delivery.

40.14 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

40.15 Counterparts

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

ARTICLE 41: DEFINITIONS

41.1 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:

"**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 Auditors**" shall have the meaning set forth in Clause 26.2.3;

"**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:

(a) 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;

(b) from COD till the expiry of the Concession Period, an amount equal to the Adjusted Equity as on COD shall be deemed to be the base (the "**Base Adjusted Equity**") and the Adjusted Equity hereunder shall be a sum equal to the Base Adjusted Equity, revised at the commencement of each year following COD to the extent of variations in WPI occurring between COD and Reference Date;

For the avoidance of doubt, the Adjusted Equity shall, in the event of Termination, be computed as on the Reference Date immediately preceding the Transfer Date; provided that no reduction in the Adjusted Equity shall be made for a period equal to the duration, if any, for which the Concession Period is extended, but the revision on account of WPI shall continue to be made.

"**Affected Party**" shall have the meaning set forth in Clause 27.1;

"**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;

"**Annual Concession Fee**" shall have the meaning set forth in Clause 22.1.2;

"**Applicable Laws**" means all laws, brought into force and effect by GOI or the State Government including rules, regulations together with development control regulations of CDMA, Tamil Nadu Combined Development and Building Rules, 2019 (as applicable from time to time) with any amendments thereon, etc. 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, applicable Development Control Regulations/Zoning Regulations and exemptions required to be obtained or maintained under Applicable Laws in connection with the 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 or waived, in accordance with the provisions of this Agreement, and such date shall be the date of commencement of the Concession Period. For the avoidance of doubt, every Condition Precedent shall have been satisfied or waived prior to the Appointed Date and in the event all Conditions Precedent are not satisfied or waived, as the case may be, the Appointed Date shall be deemed to occur only when each and every Condition Precedent is either satisfied or waived, as the case may be;

"**Arbitration Act**" means the Arbitration and Conciliation Act, 1996 and shall include modifications to or any re-enactment thereof, as in force from time to time;

"**Associate**" or "**Affiliate**" means, in relation to either Party, a person who controls, is controlled by, or is under the common control with such Party. For the purposes of this definition, the term "control" (including with correlative meaning, the terms "controlled by" and "under common control with") as applied to any Party or Bidder, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of that Party or Bidder whether through ownership of 50 (fifty) % or more of the voting securities, 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 set forth in Clause 30.2;

"**Authority Indemnified Persons**" shall have the meaning set forth in Clause 35.1.1;

"**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}* 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 Due Date**" means the last date on which the Bid may have been submitted in accordance

with the provisions of the Request for Proposals;

"**Bid Documents**" shall collectively mean RFP, any addendum, corrigendum thereof, including the draft Concession Agreement, provided by the Authority for this Project.

"**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;

"**Change in Law**" means the occurrence of any of the following after the Bid Date:

(a) The enactment of any new Indian law;

(b) The repeal, modification or re-enactment of any existing Indian law as applicable to the State;

(c) The commencement of any Indian law, as applicable to the State, which has not entered into effect until the Bid Date;

(d) a change in the interpretation or application of any Indian law, as applicable to the State, 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;

"**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} in the total Equity of the Concessionaire to decline below (i) 100% (hundred per cent) thereof till the 5th (fifth) anniversary of the COD and (ii) 51 (fifty one percent) thereof till the 10th (tenth) anniversary of the COD.

"**CMDA**" Chennai Metropolitan Development Authority

"**COD**" or "**Commercial Operation Date**" shall have the meaning set forth in Clause 15.1;

"**Commercial Complex Facility**" means the built-up spaces and area designed and developed as per Applicable Laws and Applicable Permits at the Project Site, primarily for various business activities featuring a variety of retail stores, office spaces, restaurants, entertainment venues, cafes, food courts, service centers, etc. along with appropriate & adequate parking spaces in addition to the built-up area specified under the Minimum Development Requirements;

"**Completion Certificate**" shall have the meaning set forth in Clause 14.2;

"**Concession**" shall have the meaning set forth in Clause 3.1.1;

"**Concessionaire**" shall have the meaning attributed thereto in the array of Parties hereinabove as set forth in the Recitals;

"**Concession Period**" means the period starting on and from Appointed Date and ending on the Transfer Date;

"**Concessionaire Default**" shall have the meaning set forth in Clause 30.1.1;

"**Conditions Precedent**" shall have the meaning set forth in Clause 4.1.1;

"**Construction Period**" means the period beginning from the Appointed Date and ending on Project Completion;

"**Construction Works**" means all works and things necessary to complete the construction of the Project, Project Utilities and Project Facilities 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;

"**Covenant**" shall have the meaning set forth in Clause 5.2.4;

"**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:

(a) 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;

(b) not relieve any Party from liability to pay Damages or compensation under the provisions of this Agreement; and

(c) 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 Expert hereunder, the applicable Cure Period shall be extended by the period taken by the Authority to accord their approval;

"**Damages**" shall have the meaning set forth in Sub-clause (w) of Clause 1.2.1;

"**DBFOT**" or "**Design, Build, Finance, Operate and Transfer**" shall have the meaning as set forth in Recital (B);

"**Debt Due**" means the aggregate of the following sums expressed in Indian Rupees outstanding on the Transfer Date:

(a) the principal amount of the debt provided by the 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; and

(b) 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 Lenders', and (iii) any pre-payment charges in relation to accelerated repayment of debt except where such charges have arisen due to Authority Default;

Provided that if all or any part of the Debt Due is convertible into Equity at the option of the 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; provided further that the Debt Due, on or after COD, shall in no case exceed 70% (seventy percent) of the Total Project Cost;

"**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 Plan**" means the detailed design, drawings and plans (as per statutory requirements under applicable laws) of the Project Facility prepared in line with the (i) Applicable Laws including applicable Development Control Regulations/ Zoning Regulations; (ii) scope of the Project developments as set out under Schedule-B together with provision of Mandatory Development Requirements as specified in Schedule-C; (iii) coverage/ inclusions with regard to any infrastructure including basic amenities & utilities incidental to the Project; and (iv) provisions of this Agreement, and submitted to the Authority (and also to CMDA, if required depending on the size of the facility proposed to be developed) for approval, being the competent authority/ies to grant approval under the Applicable Laws;

"**Dispute**" shall have the meaning set forth in Clause 37.1.1;

"**Dispute Resolution Procedure**" means the procedure for resolution of Disputes set forth in Article 37;

"**Divestment Requirements**" means the obligations of the Concessionaire for and in respect of Termination as set forth in Clause 31.1;

"**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 and shall include 'as built' drawings of the Project;

"**Emergency**" means a condition or situation that is likely to endanger the security of the individuals on or about the Project, including public 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;

"**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;

"**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 set forth in Clause 24.1;

"**Escrow Bank**" shall have the meaning set forth in Clause 24.1;

"**Escrow Default**" shall have the meaning set forth in Schedule-M;

"**Financial Close**" means the fulfilment of all conditions precedent to the initial availability of funds under the Financing Agreements or ready availability of an amount equal to atleast 30% (thirty percent) of the entire (100%) Equity committed by the Concessionaire for financing the Total Project Cost in the Escrow Account in terms of Clause 5.14;

"**Financial Default**" shall have the meaning as set forth in Schedule-O;

"**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 27.1;

"**Force Majeure Costs**" shall have the meaning set forth in Clause 27.7.2;

"**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;

"**Government**" means the State Government of Tamil Nadu;

"**Government Instrumentality**" means any department, division or sub-division of the Government of Tamil Nadu and includes CMDA, any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government of Tamil Nadu, 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;

"**Gross Revenue**" of the Project Facilities for and in respect of any Accounting Year shall mean the total amount of Gross Revenues and receipts of every kind (from both cash and credit transactions computed prior to payment of any commission or service charge or fee thereon) derived by the Concessionaire from the operation of the Project Facilities and provision of Associated Services, and/or any other activity related to the Project, if any, and shall include revenues and receipts from and on account of Rental Charges, sublease rent, tariff, insurance, interest, parking, use of spaces for rent or fee of every description and kind, and any other services or facility provided by the Concessionaire, but shall exclude the following:

a. All statutory applicable indirect Taxes such as GST and the like by whatever name called now or in future, which the Concessionaire is bound to pay;
b. Any revenue earned by the Concessionaire on sale of assets of a capital nature which are owned by the Concessionaire; and

For avoidance of doubt, Gross Revenue shall also include any amount received by the Affiliate/Non-Affiliate/Third party to whom the Concessionaire has contracted any Associated

Services and/or any other activity related to the Project;

"**Indemnified Party**" means the Party entitled to the benefit of an indemnity pursuant to Article 35;

"**Indemnifying Party**" means the Party obligated to indemnify the other Party pursuant to Article 35;

"**Indirect Political Event**" shall have the meaning as set forth in Clause 27.3;

"Insolvency Event" in respect of a Party means: (a) such Party has (A) applied for or consented to the appointment of, or the taking of possession by, a receiver, custodian, trustee, administrator, liquidator or the like of itself or of all or a substantial part of its assets or business; (B) been unable to pay its debts as such debts become due; (C) enters into a compromise arrangement with its creditors ; (D) an attachment or restraint has been levied on the assets of such entity Party which materially affects such Party's ability to perform its obligations under this Agreement; (E) commenced proceedings under the (Indian) Insolvency and Bankruptcy Code, 2016 ("**Code**"); (F) filed a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up, or composition or readjustment of debts; or (G) taken any corporate or other action for the purpose of effecting any of the foregoing; or (b) a proceeding or case has been commenced without the application or consent of such Party in any court of competent jurisdiction seeking (A) its liquidation, reorganization, dissolution or winding-up or the composition or readjustment of debts or, (B) the appointment of an insolvency resolution professional, a trustee, receiver, custodian, administrator, liquidator or the like of such Party under the Code and an order admitting the insolvency petition has been passed in such proceeding and such order has not been stayed or dismissed within a period of [90 (ninety)] days or (C) directions with the same or similar effect happen under the provisions of the Companies Act, 1965 or the Companies Act, 2013 or the Code in relation to the winding up of the company;

"**Insurance Cover**" means the aggregate of the maximum sums insured under the insurances taken out by the Concessionaire pursuant to Article 25, and includes all insurances required to be taken out by the Concessionaire under Clause 25.2 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;

"**Lenders' Representative**" means the person duly authorized by the Lenders to act for and on behalf of the Lenders with regard to matters arising out of or in relation to this Agreement, and includes his successors, assigns and substitutes;

"**Leased Premises**" shall have the meaning set forth in Clause 10.2.2;

"**Maintenance Requirements**" shall have the meaning 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;

"**Minimum Development Requirements**" shall have the meaning set forth in Clause 5.11;

"**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 27.2;

"**O&M**" means the operation and maintenance of the Project and includes all matters connected with or incidental to such operation and maintenance, provision of services and facilities, and collection of Parking Fee, Rental Charges or any form of revenue 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) premier 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;

"**Operation Period**" means the period commencing from COD and ending on the Transfer Date;

"**Operational Standards**" means the standards set forth in Schedule-D;

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

parties to this Agreement individually;

"**Performance Security**" shall have the meaning set forth in Clause 9.1;

"**Political Event**" shall have the meaning as set forth in Clause 27.4;

"**Preservation Costs**" shall have the meaning set forth in Clause 13.5.3;

"**Project"** shall mean designing, engineering, procuring, financing, construction, operation and maintenance of the Commercial Complex Facility along with associated amenities & facilities and other infrastructure, services, etc. on DBFOT basis in accordance with the provisions of this Agreement and Schedules hereof, and includes all works, services and equipment relating to or in respect of the Scope of the Project and subsequent transfer of the same to the Authority at the end of the Concession Period or prior on termination of the Concession Agreement;

"**Project Agreements**" means this Agreement, the Financing Agreements, EPC Contract, O&M Contract, hire purchase, agreements, implementation agreements, lease and sub-lease deeds, 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 or the Substitution Agreement;

"**Project Assets**" means all physical and other assets relating to and forming part of the Project Site including (a) rights over the Project Site in the form of lease, Right of Way or otherwise; (b) tangible assets such as civil works and equipment including foundations, drainage works, pavements, electrical systems, communication systems, digitized billing system/ Parking Fee/ Rental Charges/ revenue collection systems and administrative offices; (c) facilities situated on the Project Site; (d) all intangible assets (e) all rights of the Concessionaire under the Project Agreements; (f) financial assets, such as receivables, security deposits etc.; (g) insurance proceeds; and (h) Applicable Permits and authorizations relating to O&M of the Project;

"**Project Completion**" means the completion of the Construction Works;

"**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 Facility/ies" shall mean all infrastructure facilities developed herein including the Commercial Complex Facility and other related structures, buildings, internal & external building services etc., common areas to be developed, designed, financed, constructed, upgraded, completed, commissioned, operated and maintained at the Project Site along with any Project Utilities, and other infrastructure considered ancillary and incidental to the Project Site, which are operated, managed and maintained by the Concessionaire in terms of this Agreement;

"**Project Milestones**" means the project milestones as set forth in Schedule-G;

"**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;

"**Revenue Share**" shall have the meaning as set forth in Clause 22.1.3;

"**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 Delhi by the State Bank of India, and in the absence of such rate, the average of similar rates quoted in Delhi by the Bank of India and the Bank of Baroda;

"Rental Charges" refers to all fees, charges, and revenue collected by the Concessionaire from users in connection with the Project. This includes, but is not limited to, sub-leasing revenue/charges, parking fees, maintenance charges, advertising fees, charges for any value added services, etc. Additionally, it covers revenue derived from subcontracting, or any other arrangement related to the Project;

"**Request for Proposal**" or "**RFP**" shall have the meaning as set forth in Recital (C);

"**Right of Way**" means the constructive possession of the Project 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 set forth in Clause 18.1;

"**SBI MCLR**" means the prevailing marginal cost of funds based lending rate for a tenor of 1 (one) 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 set forth in Clause 2.1;

"**Senior Lenders**" or "**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 pari passu charge on the assets, rights, title and interests of the Concessionaire;

"**Site" or "Project Site**" shall have the meaning as set forth in Clause 10.1;

"**Specified Documents**" shall have the meaning set forth in Clause 38.1;

"**State**" means the State of Tamil Nadu and "**State Government**" means the government of the State of Tamil Nadu;

"**State Government Instrumentality**" means any department, division or sub-division of the Government of Tamil Nadu and includes CMDA, any commission, board, authority, agency or municipal and other local authority or statutory body, including Panchayat, under the control of the Government of Tamil Nadu, 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;

"**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 statutory modification or re-enactment thereof, for the time being in force, and appointed in accordance with Clause 26.2.1.

"**Sub-Leased Area**" shall mean the built-up spaces in the Commercial Complex Facility sub-leased to sub-lessees by the Concessionaire for the purpose of carrying out permitted commercial activities.

"**Substitution Agreement**" shall have the meaning set forth in Clause 33.3.1 of this Agreement.

"**Suspension**" shall have the meaning set forth in Clause 29.1;

"**Taxes**" means any Indian taxes including Goods and Service Tax (GST), 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 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, under and in accordance with this Agreement, by the Authority to the Concessionaire upon Termination;

"**Tests**" means the tests to be carried out to determine the completion of the Project in accordance with the provisions of this Agreement;

"Total Project Cost" or "TPC" means the capital cost incurred on construction and financing of the Project and shall be limited to lowest of:

(a) the capital cost of the Project, as set forth in the Financial Package or in the Financial Model where such cost is being financed entirely through Equity by the Concessionaire; and

(b) the actual capital cost of the Project upon completion of the Project

provided that in the event of Termination, the Total Project Cost shall be deemed to be modified to the extent of variation in WPI occurring in respect of Adjusted Equity and Debt Due, as the case may be, in accordance with the provisions of this Agreement; provided further that in the event WPI increases, on an average, by more than 6% (six per cent) per annum for the period between the date hereof and COD, the Parties shall meet, as soon as reasonably practicable, and

agree upon revision of the amount hereinbefore specified such that the effect of increase in WPI,

SIGNED AND DELIVERED For and on behalf of THE **AUTHORITY** by:	**SIGNED AND DELIVERED** For and on behalf of THE **CONCESSIONAIRE** pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the …… day of 202__…… 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) (Name) (Designation)	(Signature) (Name) (Designation)
In the presence of witnesses:	
1.	2.

in excess of such 6% (six per cent), is reflected in the Total Project Cost;

"**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;

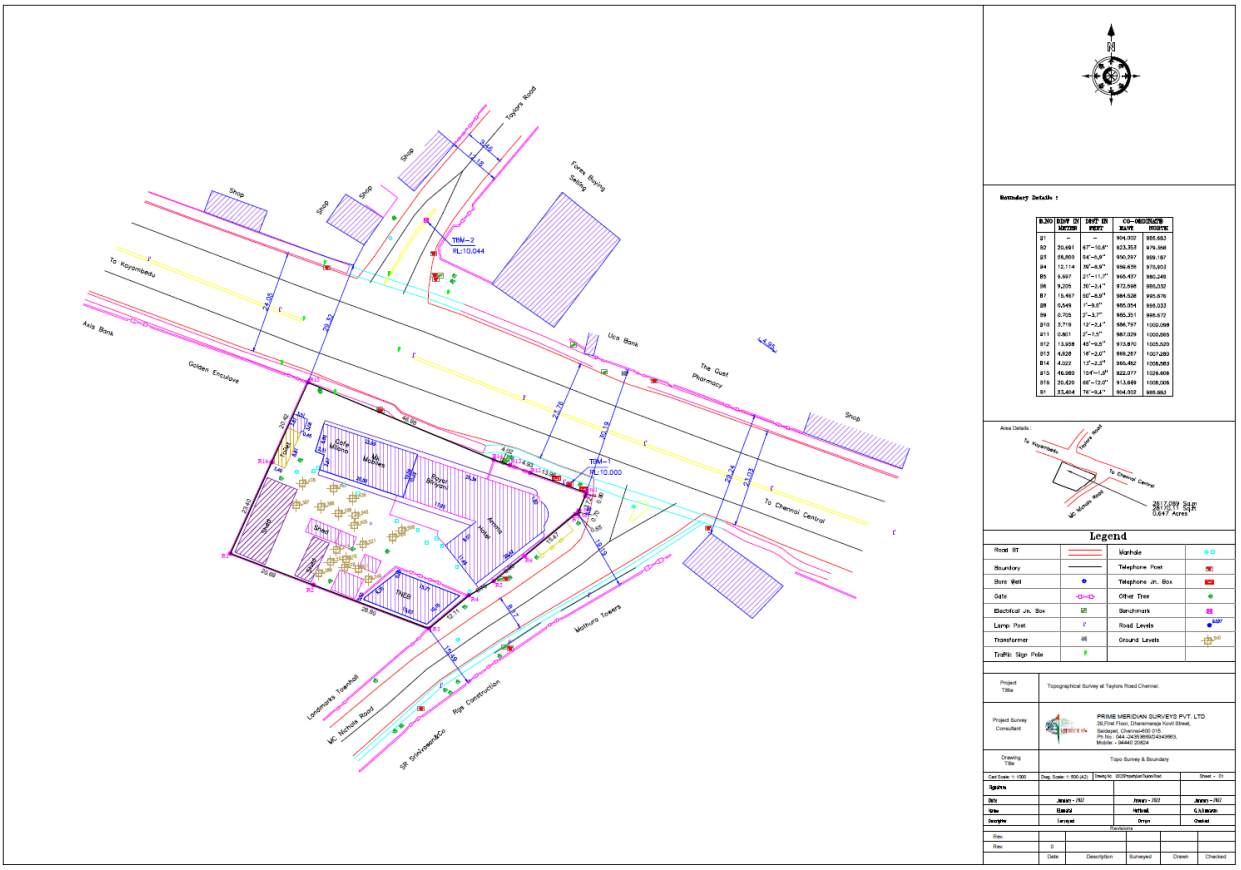
"**Vesting Certificate**" shall have the meaning set forth in Clause 31.4;

"**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.

SCHEDULES

SCHEDULE-A: SITE OF THE PROJECT



SCHEDULE-B: SCOPE OF THE PROJECT

1. **Objective:** To Design, Build, Finance & Construct the minimum development criteria as detailed in the agreement, to develop any other additional facility, amenities, Commercial Complex Facility within the specified timeline, to ensure availability of the said development completely in a hassle free, clean and hygiene environment for all the users and to handover the property upon completion of concession period in good working condition without compromising the title or interest of the authority.

2. Scope of Work

The scope of work is primarily divided into three stages namely development, operations and maintenance and Handover upon completion of concession period. Though the scope includes all the activities required for fulfilling the objective some of them are detailed hereunder as per project timeline.

a. Development Phase

i. Taking over of encumbrance free site to Plan, Design, Finance and establish the Project Facility, including Construction, Marketing, provision of relevant assets, equipment, facilities, Clearances/approvals, ancillary services and amenities related to the Commercial Complex Facility conforming to Building Bye-Laws and regulations and as per terms of the Agreement and Schedules hereof.

ii. Site clearance and cordoning off the site; providing and deputing of Security including dismantling of incorrect work, removal of debris to specified debris disposal sites (shall be property of Concessionaire) etc.

iii. Planning & Designing, to obtain necessary approvals including planning and structural approval, arrange for required funding and to construct Commercial Complex Facility to be developed at the Project Site as per the laid down provisions of the Concession Agreement and Schedules hereof. Timely completion of the construction activity and to ensure availability of envisaged facility as per timelines of the Concession Agreement.

iv. Ensure adherence & conformity with all the Applicable Laws & Permits including building byelaws and acts, rules and applicable regulations etc. with respect to development and operational requirement

b. Operations and Maintenance

i. Commercial Complex Facility

1. Operations and maintenance as per the provisions in the Concession Agreement and Schedules hereof
2. To undertake periodic maintenance and refurbishment for the entire facility once in every 3 Years to ensure that the optimum life of the developed facility is achieved
3. Provision of sufficient number of stairs and lifts in the Commercial Complex Facility for smooth and vertical movement of users.
4. Entry and exits for the Commercial Complex Facility shall be provided and developed considering proper overall Traffic Circulation within the complex and on roads outside the complex.

ii. Common / Other Facilities

1. Determine, demand, levy, collect, enforce, retain and appropriate Rental Charges including Service Charges on the commercial developments if any from the sub-lessees as per the laid down provisions of the Concession Agreement and the Schedules hereof.
2. Determine, demand, levy, collect, enforce, retain and appropriate Rental Charges for other activities such as advertisement, events and activities etc. with the approval of the authority as per applicable law
3. To make payment of all applicable existing and future taxes, charges, fees, levies, Concession Fee etc. as may be applicable to the Project and/ or any activities in pursuance of the Concession Agreement during the Concession Period.

4. Ensure Structural & Quality audit is undertaken every year for the entire facility and ensure optimal functioning of the entire facility
5. To undertake maintenance of all the common area
6. Ensure adherence with KPI and to maintain the property without causing any damages to the structure with clean & hygienic environment
7. Complete security system shall be arranged including CCTV Cameras, Boom Barriers, access-based entries etc. wherever possible.
8. All the open spaces in and around the Project Facility/ Complex shall be landscaped
9. Performance and fulfillment of all other obligations of the Concessionaire in accordance with the provisions of this Agreement and matters incidental thereto or necessary for the performance of any or all of the obligations of the Concessionaire under this Agreement

iii. Handover Stage

1. Handover of the Project Facility without any defect in good condition excluding normal wear and tear as per directions of the Authority.
2. Ensure that all the details of existing contracts, guarantees and warranties, maintenance manuals etc. is handed over to the Authority.
3. Ensure that no advances, loans, dues or outstanding balances, statutory dues, utility bills payments etc. are there as on date of completion.
4. The Project Facility shall be handed-over to the Authority clear and free of all encumbrances in compliance with the Divestment Requirements set forth in the Concession Agreement.

SCHEDULE-C: MINIMUM DEVELOPMENT REQUIREMENT

Minimum Built-up Area Requirements: Reinforced Cement Concrete (RCC) Commercial Complex Facility building with not less than 1,00,000 (one lakh) sq. ft. built-up area for commercial and/or retail purposes.

The design shall be modern, aesthetically pleasing.

The Commercial Complex Facility may incorporate advanced energy-efficient design principles and technologies..

All design and construction shall strictly comply with the Tamil Nadu Combined Development and Building Rules, 2019, (TNCDBR) along with any amendments to the TNCDBR rules thereon and all other relevant local municipal bylaws, fire safety regulations and environmental norms.

The Concessionaire shall be solely responsible for obtaining all necessary statutory approvals from relevant authorities.

SCHEDULE-D: DELETED

SCHEDULE-E: APPLICABLE PERMITS

1 Applicable Permits

1.1 The Concessionaire shall obtain, as required under the Applicable Laws, the following Applicable Permits (***including but not limited to***) on or before the Appointed Date in accordance with Clause 4.1.3 of the Agreement:

S.No.	AN INDICATIVE LIST
1.	Statutory approvals for design, plans, etc.
2.	Water Connection
3.	Shifting of Services and Utilities
4.	Application for PAN, GST, ESI, EPF and other mandatory registrations etc. as required as per Applicable Laws
5.	Electricity Connection
6.	Clearance for employing labour as Primary Employer
7.	Employment of migrant labour
8.	Cutting of Trees
9.	License for Installation of Lifts/Elevators/Escalators
10.	Fire NOC
11.	Sewerage connection
12.	Boiler and Diesel Generator Set
13.	Labour Camps
14.	Working in Night Shifts
15.	NOCs from Pollution Control Board
16.	All Operation Licenses including from FSSAI
17.	Any other approvals, permits or clearance /No Objection Certificates required under Applicable Laws

1.2 The list of Applicable Permits as tabulated above is only indicative. The Concessionaire to do its due diligence and determine the kind, nature and extent of Applicable Permits required to implement the Project and to keep the Project in compliance with the Applicable Permits at all times during the Concession Period.

SCHEDULE-F: PERFORMANCE SECURITY

To,
<Insert Designation and Address of the Authority>

WHEREAS:

A. _____(the "**Concessionaire**") and _____, Greater Chennai Corporation having its principal office at _____ (the "**Authority**") having to enter into a Concession Agreement (the "**Agreement**") for the ***"Development of Commercial Complex Facility at EVR Periyar Salai in Chennai City on 'DBFOT' Basis "*** (the "**Project**") including any extension in Concession Period, subject to and in accordance with the provisions of the Agreement.

B. The Agreement requires the Concessionaire to furnish a Performance Security to the Authority in a sum of Rs. [▪] (the "**Guarantee Amount**") as security for due and faithful performance of its obligations, under and in accordance with the Agreement, during the Concession 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 and undertakes to pay to the Authority upon occurrence of any failure or default in due and faithful performance of all or any of the Concessionaire's obligations, under and in accordance with the provisions of the Agreement, on 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 up to 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 of _____(mention designation of the officer) in the Greater Chennai Corporation 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 Concession 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. Notwithstanding anything contained herein, the liability of the Bank under this Guarantee is restricted to the Guarantee Amount and this Guarantee shall be unconditional and irrevocable and will remain in force throughout the Concession Period and until the expiry of 6 months after Concession Period 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.

8. The Performance Security shall be released within 6 (six) months after the expiry of Concession Period provided the Concessionaire is not in breach of this Agreement. 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.

9. 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.

10. 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 authorized 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. The Bank shall also accept e-mail as a valid notice of claim by the Authority delivered to [insert e-mail id of the Bank]

11. This Guarantee shall come into force with immediate effect and shall remain in force and effect until the expiry of 6 (six) months after the expiry of Concession Period or until it is released earlier by the Authority pursuant to the provisions of the Agreement.

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)
(Address)

NOTES:

(i) The bank guarantee should contain the name, designation and code number of the officer(s) signing the guarantee.

(ii) 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: PROJECT COMPLETION SCHEDULE

(As per the approved Development Plan)

SCHEDULE-H: COMPLETION CERTIFICATE

TO WHOM IT MAY CONCERN

1. The Greater Chennai Corporation, in accordance with the Concession Agreement dated _____(the "**Agreement**"), for ***Development of Commercial Complex Facility at EVR Periyar Salai in Chennai City on 'DBFOT' Basis*** (the "**Project"**) through _____(Name of Concessionaire), hereby certify that the Tests specified in Article 14 of the Agreement have been successfully undertaken to determine compliance of the Project with the provisions of the Agreement, and the Greater Chennai Corporation is satisfied that the Project can be safely and reliably placed in service thereof.

2. 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 operation on this the ****day of **** 20**.

SIGNED, SEALED AND DELIVERED

For and on behalf of the Greater Chennai Corporation by:

(Signature)

(Name)

(Designation)

(Address)

AGREED, ACCEPTED AND SIGNED

For and on behalf of the Concessionaire by:

(Signature)

(Name)

(Designation)

(Address)

SCHEDULE-I: MAINTENANCE REQUIREMENTS

The overall responsibility of the concessionaire with respect to operations and maintenances shall be in line with the objective and scope of work as detailed in the agreement. Though the Schedule I details maintenance requirements, any additional maintenance or operational requirement for meeting out the requirement of the authority shall be the responsibility of the concessionaire.

Traffic Management

a. Concessionaire shall keep all entrances, exits and access road of the facility clear from vehicular and other obstructions, thus maintaining free flow of traffic at access roads at all times
b. To ensure not more than 3 vehicles are on queue at the entry or exit points always
c. To provide proper signages for vehicular movement for entry, exit etc., display for number of parking slots available in all the floors, providing overall status for the users, to provide for the data on real time basis as per requirement of authority in the specified formats

Staffing and Personal Training

a. Concessionaire shall make provision of adequate staff required for construction, operation, maintenance and management of facility as prescribed in the staffing plan approved by the IE.
b. Concessionaire shall ensure that only trained staffs are engaged in the delivery of the Services all the times who are properly adequately notified, educated, instructed and informed to take care of daily operations
c. Concessionaire shall ensure that all staff are properly and presentably dressed in appropriate uniforms and work wears and wear identification badges at all times while working in the facility
d. To adhere with all applicable labour laws, safety standards etc., for all the staffs as per best industry standards

Security

a. Concessionaire shall take all reasonable precautions to ensure that no theft, injury to visitors or their property does not happen in the project facility

b. Concessionaire shall make a provision of adequate security to prevent any theft and provide a 24-hour surveillance system which continuously monitors and controls entry into and exit from the facility. A Closed-Circuit Television (CCTV) network shall be provided for security and surveillance as well as for central monitoring purposes. Further access-controlled entry and exit system for vehicles shall be provided
c. Concessionaire shall take the responsibility of the parked vehicles without any liability of the Authority against the damage of the parked vehicles. The Authority shall be indemnified by the Concessionaire for any claim that may be brought against the Authority in this regard
d. To provide complete support to the authority, Tamil Nadu Police Department or any other authorized person by providing all the data immediately without any delay in case of any unforeseen events

Services Level Specifications/ Performance Standards for Maintenance

a. Buildings
    i. All elements of external and internal building (Including fixtures, fittings, floor, and floor-coverings), finishes, furniture and equipment or a services system component shall be functional, operational and satisfy the performance requirement.
    ii. Building shall be free from damp penetration, debris and moss growth.
    iii. Free from structural cracks and / or deflection.
    iv. Function as intended & free from all but minor surface blemishes and wear and tear, corrosion.
    v. Floor/ floor covering is free from tears, scoring, cracks or any other damage that is unsightly and/ or could cause a health and safety hazard.
    vi. Façade is maintained by timely intervention and regular painting
b. Distribution System: Distribution system (including distribution equipments, protective devices, fuse switches, isolators, distribution boards, cables systems for IT, Lighting, communication, safety, alarm system)
    i. Ratings clearly marked,
    ii. Fuse elements and circuit breakers mechanism in working order,
    iii. Contact and connection clean and mechanically tight,
    iv. No overheating during normal operating loads
    v. Cable joining boxes free from compound leaks

vi. Marking and covering notices wherever necessary
vii. All electrical installation to comply with IS Codes
viii. Wiring, fittings, fixtures, controls and safety devices shall be properly housed and fastened securely to their intended point of anchorage and label

c. Water Systems: Pipe network and fittings shall be fastened securely to their intended points of anchorage and there shall be no drips and leaks of water from pipe network, taps, valves and/or fittings.
   i. All pipe network and fittings fastened securely to the intended points of anchorage
   ii. There shall be no leaks of waste and / or foul water and / or rainwater
   iii. Shall be provided with suitable pumping system for pumping of waste water into sewers to avoid any risk of sewerage heading back into the basement at any time.
d. Fire Fighting Equipment
   i. Fire safety systems complaint with statutory regulations and service standards at all times
   ii. Fire extinguisher and fire-fighting equipment shall be maintained as per IS code
   iii. Fully operational within manufacturer's recommendations
   iv. Hydrants, sprinklers and hoses shall be at correct operating pressure and capacity
   v. Pipe network free from corrosion, leaks and drips
   vi. The maintenance and Operation Manual shall have a write up on the procedure to be followed in case of fire
   vii. There has to be a description of the system used for fire-fighting and schedule of maintenance and refilling, if any.
   viii. There shall be drawing showing the location of the detectors and nozzles for distribution / spraying of the fire-fighting media.
e. Horticulture: Trees, Shrubs Hedges, Grassed areas, Flower beds trimmed, pruned and / or cut to maintain healthy growth including manuring, mulching, watering, de-weeding etc.
f. Site Circulation Routes including paving, paths, driveways, roads, parking area, facility entrance as to maintained without any undulations, damages, cracks etc. and shall be painted at regular intervals
g. Signs and marking

i. Be in appropriate locations
ii. Highly visible during day and night
iii. Offers clear and concise information

h. Gutter and Drains: Free from litter, leaves, weeds, extraneous material and bad smell
i. Utilities Maintenance
    i. Any disruption in power supply shall be rectified in six hours. Standby power supply shall be ready to be operated and should be available 24 hours. Standby power source shall be operational secure and tested regularly.
    ii. Ensure utility infrastructure like water supply, drainages, communication system is maintained in fully functioning conditions

SCHEDULE-J: SAFETY REQUIREMENTS

1. Guiding principles

1.1. Safety Requirements aim at reduction in injuries, loss of life and damage to property resulting from accidents on or about the Project, irrespective of the person(s) at fault.

1.2. 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.

1.3. Safety Requirements include measures associated with safe movement, safety management, safety equipment, fire safety, enforcement and emergency response, with particular reference to the Safety Guidelines specified in Annex - l of this Schedule J.

2. Obligations of the Concessionaire

(a) The Concessionaire shall abide by the following: Applicable Laws and Applicable Permits;

(b) provisions of this Agreement;

(c) relevant Standards/Guidelines contained in nationally accepted codes; and

(d) Good Industry Practice.

3. Safety measures during Operation Period

3.1. The Concessionaire shall develop, implement and administer a safety programme for the Project, staffand other persons, which shall include correction of safety violations and deficiencies, and all other actions necessary to provide a safe environment in accordance with this Agreement.

3.2. The Concessionaire shall keep a copy of every First Information Report (FIR) recorded by the Police with respect to any accident occurring on or about the Project. In addition, the Concessionaire shall also collect data for all cases of accidents not recorded by the Police. The information so collected shall be summarized and submitted to the Authority at the conclusion of every quarter.

3.3. The Concessionaire shall submit to the Authority before the 31st (thirty first) May of each year, an annual report (in 3 (three) copies) containing, without limitation, a detailed listing and analysis of all accidents of the preceding Accounting Year and the measures taken by the Concessionaire pursuant to the provisions of Clause 3.1 of this Schedule L for averting or minimizing such accidents in future.

4. Costs and expenses

Costs and expenses incurred in connection with the Safety Requirements set forth herein, including the provisions of Clause 2 of this Schedule L, shall be borne by the Concessionaire in accordance with the provisions of Clause 18.2.

Annex - I (Schedule-J) Safety Guidelines

1. System integrity

In the design of the Project and Project Infrastructure, particular care shall be taken to minimize the likely incidence of failure.

2. Safety management

A safety statement shall be prepared by the Concessionaire once every year to bring out clearly the system of management of checks and maintenance tolerances for various elements comprising the Project and compliance thereof. The statement shall also bring out the nature and extent of staff training and awareness in dealing with such checks and tolerances. 2 (two) copies of the statement shall be sent to the Independent Expert within 15 (fifteen) days of the close of every year.

3. Emergency

A set of emergency procedures shall be formulated to deal with different emergency situations and the operations staff shall be trained to respond appropriately during emergency through periodic simulated exercises as laid down in a manual for management of disasters (the Disaster Management Manual) to be prepared and published by the Concessionaire prior to the Commercial Operation Date. The Concessionaire shall provide 3 (three) copies each of the Disaster Management Manual to the Authority and the Independent Expert no later than 30 (thirty) days prior to Commercial Operation Date.

4. Fire safety

4.1. To prevent fire in the Project, the Concessionaire shall use fire resistant materials in the construction thereof and shall avoid use of materials which are to some extent flammable, or which emit smoke and harmful gases when burning.

4.2. To deal with incidents of fire, the Concessionaire shall provide a hydrant-based fire-fighting system in conformity with the provisions of the Concession Agreement.

5. Surveillance and Safety Manual

The Concessionaire shall, no later than 90 (ninety) days prior to Commercial Operation Date, evolve and adopt a manual for surveillance and safety of the Project, in accordance with Good Industry Practice, and shall comply therewith in respect of the security and safety of the Project, including its gate control, sanitation, fire prevention, environment protection.

6. Watch and Ward

The Concessionaire shall, at its own expense and in accordance with Good Industry Practice, provide and maintain all lighting, watch and ward arrangements for the safety of the Project and all persons affected by it.

SCHEDULE-K: DELETED

SCHEDULE-L: DELETED

SCHEDULE-M: 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 the 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. The Greater Chennai Corporation represented by _____(name of the officer) 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).

WHEREAS:

(A). The Authority has entered into a Concession Agreement dated _____with the Concessionaire (the "**Concession Agreement**") for ***"Development of Commercial Complex Facility at EVR Periyar Salai in Chennai City on 'DBFOT' Basis "*** (the "**Project**"), and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

(B). Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

(C). 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:

1. DEFINITIONS AND INTERPRETATION

1.1 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, 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;

"**Indemnified Party**" shall have the meaning ascribed thereto in Clause 9.2;

"**Indemnifying Party**" shall have the meaning ascribed thereto in Clause 9.2;

"**Lenders' Representative**" shall mean 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).

1.2 Interpretation

1.2.1 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.

1.2.2 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.

1.2.3 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.4 The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. ESCROW ACCOUNT

2.1 Escrow Bank to act as trustee

2.1.1 The Concessionaire hereby appoints the Escrow Bank to act as trustee for the Authority, the Lenders' Representative and the Concessionaire in connection herewith and authorises 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.

2.1.2 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.

2.2 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.

2.3 Establishment and operation of Escrow Account

2.3.1 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.

2.3.2 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.

2.3.3 The Escrow Bank and the Concessionaire shall, after consultation with the 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.

2.4 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.

2.5 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 in the Escrow Account are set forth in their entirety in this Agreement and the Authority, the Lenders' Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6 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.

3. DEPOSITS INTO ESCROW ACCOUNT

3.1 Deposits by the Concessionaire

3.1.1 The Concessionaire agrees and undertakes that it shall deposit into and/or credit the Escrow Account with:

(a) all monies received in relation to the Project from any source, including the Senior Lenders and the Authority (if any);

(b) all funds received by the Concessionaire from its shareholders, in any manner or form including Equity to finance the Project;

(c) all funds constituting the Financial Package;

(d) all Rental Charges, and other revenues including revenues from the usage of the Project Facilities in respect of the Project;

(e) all rentals, deposits or capital receipts, or insurance claims as the case may be;

(f) all proceeds received pursuant to any insurance claims;

(g) all fees, charges, service taxes, duties levied and collected by the Concessionaire; and

(h) all payments by the Authority, after deduction of any outstanding payments.

3.1.2 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.

3.2 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:

(a) Any monies disbursed by the Authority to the Concessionaire, if any;
(b) All revenues collected by the Authority in exercise of its rights under the Concession Agreement, if any.

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.

3.3 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.

3.4 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.

4. WITHDRAWALS FROM ESCROW ACCOUNT

4.1 Withdrawals during Concession Period

4.1.1 At the beginning of every month, or at such shorter intervals, 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):

(a) all taxes due and statutory payments due and payable by the Concessionaire for and in respect of the Project;

(b) all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;

(c) Revenue Share due and payable to the Authority in the month when due;

(d) Annual Concession Fee due and payable to the Authority in the month when due;

(e) O&M Expenses, if any, subject to the ceiling, as referenced from the Financial Model submitted as part of the Financing Agreements;

(f) O&M Expenses and other costs and expenses incurred by the Authority in accordance with the provisions of this Agreement, and certified by the Authority as due and payable to it;

(g) monthly proportionate provision of Debt Service due in an Accounting Year;

(h) all payments, penalties and Damages certified by the Authority as due and payable to it by the Concessionaire;

(i) any reserve requirements set forth in the Financing Agreements; and

(j) 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 be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2 Withdrawals upon Termination

4.2.1 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:

(a) All taxes and statutory payments due and payable by the Concessionaire for and in respect of the Project;

(b) 90% (ninety per cent) of Debt Due as per the terms of the Financing Agreements

(c) outstanding Revenue Share and Annual Concession Fee, if any;

(d) all payments and Damages certified by the Authority as due and payable to it by the Concessionaire;

(e) retention and payments relating to the liability for defects and deficiencies set forth herein;

(f) outstanding Debt Service Payments including the balance of Debt Due;

(g) incurred or accrued O&M Expenses;

(h) any other payments required to be made under this Agreement; and

(i) balance, if any, in accordance with the instructions of the Concessionaire.

Provided that no appropriations shall be made under Sub-clause (i) of this Clause 4.2 until a Vesting Certificate has been issued by the Authority under the provisions of Clause 18.4.1 of the Concession Agreement.

4.3 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.

4.4 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, 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.

4.5 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 29 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.

5. OBLIGATIONS OF THE ESCROW BANK

5.1 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.

5.2 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.

5.3 Communications and Notices

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

(a) may, in the absence of bad faith or gross negligence on its part, rely as to any matters of fact which might reasonably be expected to be within the knowledge of the Concessionaire upon a certificate signed by or on behalf of the Concessionaire;
(b) 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;
(c) 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
(d) 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.

5.4 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.

5.5 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.

6. ESCROW DEFAULT

6.1 Escrow Default

6.1.1 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:

(a) 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;
(b) 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
(c) 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; or

(d) the Concessionaire fails to deposit the required equity funds in the manner prescribed under Clause 5.16 of the Concession Agreement and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days[1].

6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

7. TERMINATION OF ESCROW AGREEMENT

7.1 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 remains to be discharged under the Agreement, unless terminated earlier by consent of all the Parties or otherwise in accordance with the provisions of this Agreement, if provided for.

7.2 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.

7.3 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 herein, and upon confirmation of receipt of such payments, close the Escrow Account and Sub- Accounts after 180 (One Hundred and Eighty) days from the Termination and/or expiry of this Agreement. Upon closure of the Escrow Account hereunder, the Escrow Agreement shall be deemed to be terminated.

8. SUPPLEMENTARY ESCROW AGREEMENT

8.1 Supplementary Escrow Agreement

[1] Applicable only in case the Total Project Cost is being financed entirely through Equity by the Concessionaire in terms of Clause 5.16 of the Concession 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.l.l and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders 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.

9. INDEMNITY

9.1 General indemnity

9.1.1 The Concessionaire shall 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.

9.1.2 The Authority shall 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.

9.1.3 The Escrow Bank shall 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.

9.2 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.

10. DISPUTE RESOLUTION

10.1 Dispute resolution

10.1.1 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 3 (three) Arbitrators comprising one nominee of each Party to the dispute, and such nominees shall elect another person to such Board. Such arbitration shall be held in accordance with the Nani Palkhivala Arbitration Centre, Chennai (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, as amended from time to time.

10.1.2 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.

11. MISCELLANEOUS PROVISIONS

11.1 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.

11.2 Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;
(b) 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;
(c) 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
(d) 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).

11.3 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.

11.4 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.

11.5 Waiver

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

(a) 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;
(b) shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and
(c) shall not affect the validity or enforceability of this Agreement in any manner.

11.5.2 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.

11.6 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.

11.7 Survival

11.7.1 Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
(b) 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.

11.7.2 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.

11.8 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 9.1 of this Agreement or otherwise.

11.9 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.

11.10 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.

11.11 Language

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

11.12 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.

11.13 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 DELIVERED THIS AGREEMENT AS OF THE DATE FIRST ABOVE WRITTEN.

SIGNED AND DELIVERED For and on behalf of THE **CONCESSIONAIRE** pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the …… day of 202__…… 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)** **(Name)** **(Designation)** **(Address)** **(Fax No.)** **(E-mail address)**	**SIGNED AND DELIVERED** For and on behalf of **ESCROW BANK** by: **(Signature)** **(Name)** **(Designation)** **(Address)** **(Fax No.)** **(e-mail address)**
SIGNED AND DELIVERED For and on behalf of THE SENIOR LENDERS by the Lenders Representative: **(Signature)** **(Name)** **(Designation)** **(Address)** **(Fax No.)** **(E-mail address)**	**SIGNED AND DELIVERED For and on behalf of THE AUTHORITY by:** **(Signature)** **(Name)** **(Designation)** **(Address)** **(Fax No.)** **(E-mail address)**

SCHEDULE-N: VESTING CERTIFICATE

[The _____] represented by ..... (the "**Authority**") refers to the Concession Agreement dated .... (the "**Agreement**") entered into between the Authority and ..... (the "**Concessionaire**") for the Project i.e. ***Development of Commercial Complex Facility at EVR Periyar Salai in Chennai City on 'DBFOT' Basis*** .

The Authority hereby acknowledges compliance and fulfilment by the Concessionaire of the Divestment Requirements set forth in Clause 33.1 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 Project shall be deemed to have vested unto the Authority, free from any encumbrances, charges and liens whatsoever.

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	AGREED, ACCEPTED AND SIGNED
For and on behalf of Concessionaire by:	For and on behalf of Authority by:
(Signature) (Name) (Designation) (Address)	(Signature) (Name) (Designation) (Address)

In the presence of:

1. 2.

SCHEDULE-O: SUBSTITUTION AGREEMENT

(See Clause 35.3.1)

This SUBSTITUTION AGREEMENT is entered into on this the .... day of ..... .20….

AMONGST

The Greater Chennai Corporation represented by _____ (name of the officer) 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);

.... 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);

.... (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 authorised 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:

i. The Authority has entered into a Concession Agreement dated with the Concessionaire (the "**Concession Agreement**") for ***"Development of Commercial Complex Facility at EVR Periyar Salai in Chennai City on 'DBFOT' Basis "*** **(the "Project"),** and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.

ii. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

iii. 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.

iv. In order to enable implementation of the Project including its financing, construction, development, 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 IT IS HEREBY AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1. 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**" shall mean this Substitution Agreement and any amendment thereto made in accordance with the provisions contained in this Agreement;

"**Financial Default**" shall mean 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];

"**Indemnified Party**" shall have the meaning ascribed thereto in Clause 7.2;

"**Indemnifying Party**" shall have the meaning ascribed thereto in Clause 7.2;

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

"**Nominated Company**" shall mean a company, incorporated under the provisions of the Companies Act, 1956/2013, 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;

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

"**Rules**" shall have the meaning ascribed thereto in Clause 8.1.1.

1.2. Interpretation

1.2.1. 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.

1.2.2. References to clauses are, unless stated otherwise, references to clauses of this Agreement.

1.2.3. 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.

1.2.4. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, *mutatis mutandis*, to this Agreement.

2. ASSIGNMENT

2.1. Assignment of rights and title

The Concessionaire hereby agrees to assign the rights, title and interest 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.

3. SUBSTITUTION OF THE CONCESSIONAIRE

3.1. Rights of substitution

Pursuant to the rights, title and interest assigned under Clause 2.l, 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.

The Authority hereby agrees to substitute the Concessionaire by endorsement on the Concession Agreement in favour 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.

3.2. Substitution upon occurrence of Financial Default

3.2.1. Upon occurrence of a Financial Default, the Lenders' Representative may issue a notice to the Concessionaire (the "**Notice of Financial Default**") along with 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 this Agreement.

3.2.2. Upon issue of a Notice of Financial Default hereunder, the Lenders' Representative may, without prejudice to any of its rights or remedies under this Agreement or the Financing Agreements, substitute the Concessionaire by a Nominated Company in accordance with the provisions of this Agreement.

3.2.3. 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 29 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 a Nominated Company, and in the event 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.

3.3. Substitution upon occurrence of Concessionaire Default

3.3.1. 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 make a representation, stating the intention to substitute the Concessionaire by a Nominated Company.

3.3.2. 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.

3.4. Procedure for substitution

3.4.1. 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.

3.4.2. 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 pre-qualification of 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.

3.4.3. Upon selection of a Nominated Company, the Lenders' Representative shall, request the Authority to:

(a) 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;
(b) endorse and transfer the Concession to the Nominated Company, on the same terms and conditions, for the residual Concession Period; and
(c) enter into a Substitution Agreement with the Lenders' Representative and the Nominated Company on the same terms as are contained in this Agreement.

3.4.4. If the Authority has any objection to the transfer of Concession in favour 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 within [15 (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.

3.4.5. 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.

3.5. 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 favour 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.

4. PROJECT AGREEMENTS

4.1. 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.

5. TERMINATION OF CONCESSION AGREEMENT

5.1. 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 30 of the Concession Agreement.

5.2. 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.

5.3. Realisation 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 realisation 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 Escrow Agreement.

6. DURATION OF THE AGREEMENT

6.1. 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:

(a) Termination of the Agreement; or

(b) no sum remains to be advanced, or is outstanding to the Senior Lenders, under the Financing Agreements.

7. INDEMNITY

7.1. General indemnity

7.1.1. The Concessionaire shall 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.

7.1.2. The Authority shall 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.

7.1.3. The Lenders' Representative shall 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.

7.2. 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.

8. DISPUTE RESOLUTION

8.1. Dispute resolution

8.1.1. 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 Nani Palkhivala Arbitration Centre, Chennai (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.

8.1.2. 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.

9. MISCELLANEOUS PROVISIONS

9.1. 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.

9.2. Waiver of sovereign immunity

The Authority unconditionally and irrevocably:

(a) agrees that the execution, delivery and performance by it of this Agreement constitute commercial acts done and performed for commercial purpose;

(b) 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;

(c) 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

(d) consents generally in respect of the enforcement of any judgement 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 judgement that may be made or given in connection therewith).

9.3. 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.

9.4. 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 authorised representatives of the Parties.

9.5. **Waiver**

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

(a) 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;
(b) shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
(c) shall not affect the validity or enforceability of this Agreement in any manner.

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.

9.6. **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.

9.7. **Survival**

Termination of this Agreement:

(a) shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
(b) 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.

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.

9.8. **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.

9.9. **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.

9.10. **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.

9.11. **Language**

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

9.12. **Authorised representatives**

Each of the Parties shall by notice in writing designate their respective authorised 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 authorised representative by similar notice.

9.13. **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 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 20 .... .. hereunto affixed in the presence of ...., Director, who has signed these presents in token thereof and . . . ., Company Secretary / Authorised Officer who has countersigned the same in token thereof:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail Address)

SIGNED, SEALED AND DELIVERED
For and on behalf of THE AUTHORITY by

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail Address)

In the presence of:

1. 2.

SIGNED, SEALED AND DELIVERED For and on behalf of SENIOR LENDERS by the Lenders' Representative

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail Address)

SCHEDULE-P: LEASE AGREEMENT

(See Clause 10.2)

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

BY AND BETWEEN

1. **GREATER CHENNAI CORPORATION**, having its principal office at [●] represented by the Commissioner, hereinafter referred to as the "LESSOR" (which expression shall, unless repugnant to the context or meaning thereof, include its successors and permitted assigns) of the FIRST PART

2. _____, a special purpose company incorporated under the Companies Act, 2013, with Corporate Identity Number (CIN) _____ and having its registered office at _____ , hereinafter referred to as the "LESSEE", which expression shall, unless repugnant to or inconsistent with the context or meaning thereof, mean and include its successors, liquidators and permitted assigns) of the SECOND PART.

WHEREAS:

A. The Lessor has entered into a Concession Agreement dated _____ (the "Concession Agreement") with the Lessee (who is the Concessionaire under the Concession Agreement) for the development of a Commercial Complex Facility at EVR Periyar Road in Chennai (the "Project Site") through Public Private Partnership (the "PPP") mode on Design, Build, Finance, Operate and Transfer (the "DBFOT") basis.

B. Pursuant to the Concession Agreement, the Lessor has granted to the Lessee the exclusive right, lease, and authority to design, construct, operate, and maintain the Project Facilities in the site owned by the Lessor (the "Concession") for a period as provided in the Concession Agreement.

C. This Lease Agreement is executed to specifically define the terms and conditions of the lease of the Project Site from the Lessor to the Lessee, as contemplated and permitted by the Concession Agreement. The Lessor has made available to the Lessee ___ sq.mt. of land in EVR Periyar Salai, details of which are provided in Schedule ("Leased Premises") on a long lease of 35 years i.e., until **.**. , 20**.

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:

1. DEFINITIONS AND INTERPRETATION

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

- **"Applicable Laws"** means all laws in force and effect as of the date hereof and which

may be promulgated or brought into force and effect hereinafter in India, including statutes, rules, regulations, directions, bye-laws, notifications, ordinances and judgments having force of law, or any final interpretation by a Court of Law having jurisdiction over the matter in question as may be in force and effect during the subsistence of this Agreement.

- **"Applicable Permits"** means any and all permissions, clearances, licenses, authorizations, consents, no-objections, approvals and exemptions under or pursuant to any of the Applicable Laws or from any Government Authority required in connection with the Project and for undertaking, performing or discharging the obligations contemplated by this Agreement or the Concession Agreement.
- **"Appointed Date"** means the date on which Financial Close (as defined in the Concession Agreement) is achieved and every Condition Precedent (as defined in the Concession Agreement) is satisfied or waived, in accordance with the provisions of the Concession Agreement.
- **"Concession Agreement"** means the Concession Agreement dated _____ entered into between the Lessor and the Lessee for the Commercial Complex Facility at EVR Periyar Road in Chennai.
- **"Concession Period"** means the period starting on and from the Appointed Date and ending on the Transfer Date (as defined in the Concession Agreement), as specified in the Concession Agreement.
- **"Encumbrances"** means, in relation to the Project Site, 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, but excluding utilities referred to in Clause 6.1.
- **"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 Lessee in accordance with this Agreement, Applicable Laws and Applicable Permits in reliable, safe, economical and efficient manner.
- **"Government Authority"** means GoI, state government or any governmental department, commission, board, body, bureau, agency, authority, instrumentality, administrative body, at central, state, or local level, having jurisdiction over the Lessee, the Project Facilities and Services or any portion thereof, but shall not include the Lessor.
- **"Gross Revenue"** shall have the meaning ascribed to it in the Concession Agreement.
- **"Leased Premises"** means the Project Site described in Schedule 1, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Leased Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith.
- **"Lessee"** shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals.
- **"Lessor"** shall have the meaning attributed thereto in the array of Parties as set forth in the Recitals.
- **"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.

- **"Project"** means the Commercial Complex Facility at EVR Periyar Road in Chennai in accordance with the provisions of the Concession Agreement, and includes all works, services and equipment relating to or in respect of the Scope of the Project (as defined in the Concession Agreement).
- **"Project Facilities"** shall mean collectively the Commercial Complex Facility and allied facilities to be developed at the Project Site and other infrastructure to carry out the associated services.
- **"Project Site"** shall have the meaning as set forth in Schedule 1.
- **"Sub-Lessees"** shall mean the suitable end-users to whom the Lessee sub-leases, or otherwise permits the use and occupation of the Built-Up Area within the Project Facilities for the purposes permitted under this Agreement and the Project.
- **"Taxes"** means any Indian taxes including Goods and Service Tax (GST), 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 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.

1.2 Interpretation

1.2.1 References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.

1.2.2 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.

1.2.3 The rules of interpretation stated in Clauses 1.2 and 1.3 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. GRANT OF LEASE

2.1 **Grant of Lease:** Subject to and in accordance with the provisions of this Agreement, the Concession Agreement, the Applicable Laws and the Applicable Permits, the Lessor hereby grants to the Lessee, commencing from the Appointed Date, leasehold rights in respect of all the land (along with any buildings, constructions or immovable assets, if any, thereon) comprising the Project Site, as described, delineated and shown in Schedule 1 hereto (the "Leased Premises"), on an "as is where is" basis, free of any Encumbrances, to develop, operate and maintain the said Leased Premises, together with all and singular rights, liberties, privileges, easements and appurtenances whatsoever to the said Leased Premises, hereditaments or premises or any part thereof belonging to or in any way appurtenant thereto or enjoyed therewith, for the duration of the Concession Period

and, for the purposes permitted under this Agreement and the Concession Agreement, and for no other purpose whatsoever.

2.2 **Acceptance of Possession:** The Lessee accepts possession of the Project Site on 'as is where is' basis and confirms having:

(a) satisfied itself as to the physical conditions of the project site along with the basic infrastructure facilities for the performance of its obligations under this Agreement; and
(b) obtained for itself all necessary information as to the risks, contingencies and all other circumstances which may influence or affect the Lessee and its rights and obligations under or pursuant to this Agreement.

2.3 **Peaceful Occupation:** The Lessor warrants that the Lessee shall, subject to complying with the terms and conditions of this Agreement and the Concession Agreement, remain in peaceful occupation of the Leased Premises during the Concession Period. In the event the Lessee is obstructed by any Person claiming any right, title or interest in or over the Leased Premises or any part thereof or in the event of any enforcement action including any attachment, distraint, appointment of receiver or liquidator being initiated by any Person claiming to have charge on the Leased Premises or any part thereof, the Lessor shall, if called upon by the Lessee, defend such claims and proceedings.

2.4 **Termination of Lease:** It is expressly agreed that the lease granted hereunder shall terminate automatically and forthwith, without the need for any action to be taken by the Lessor to terminate the lease, upon the Termination of the Concession Agreement for any reason whatsoever. For the avoidance of doubt, the Parties expressly agree that notwithstanding any temporary or permanent structures erected on the Leased Premises by the Lessee or its Sub-Lessees, the lease in respect of the Leased Premises shall automatically terminate, without any further act of the Parties, upon Termination of the Concession Agreement.

3. CONSIDERATION (ANNUAL CONCESSION FEE AND REVENUE SHARE)

3.1 **Annual Concession Fee:** In consideration for the grant of lease, the Lessee shall pay to the Lessor an Annual Concession Fee as specified in Schedule 3. This fee shall be exclusive of GST.

3.2 **Revenue Share:** In addition to the Annual Concession Fee, the Lessee shall pay the Lessor a percentage of the Gross Revenue generated from the Project Facilities, as specified in Schedule 4. This payment shall be made on a quarterly basis.

3.3 **Payment Mechanism:** All payments due and payable by the Lessee to the Lessor under this Agreement shall be made through the Escrow Account established in accordance with Article 24 of the Concession Agreement.

3.4 **Delayed Payments:** All amounts due and payable by the Lessee under the provisions of this Agreement shall be paid on or before the stipulated time period. In the event of delay beyond such period, the Lessee shall pay interest for the period

of delay, calculated at the rate of SBI MCLR + 3% per annum, as specified in the Concession Agreement.

3.5 **Taxes on Payments:** Any liability arising on account of GST and all other applicable statutory taxes, statutory dues and levies on the Annual Concession Fee and Revenue Share payable by the Lessee to the Lessor shall be borne solely by the Lessee. The Lessee shall indemnify the Lessor from any claims that may arise from the statutory authorities in connection with this Lease Agreement.

4. CONSIDERATION

4.1 **General Obligations:** The Lessee shall, at its own cost and expense, undertake the design, engineering, procurement, construction, operation and maintenance of the Project Facilities on the Leased Premises and observe, fulfil, comply with and perform all its obligations set out in this Agreement and the Concession Agreement.

4.2 **Compliance with Laws and Permits:** The Lessee shall comply with all Applicable Laws and Applicable Permits (including renewals as required) in the performance of its obligations under this Agreement. The Lessee shall be solely responsible for obtaining and maintaining all Applicable Permits as specified in Schedule 5.

4.3 **Maintenance of Project Facilities:** The Lessee shall, at its own cost and expense, maintain the Project Facilities in accordance with the Maintenance Requirements set forth in Schedule 6, Applicable Laws, Applicable Permits, and Good Industry Practice. This includes prompt repair, replacement, and restoration of any loss or damage to the Project Facilities.

4.4 **Taxes and Other Charges:** The Lessee shall pay and comply, at all times during the subsistence of this Agreement, all Taxes, levies, duties, cess and all other statutory charges payable and fall due in respect of the Project and the Leased Premises. The Lessee shall also make timely payments for all utility services in respect of the Leased Premises, including water, property tax, sewerage, electricity, telecommunication, internet and other charges.

4.5 **Security and Safety:** The Lessee shall engage and depute trained personnel for maintaining the security and safety inside the Project Site in accordance with Good Industry Practice and abide by and implement any instructions of the Lessor for enhancing security.

4.6 **No Encumbrances:** The Lessee shall protect the Leased Premises from any and all occupations, encroachments or Encumbrances, and shall not place or create nor permit any Contractor or other person claiming through or under the Lessee to place or create any Encumbrance or security interest over all or any part of the Leased Premises or the Project Assets, save and except as expressly set forth in the Concession Agreement.

5. OBLIGATIONS OF THE LESSOR

5.1 **General Obligations:** The Lessor shall, at its own cost and expense, undertake, comply with and perform all its obligations set out in this Agreement or arising hereunder.

5.2 **Provision of Site and Access:** The Lessor shall provide the Lessee on as-is-where-is basis and Right of Way to the Project Site in accordance with Article 10 of the Concession Agreement.

5.3 **Support and Cooperation:** The Lessor agrees to provide reasonable support to the Lessee in procuring/renewing Applicable Permits required from any Government Instrumentality for implementation and operation of the Project, upon written request from the Lessee and subject to the Lessee complying with Applicable Laws.

5.4 **Peaceful Enjoyment:** The Lessor shall not at any time during the term hereof, interfere with peaceful exercise of the rights and discharge of the obligations by the Lessee, except in accordance with this Agreement and the Concession Agreement.

6. RIGHTS OF THE LESSEE

6.1 Use of Leased Premises: The Lessee shall have rights to the use of the Leased Premises as a Lessee subject to and in accordance with this Agreement and the Concession Agreement, and to this end; it may regulate the entry and use of the Project by third parties in accordance with and subject to the provisions of this Agreement.

6.2 Right to Sub-Lease: Subject to the terms and conditions of this Agreement, the Concession Agreement, and Applicable Laws, the Lessee shall have the right to sub-lease, or otherwise permit the use and occupation of the Built-Up Area within the Project Facilities to suitable end-users (hereinafter referred to as "Sub-Lessees") for the purposes permitted under this Agreement and the Project.

6.3 Conditions for Sub-Lease: The Lessee's right to sub-lease shall be subject to the following conditions:

a. Permitted Use: Each sub-lease shall strictly limit the use of the Sub-Leased Area to the purposes permitted under this Agreement and the Concession Agreement, primarily for commercial complex facility, or as otherwise approved by the Lessor.

b. No Superior Rights: No sub-lease shall create any right, title, or interest in favour of the Sub-Lessee that is superior to or inconsistent with the rights granted to the Lessee under this Agreement. The Lessee shall ensure that all sub-lease deeds explicitly state that the Sub-Lessee's rights are solely those of a user and are subject and subordinate to the terms of this Lease Agreement and the Concession Agreement.

c. Term of Sub-Lease: The term of any sub-lease shall not exceed the remaining term of this Lease Agreement. For avoidance of doubt, it is clarified that Authority shall have the sole discretion to decide whether to continue with the existing sub-lease agreements in accordance with the provisions under the clause 36.6, upon

termination of the Concession Agreement prior to its expiry.

d. Compliance with Agreement: The Lessee shall ensure that all sub-lease agreements contain covenants binding the Sub-Lessees to comply with all relevant provisions of this Lease Agreement, the Concession Agreement, Applicable Laws, and Applicable Permits, including but not limited to maintenance standards, utility payments, and operational guidelines.

e. Indemnity: The Lessee shall ensure that each sub-lease deed includes a comprehensive indemnity clause whereby the Sub-Lessee indemnifies the Lessee and the Lessor against any claims, liabilities, losses, damages, costs, and expenses arising from the Sub-Lessee's breach of its obligations, non-compliance with laws, or any acts/omissions within the Sub-Leased Area. Nothing in any sub-lease agreement shall be construed to create a partnership, joint venture, agency, or employment relationship between any Sub-Lessee and the Lessor. The Lessor shall not be held liable for any claims arising from the Lessee's or any Sub-Lessee's performance or non-performance of their respective obligations under any sub-lease deed.

f. Transferability of Sub-Lease: The Lessee shall ensure that the sub-lease deeds restrict the Sub-Lessee from further sub-leasing or transferring the Sub-Leased Area without the prior written consent of the Lessee and, where required by the Lessor, the prior written approval of the Lessor.

6.4 Access Rights of Lessor The lease, right of way and right to the Leased Premises granted to the Lessee hereunder shall always be subject to the right of way/access of the Lessor and its employees and agents for inspection, viewing and exercise of their rights and performance of their obligations under this Agreement and the Concession Agreement.

6.5 Assignment of Lease hold rights: The Lessee shall not assign lease hold rights to any third party except the Senior Lenders as part of the Financial Package.

7. REPRESENTATIONS AND WARRANTIES

7.1 **Representations and Warranties of the Lessee:** The Lessee represents and warrants to the Lessor that:

a. It is duly organized and validly existing under the laws of India and has full power and authority to execute and perform its obligations under this Agreement and to carry out the transactions contemplated hereby.

b. This Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof.

c. It has complied with Applicable Laws in all material respects.

d. All its rights and interests in the Project shall pass to and vest in the Lessor on the Termination of the Concession Agreement free and clear of all liens, claims and Encumbrances, without any further act or deed on its part or that of the Lessor, and that none of the Project Assets shall be acquired by it Subject to any agreement under which a security interest or other lien or Encumbrance is retained by any person, save and except as expressly provided in the Concession Agreement.

7.2 **Representations and Warranties of the Lessor:** The Lessor represents and warrants to the Lessee that:

a. It has full power and authority to execute, deliver and perform its obligations

under this Agreement and to carry out the transactions contemplated herein.

b. This Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof.
c. It has good and valid right to the Project Site and has power and authority to grant a lease in respect thereto to the Lessee.

8. EVENTS OF DEFAULT AND TERMINATION

8.1 **Lessee Default:** Any event or circumstance that constitutes a "Concessionaire Default" under the Concession Agreement shall also be deemed a "Lessee Default" under this Lease Agreement. Upon the occurrence of a Lessee Default, the Lessor shall be entitled to exercise all rights and remedies available to it under this Agreement and the Concession Agreement, including termination of this Lease Agreement.

8.2 **Lessor Default:** Any event or circumstance that constitutes an "Authority Default" under the Concession Agreement shall also be deemed a "Lessor Default" under this Lease Agreement. Upon the occurrence of a Lessor Default, the Lessee shall be entitled to exercise all rights and remedies available to it under this Agreement and the Concession Agreement, including termination of this Lease Agreement.

8.3 **Effect of Termination:** Upon termination of this Lease Agreement for any reason, the Lessee shall comply with the divestment requirements as stipulated in the Concession Agreement. All rights, title, and interest of the Lessee in the Leased Premises and Project Facilities shall revert to the Lessor, free from all Encumbrances, as per the terms of the Concession Agreement.

9. INDEMNITY

9.1 **General Indemnity by Lessee:** The Lessee shall indemnify, defend, save and hold harmless the Lessor and its officers, servants, agents, Government Instrumentalities and Lessor owned and/or controlled entities or enterprises, against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature, whether arising out of any breach by the Lessee of any of its obligations under this Agreement or any related agreement or on account of any defect or deficiency in the provision of services by the Lessee or from any act and/or omission by the Lessee arising out of gross negligence, fraud or wilful misconduct resulting in any harm, loss, damage, bodily injury or sickness to a person or harm, loss or damage to any property, except to the extent that any such suits, proceedings, actions, demands and claims have arisen due to any negligent act or omission, or breach or default of this Agreement on the part of the Lessor.

9.2 **General Indemnity by Lessor:** The Lessor shall indemnify, defend, save and hold harmless the Lessee against any and all suits, proceedings, actions, demands and claims from third parties for any loss, damage, cost and expense of whatever kind and nature arising out of: (a) defect in title and/or the rights of the Lessor in the land comprised in the Project Site; and/or (b) breach by the Lessor of any of its obligations under this Agreement or any related agreement, which materially and

adversely affect the performance by the Lessee of its obligations under this Agreement, save and except that where any such claim, suit, proceeding, action, and/or demand has arisen due to a negligent act or omission, or breach of any of its obligations under any provision of this Agreement or any related agreement and/or breach of its statutory duty on the part of the Lessee, its subsidiaries, Affiliates, contractors, servants or agents, the same shall be the liability of the Lessee.

10. DISPUTE RESOLUTION

10.1 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 Lessor and the Lessee. Such arbitration shall be held in accordance with the Rules of Arbitration of the Nani Palkhivala Arbitration Centre, Chennai (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.

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

11. MISCELLANEOUS

11.1 **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.

11.2 **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.

11.3 **Power to Inspect**

The Lessor, its authorized representatives, and the representatives of the Authority shall have the right to enter upon the Leased Area at all reasonable times, upon prior notice to the Lessee (except in case of emergency where no prior notice may be required), for the purpose of inspection, checking compliance with the terms of this Lease Deed and the Concession Agreement, or for carrying out any necessary repairs or maintenance to the common areas or the Project facilities.

11.4 **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.

11.5 **Waiver**

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

a. 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;

b. Shall not be effective unless it is in writing and executed by a duly authorized representative of the Party; and

c. Shall not affect the validity or enforceability of this Agreement in any manner.

d. 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.

11.6 **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.

11.7 **Survival**

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.

11.8 **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.

11.9 **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.

11.10 **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 email 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.

11.11 **Language**

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

11.12 **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.

11.13 **Original Document**

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

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

THE COMMON SEAL OF LESSOR has been affixed pursuant to the resolution passed by the Board of Directors of the Lessor 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, **** Authorized Officer who has countersigned the same in token thereof	SIGNED, SEALED AND DELIVERED For and behalf of THE LESSOR by:
(Signature)	(Signature)
(Name)	(Name)

(Designation)
(Address)
(Fax No.)
(E-mail address)

(Designation)
(Address)
(Fax No.)
(E-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of

LESSEE by its Representative:
(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(E-mail address)

In the presence of:

1.

2.

SCHEDULE 1

DESCRIPTION OF LEASED AREA

- Survey Number: _____
- Zone: _____
- Land extent: _____ sq.mt.
- A layout plan or sketch of the Leased Area

SCHEDULE 2

Permissible Development and Use

Detailed description of the permissible development and use of the Project Site, drawing from Article 2 of the Concession Agreement

- **Minimum Built-up Area Requirements:** Reinforced Cement Concrete (RCC) Commercial Complex Facility with not less than 1,00,000 sq. ft. built-up area for commercial purpose.
- **Design Principles:** Modern, aesthetically pleasing, integrated with advanced energy-efficient design principles.
- **Compliance:** Strict compliance with Tamil Nadu Combined Development and Building Rules, 2019, and any amendments thereon, local municipal bylaws, fire safety regulations, and environmental norms.
- **Purpose:** The Project shall be designed to accommodate the specific infrastructure and operational needs of commercial complex facility.
- **Restrictions on Use:** The Lessee shall use the Leased Premises solely for the purposes permitted under this Agreement and the Concession Agreement, and for no other purpose whatsoever.

SCHEDULE 3

Annual Concession Fee

As per Clause 22.1.2 of the Concession Agreement, The Lessee shall pay to the Lessor the Annual Concession Fee as follows (exclusive of GST):

Timeline	Amount (exclusive of applicable taxes)
Appointed Date = A	INR 1.52 crores
A + 12 months	INR 1.60 crores
A + 24 months	INR 1.68 crores
A + 36 months	INR 1.76 crores
A + 48 months	INR 1.85 crores
A + 60 months	INR 1.94 crores
A + 72 months	INR 2.04 crores
A + 84 months	INR 2.14 crores
A + 96 months	INR 2.25 crores

Timeline	Amount (exclusive of applicable taxes)
A + 108 months	INR 2.36 crores
A + 120 months	INR 2.48 crores
A + 132 months	INR 2.60 crores
A + 144 months	INR 2.73 crores
A + 156 months	INR 2.87 crores
A + 168 months	INR 3.01 crores
A + 180 months	INR 3.16 crores
A + 192 months	INR 3.32 crores
A + 204 months	INR 3.48 crores
A + 216 months	INR 3.66 crores
A + 228 months	INR 3.84 crores
A + 240 months	INR 4.03 crores
A + 252 months	INR 4.23 crores
A + 264 months	INR 4.45 crores
A + 276 months	INR 4.67 crores
A + 288 months	INR 4.90 crores
A + 300 months	INR 5.15 crores
A + 312 months	INR 5.40 crores
A + 324 months	INR 5.67 crores
A + 336 months	INR 5.96 crores
A + 348 months	INR 6.26 crores
A + 360 months	INR 6.57 crores
A + 372 months	INR 6.90 crores
A + 384 months	INR 7.24 crores
A + 396 months	INR 7.60 crores
A + 408 months	INR 7.99 crores

SCHEDULE 4

Revenue Share Payment

As per Clause 22.1.3 of the Concession Agreement, The Lessee shall pay the Lessor **_____ (insert the Quoted Revenue Share in figures and in words) percentage of the Gross Revenue** generated from the Project facilities on a quarterly basis.

Quarter	Due date for remittance of revenue sharing payment
Apr-Jun	15th July
Jul-Sep	15th Oct
Oct-Dec	15th Jan
Jan-Mar	15th Apr

If the 15th is a banking holiday in Chennai, the amount has to be remitted on the next working

day.

SCHEDULE 5

Applicable Permits

The Lessee shall obtain all other required Applicable Permits from the relevant local authorities, as per Applicable Laws, for construction and operation of the Project Facilities. The Lessor shall only provide letter of recommendation/ authorisation as may be required to the Lessee in procuring/renewing Applicable Permits upon written request, however, the ultimate responsibility for obtaining all Applicable Permits shall vest solely with the Lessee.

SCHEDULE 6

Maintenance Requirements

The Lessee shall, at all times, operate and maintain the Project Facilities in accordance with the provisions of this Agreement, Applicable Laws, Applicable Permits, and Good Industry Practice. This includes:

- Routine preventive maintenance.
- Prompt repairs of all elements and components.
- Major maintenance, replacement of components and parts, repairs to structures, and development of support facilities.
- Maintaining adequate inventory of spares and consumables.
- Carrying out repairs or rectification of defects and deficiencies within specified time limits.
- Undertaking emergency repairs/restoration promptly.
- Maintaining a periodic visual inspection record.