Part II

Concession Agreement

Between

Jammu Municipal Corporation (JMC)

And

_____
(Concessionaire)

Development of Multilevel Car Parking System and Commercial Complex on PPP Model at Panchvakhtar Temple, Jammu in the UT of Jammu & Kashmir

This Concession Agreement entered into on _____day of _____ 2020 at Delhi,

BETWEEN

Jammu Municipal Corporation (JMC) on behalf of _____, _____ having its office at _____Jammu, hereinafter referred to as **"the Concessioning Authority"** or **"_____"** which expression shall unless repugnant to the context include its successors and assigns, OF THE ONE PART,

AND

_____, a company incorporated under provisions of the Companies Act, 2013, through its Director _____having its registered office at –xxxx, hereinafter referred to as **"Concessionaire"** which expression shall unless repugnant to the context include its successors and permitted assigns, OF THE OTHER PART.

WHEREAS,

A. The City of Jammu, (hereinafter referred to as the **"State"**) has experienced an accelerated growth during the last decade in terms of number of vehicles registered, traffic volume on roads and parking demand within the city area.

B. In order to meet the growing demand for smooth, efficient and pollution-free traffic movement, JMC in consultation with consultant has formulated a project to provide multilevel- car parking facility. This project will benefit the general public and tourists by reducing traffic jams, facilitating smooth flow of traffic on the roads, reducing noise pollution and congestion;

C. JMC is the absolute owner of the plot of land ad-measuring 3285 square metres situated at Panchvakhtar Temple, Jammu (hereinafter referred to as the **"Project Site"**) and proposes to develop and implement the Multi-level Car Parking cum Commercial Complex on Public Private Partnership mode (hereinafter referred to as **"Project**"). The Multilevel Car Parking shall be developed under Design Build Finance Operate and Transfer (DBFOT) basis with Concession Period for **12 years** and the commercial complex will be leased out for a 62 years lease period from Appointed Date under the terms of this Agreement. _____had, along with other agencies, carried out project preparation work in connection with the Project;

D. NHIDCL had invited competitive proposals from eligible Persons for implementing the Project vide its RFP No_____ Dated_____ In response thereto NHIDCL received proposals from several persons including the Concessionaire/Consortium for implementing the Project:

E. *(To be used in case successful bidder is Type 1 bidder)* NHIDCL, after evaluating the aforesaid Proposals accepted the Proposal submitted by the Successful Bidder and issued Letter of Intent No. _____ for implementing the Project. The Successful Bidder has further promoted and incorporated the Concessionaire as a Limited Company to enter into this Concession Agreement pursuant to the Letter of Intent:

(To be used in case successful bidder is Type 2 bidder) NHIDCL, after evaluating the aforesaid Proposals accepted the Proposal submitted by the Consortium consisting of (i) _____ (ii) _____ (iii) _____ and issued Letter of Intent No._____ to the Consortium for implementing the Project. The Consortium has further promoted and incorporated the Concessionaire as a Limited Company to enter into this Concession Agreement pursuant to the Letter of Intent:

F. {By its letter dated ……., the Concessionaire has also joined in the said request of the Selected Bidder to ..... 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 Agreement pursuant to the Letter of Intent. The Concessionaire has further represented to the effect that it has been promoted by the Selected Bidder for the purposes hereof.}

G. JMC has {agreed to the said request of the Selected Bidder and the Concessionaire, and the Parties have accordingly} agreed to enter into this Agreement with the Concessionaire.

H. The Concessionaire has delivered to JMC a legal opinion from the 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;

I. The Concessionaire delivered to JMC a detailed Project implementation plan mentioning the milestones and the tentative dates of completion of such milestones.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:-

ARTICLE 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 ascribed to them hereunder:

"Additional Cost" shall mean the additional capital expenditure and/or the additional operating costs or both as the case may be, which the Concessionaire would be required to incur as a result of Change in Law.

"Affected Party" shall mean the Party claiming to be affected by a Force Majeure Event in accordance with ***Article 9.1.***

"Agreement" shall mean this Agreement, and includes any amendments hereto made in accordance with the provisions hereof.

"Applicable Law" shall mean all laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law and that are in force and effect, as of the date hereof, and which may be promulgated or brought into force and effect hereinafter in India including judgements, awards, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement and applicable to the Project/the Concessionaire.

"Applicable Permits" shall mean all clearances, permits, authorisations, consents and approvals required to be obtained or maintained by the Concessionaire under Applicable Law, in connection with the Project during the subsistence of this Agreement.

"Appointed Date" shall mean the date of this Agreement.

"Change in Law" shall have the meaning ascribed thereto in ***Article 11.***

"COD" or **"Commercial Operations Date"** shall mean the date on which the Independent Engineer has issued the Provisional Completion Certificate or the Completion Certificate in accordance with the provisions of ***Article 5.4***.

"Commercial Area" shall mean the area that may be developed by the Concessionaire for commercial usage in accordance with **Schedule 1 and Schedule 2 of this Agreement.**

"Commercial Facilities" or **"CF"** shall mean facilities such as Commercial Area to be developed, designed, financed, constructed, completed, commissioned and operated and maintained by the Concessionaire at the Project Site as per this Agreement.

"Completion Certificate" shall mean the certificate issued by Independent Engineer certifying, that:

(i) the Concessionaire has constructed the Project Facilities in accordance with the Construction Requirements; and
(ii) the Concessionaire has obtained all approvals necessary for commercial operations of the Project Facilities.

"Concession" shall have the meaning ascribed thereto in ***Article 2.1*** of this Agreement.

"Concessionaire Event of Default" shall have the meaning ascribed thereto in ***Article 10.1(a).***

"Concession Period" means the period of Concession specified in ***Article 2.2,*** as applicable.

"Consortium" shall mean the consortium consisting of (i) _____***(ii)*** _____***and (iii)***_____formed/ acting pursuant to the Joint Bidding Agreement dated _____ entered into by them, for the purpose of submitting their proposal for undertaking the Project through the Concessionaire, a special purpose company formed and incorporated by them in India.

"Construction Period" shall mean the duration commencing from the Appointed Date to the date of issue of Completion Certificate.

"Construction Requirements" shall mean the requirements as to construction of the Project Facilities as set out in **Schedule 2 of this Agreement**.

"Construction Works" shall mean all works and things required to be undertaken by the Concessionaire in accordance with the Construction Requirements.

"Contractor" shall mean any Person with whom the Concessionaire has entered into/may enter into any of the Project Agreements.

"Cure Period" shall have the meaning ascribed thereto in ***Article 10.2(a)(iii)*** of this Agreement.

"Debt Due" means the aggregate of the following sums expressed in rupees, outstanding and payable to the Lenders under the Financing Documents:

(i) the principal amount of the debt provided by the Lenders under the Financing Documents for financing the Project (the **"Principal")** which is outstanding as on the Termination Date but excluding any part of the principal that had fallen due for repayment one year prior to the Termination Date unless such repayment had been rescheduled with the prior consent of NHIDCL; and

(i) all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub clause (i) above up to the date preceding the Termination Date but excluding (a) any interest, fees or charges that had fallen due one year prior to the Termination Date, and (b) penal interest or charges payable under the Financing Documents to the Lenders.

"Drawings" shall mean all of the drawings, designs, calculations and documents pertaining to the Project submitted by the Concessionaire in connection with the Project.

"Emergency" shall mean a condition or situation that is likely to endanger the safety of the individuals on or about the Project Facilities including the safety of the users thereof or which poses an immediate threat of material damage to the Project.

"Encumbrance" shall mean any encumbrance 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 without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances, claims for any amounts due on account of taxes, cesses, electricity, water and other utility charges and encroachments on the Project Facilities.

"EPC Contract" shall mean the contract if any entered into by the Concessionaire for the purpose of design, engineering, procurement of

equipment and materials (including by import thereof) and construction of the Project in accordance with the provisions of this Agreement.

"Existing Parking Facility" shall mean the parking facility if any being operated and maintained at the Project Site.

"Financial Close" means the date on which the Financing Documents and the Equity Documents have become effective, and the Concessionaire has access to the funds/financial assistance committed thereunder.

"Financing Documents" shall mean collectively the documents evidencing Lenders' commitment to finance the Project.

"Financial Year" shall mean the period commencing from April 1 of any given year to March 31 of the succeeding year.

"Force Majeure" or **"Force Majeure Event"** shall mean an act, event, condition or occurrence as specified in ***Article 9.***

"Good Industry Practice" shall mean the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected of a skilled and an experienced person engaged in the implementation, operation and maintenance or supervision or monitoring thereof of any of them of a project similar to that of the Project.

"Government Agency" shall mean Government of India, any state government or government department, commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Project Site or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

"Handback Requirements" shall have the meaning ascribed thereto in ***Article 12.***

"Implementation Schedule" shall mean the monthly milestone schedule to be submitted by the Concessionaire in accordance with ***Article 5.3*** of this Agreement.

"Independent Engineer" shall mean a reputed person being as appointed in accordance with ***Article 4*** for supervision and monitoring of compliance by the Concessionaire with the Construction Requirements and Handback

Requirements and to undertake, perform, carry out the duties, responsibilities, services and activities set forth in **Schedule 5**.

"Lenders" shall mean financial institutions, banks, funds and trustees for bond holders or debenture holders, who provide funds to the Concessionaire for financing the cost of construction of the Project Facilities or any part thereof.
"Master Plan" shall mean Master Plan of Jammu 2032.

"Material Adverse Effect" shall mean a material adverse effect on (a) the ability of the Concessionaire to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

"Material Breach" shall mean a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure.

"Month" shall mean the calendar month as per the Gregorian calendar

"Multilevel Parking" shall mean a multilevel facility for parking of Motor Vehicles as defined in Schedule 1 of this Agreement. **"_____ Event of Default"** shall have the meaning ascribed thereto in ***Article 10.1(b).***

"Motor Vehicles" shall mean any mechanically propelled four wheel/ Two wheel vehicles adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and included a chassis to which a body has not been attached and a trailer; but does not include a vehicle running on fixed rails or a vehicle of a special type adapted for use only in a factory or in any other enclosed premises.

"JMC means Jammu Municipal Comrporation, a body created _____.

"O&M Contract" means the contract, if any, entered into by the Concessionaire for the operation and maintenance of the Project Facilities in accordance with the provisions of this Agreement.

"O&M Manual" shall mean the manual in respect of the operation and maintenance of the Project Facilities to be prepared by the Concessionaire in accordance with **Schedule 4.**

"O&M Requirements" shall mean the requirements as to operation and maintenance of the Project Facilities set forth in **Schedule 4**.

"Operations Period" shall mean the period commencing from COD and ending at the expiry of the Concession or Termination as the case may be.

"Parking Facilities" shall mean as described in Schedule 1, which shall be developed, designed, financed, constructed, operated and maintained by the Concessionaire at the Project Site as per this Agreement.

"Parking Fee" shall mean the fee payable by users of Motor Vehicles using the Parking Facility as set out in **Schedule 7.**

"Parties" shall mean the parties to this Agreement and "**Party"** shall mean either of them, as the context may admit or require.

"Performance Security" shall mean the guarantee for performance of its obligations to be procured by the Concessionaire in accordance with ***Article 5.1***.

"Person" shall mean (unless otherwise specified or required by the context), any company, corporation, partnership, joint venture, trust, unincorporated organisation, government or Government Agency or any other legal entity.

"Preliminary Notice" shall mean the notice of intended Termination by the Party entitled to terminate this Agreement to the other Party setting out, inter alia, the underlying Event of Default.

"Premia" means the amounts of money that the Concessionaire may, subject to the provisions hereof, demand, charge, collect, retain and appropriate from the applicants(persons making bookings)/allottees/lessees /other persons in respect of the built up areas in the Commercial Facility at the market driven rates determined by the Concessionaire.

"Project" shall mean design, financing, construction, operation and maintenance of Project Facilities at the Project Site in accordance with the provisions of this Agreement.

"Project Agreements" shall mean collectively this Agreement, EPC Contract, O&M Contract and any other material contract (other than Financing Documents) entered into or may hereafter be entered into by the Concessionaire in connection with the Project.

"Project Facilities" shall mean collectively the Parking Facilities, Commercial Facilities, Public Convenience Facilities and walkways developed by the

Concessionaire at the Project Site in accordance with the provisions of this Agreement.

"Project Requirements" shall mean collectively the Construction Requirements, O&M Requirements and Handback Requirements or any of them as the context may admit or require.

"Project Site" means the lands, appurtenances and rights in relation thereto on, including easementary rights and the approach land on, under, in or through which the Project Facilities or any other construction relating hereto is situated, located, passes through, sits upon or overlies as set out in Schedule 1.

"Proposal" shall mean the Proposal as submitted by the Successful Bidder, on _____ , in response to the Request for Proposal.

"Provisional Completion Certificate" means the completion certificate that may be issued by the Independent Engineer pending completion of the Punch List items in accordance with ***Article 5.4 (g) and (h).***

"Public Convenience Facilities" means the facilities such as public toilets, rest areas and benches to be constructed and maintained by the Concessionaire as per Construction Requirements.

"Punch List" shall have the meaning ascribed thereto in ***Article 5.4(g).***

"Request for Proposal" or "RFP" shall mean the RFP dated issued by NHIDCL for this Project

"Rupees" or "Rs." refers to the lawful currency of the Republic of India.

"Scheduled Project Completion Date" or "SPCD" shall mean the date 24 months from the Appointed Date.

"**Substitution Agreement**" shall mean the agreement substantially in the form set out at **Schedule 12**, to be entered into between _____, Lenders and the Concessionaire.

"Successful Bidder" shall have the meaning ascribed thereto in the RFP document

"Tax" shall mean and includes all taxes, fees, cesses, duties, levies that may be payable by the Concessionaire under Applicable Law.

"Termination" shall mean early termination of the Concession Period which shall immediately result in termination of this Agreement, pursuant to Termination Notice or otherwise in accordance with the provisions of this Agreement but shall not, unless the context otherwise requires, include expiry of this Agreement due to efflux of time in the normal course.

"Termination Date" shall mean the date specified in the Termination Notice as the date on which Termination occurs.

"Termination Notice" shall mean the notice of Termination by either Party to the other Party, in accordance with the applicable provisions of this Agreement.

"Tests" shall mean the tests to be carried out in accordance with the Construction Requirements or the O&M Requirements and if not expressly specified in either of the said requirements, as instructed by the Independent Engineer or NHIDCL, as the case may be, in accordance with this Agreement.

"Type 1 Bidder" shall mean the Bidder in case the Bidder is a single business entity.

"Type 2 Bidder" shall mean the Bidder in case the Bidder is a consortium as per the provisions of the RFP

"Annual Concession Fee" shall mean as defined under Article 7.1

"Year" shall mean a period of 12 Months

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

(a) any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies to, or is capable of being applied to any transactions entered into hereunder;

(b) the words importing singular shall include plural and vice versa, and words denoting natural persons shall include partnerships, firms, companies, corporations, joint ventures, trusts, associations, organisations or other entities (whether or not having a separate legal entity);

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

(d) the words "include" and "including" are to be construed without limitation;

(e) any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;

(f) 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;

(g) any reference to any period of time shall mean a reference to that according to Indian Standard Time (IST).

(h) the Schedules to this Agreement form an integral part of this Agreement as though they were expressly set out in the body of this Agreement;

(i) any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;

(j) references to recitals, Articles, sub-articles, clauses, or Schedules in this Agreement shall, except where the context otherwise requires, be deemed to be references to recitals, Articles, sub-articles, clauses and Schedules of or to this Agreement;

(k) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or by Independent Engineer shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or Independent Engineer in this behalf and not otherwise;

(l) references to “Construction” includes investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto;

(m) In the event of any discrepancy/ conflict in the terms of the documents related to the Concession including the RFP document and this Concession Agreement, or interpretations thereof, the decision of NHIDCL shall prevail;

(n) Any other term(s) not defined herein above but defined elsewhere in this Concession Agreement shall have the meaning(s) ascribed to such term(s) therein and shall be deemed to have been included in this Article.

ARTICLE 2

CONCESSION

2.1 Grant of Concession

Subject to and in accordance with the terms and covenants set forth in this Agreement, the Concessioning Authority hereby grants and authorises the Concessionaire to design, engineer, finance, construct, operate and maintain the Project and to exercise and/ or enjoy the rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement. **"Concession"**.

2.2 Concession Period

The Concession hereby granted is for a period of **12 years** and the commercial complex will be leased out for a 62 years lease period commencing from the **Appointed Date** during which the Concessionaire is authorised to implement the Project in accordance with the permission hereby granted & the covenants of the present agreement to provide Project Facilities and services in accordance with the provisions hereof (hereinafter referred to as the (**"Concession Period"**).

Provided, in the event of an early termination of the Concession, this Agreement by the Parties in accordance with the provisions hereof, the Concession Period shall mean and be limited to the period commencing from the **Appointed Date** and ending with the date of termination of the Concession/this Agreement.

2.3 Acceptance of Concession

In consideration of JMC agreeing to permit the Concessionaire to receive Parking Fee, Other Charges and any other amounts permitted under this Agreement, and the rights, privileges and benefits conferred upon by the Concessioning Authority and other good and valuable consideration expressed herein, the Concessionaire hereby accepts the Concession and agrees and undertakes to perform/discharge all of its obligations in accordance with the provisions hereof.

ARTICLE 3

PROJECT SITE

3.1 Handover of Project Site

(a) JMC shall within 15 days of the Concessionaire paying the **"Annual Concession Fee"** under Clause 7.1 shall handover the Project Site to the Concessionaire to enter upon and utilise the Site for the construction pursuant to and purpose of implementing the Project in accordance with this Agreement. However, the same shall be subject to the submission of Performance Security in terms of provisions of Article 5.1. The Project Site may be handed over to the Concessionaire in a phased manner. For avoidance of doubt, in case the Project site is handover in phased manner the Concessionaire shall not be relieved or absolved in any manner whatsoever of its obligations, duties and liabilities as set forth in this Agreement.

(b) Upon handing over of the Project Site pursuant to the preceding sub-article 3.1 (a), the Concessionaire shall, subject to the provisions of Article 5, have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such investigation, development and improvements in the Project Site as may be necessary or appropriate to develop implement the Project and provide Project Facilities in accordance with the provisions of this Agreement. The Development of the Project Site shall be in accordance with the Schedule 1 and Schedule 2 of the present Agreement.

(c) Upon signing of this Agreement, the Concessionaire shall, subject to the provisions of Article 5, have the right to enter upon and use the same and to make at its costs, charges and expenses such investigations, surveys in the Project Site as may be necessary or appropriate to develop implement the Project.

3.2 Rights, Title and Use of the Project Site

(a) The Concessionaire shall have the right to use the Project Site in accordance with the provisions of this Agreement and for this purpose it may regulate the entry and use of the same by third parties at their own cost.

(b) The Project Site and Project Facilities shall be and continue to vest in JMC. The Concessionaire shall not part with or create any Encumbrance

on the whole or any part of the Project Site and/or the Project Facilities, save and except as set forth and permitted under this Agreement.

(c) The Concessionaire shall not without the prior written approval of JMC, use the Project Site for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.

(d) The Concessionaire under the present agreement shall achieve COD for the Project within 24 months of the Appointed Date;

3.3 Peaceful Possession as Licensee

JMC, as Concessioning Authority, hereby warrants that:

(a) JMC has the clear title of the Project Site together with the necessary access/ right of way/ way-leaves and that JMC has full powers to hold, dispose of and deal with the same consistent 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 rehabilitation/ resettlement or land acquisition of any Persons affected thereby.

(b) The Concessionaire shall, subject to complying with the terms and conditions of this Agreement, be permitted peaceful use of the Project Site as Licensee. Licensee shall, subject to complying with the terms and conditions of this Agreement, remain in peaceful possession and enjoyment of the Licensor's Assets during the License Period. In the event the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Project Site or any part thereof or in the event of any enforcement action including any attachment, distrait, appointment of receiver or liquidator being initiated by any Person claiming to have any interest in/charge on the Project Site or any part thereof, JMC shall, if called upon by the Concessionaire, defend such claims and proceedings and also keep the Concessionaire indemnified against any consequential loss or damages which the Concessionaire may suffer, on account of any such right, title, interest or charge.

3.4 Applicable Permits

The Concessionaire shall obtain and maintain all Applicable Permits including those indicated in **Schedule 3** as is required for the Project. Such Applicable Permits shall be obtained in such sequence as is consistent with the requirements of the Project.

3.5 Area of Project Site

The Project Site and its area as provided in Schedule 1 of this Agreement is based on an approximate initial assessment of the Project. The Concessionaire shall be required to carry out its own studies and actual measurement. There shall be no change in the Upfront Payment and parking requirement of the Project in case the actual area as measured by the Concessionaire is in positive/ negative deviation of upto 10% of the Project Site area provided in Schedule 1.

ARTICLE 4

INDEPENDENT ENGINEER

4.1 Procedure for Appointment

(a) NHIDCL as per the office order ……has appointed …….. who is working in the capacity of ……. with _____ as the Independent Engineer for the Project for the Construction Period and its services shall continue until the date of COD.

(b) The scope of work of the Independent Engineer shall include that set out in **Schedule 5**.

4.2 Replacement of the Independent Engineer

(a) The Independent Engineer may be replaced by NHIDCL in any of the following circumstances:

(i) NHIDCL, either on its own or upon an intimation to this effect by the Concessionaire, has reason to believe that the Independent Engineer has not discharged its duties in a fair, appropriate and diligent manner;

(ii) if, in accordance with the terms of his appointment, the Independent Engineer resigns or notifies his intention not to continue as the Independent Engineer;

(iii) any other circumstance which in the opinion of the Parties warrants replacement of the Independent Engineer.

(b) Subject to the attendant circumstances and covenants of the present ***sub-article 4.2*** shall as far as possible be adhered to for replacement of the Independent Engineer, and the replacement shall be so effected as to maintain continuity in the supervision and monitoring of the Project Requirements.

4.3 Remuneration to the Independent Engineer

All fees, costs, charges and expenses payable to the Independent Engineer in accordance with the terms of appointment (collectively the **"Remuneration"**) shall be as per the office order as mentioned in Clause 4.1 of this Article.

ARTICLE 5

CONCESSIONAIRE'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Concessionaire shall have the following obligations:

5.1 Performance Security

(a) The Concessionaire shall, for due and punctual performance of its obligations hereunder relating to the Project, deliver to NHIDCL, simultaneously with the execution of this Agreement, a bank guarantee for a sum of **Rs. 1,05,00,000/- (Rupees One Crore Five Lakh Only)** from a scheduled bank acceptable to NHIDCL , in the form as set forth in Schedule 9, ("Performance Security") valid till COD.

The Concessionaire shall, for due and punctual performance of its operation and maintenance obligations hereunder relating to the Operations Period of the Project, deliver to NHIDCL upon COD, a Bank Guarantee for a sum of Rs. _____/- (Rupees_____) *[the Operations Performance Security shall be of amount equal to the quoted Annual Recurring Fee]* , from a scheduled bank acceptable to the Authority, in the form as set forth in Schedule 9, ("Operations Performance Security") valid subject to sub clause 5.1(b) and 5.1 (c) till end of Concession Period.

(b) Operations Performance Security submitted by the Concessionaire submitted upon COD shall be kept valid for a period of at least 12 months.

(c) The Concessionaire shall submit the fresh Operations Performance Security at least fifteen (15) days prior to the expiry date of any previous applicable Operations Performance Security

Provided that if the Agreement is terminated due to any event other than a Concessionaire Event of Default, the Performance Security or the Operations Performance Security as the case may be, without any interest, if subsisting as of the Termination Date shall, subject to NHIDCL's right to receive amounts, if any, due from the Concessionaire under this Agreement, be duly discharged and released to the Concessionaire.

5.2 Financing Arrangement

(a) The Concessionaire shall at its cost; expenses and risk make such financing arrangement as would be necessary to implement the Project and to meet all of its obligations under this Agreement, in a timely manner. It is made clear that for the purpose of arranging finance for the project under the present Agreement, the Concessionaire shall have no right to create any charge / encumbrance on the Project Site and/or mortgage the same.

(b) The Concessionaire shall achieve Financial Close on or before 90 days from the **Appointed Date**.

5.3 Drawings

(a) The Concessionaire shall, subject to the Construction Requirements, as set forth in **Schedule 2** and Approved Development Control Norms including those set forth in **Schedule 1** and construction requirements as set forth in **Schedule 2**, prepare the Drawings for Project Facilities and get it approved from the appropriate authorities including those listed in **Schedule 3.** Provided that, the Concessionaire shall, in any event be solely responsible for the adequacy of the Drawings.

(b) The Concessionaire shall submit the Drawings as approved by the appropriate authorities including those referred to in **Schedule 3** to NHIDCL as well as the Independent Engineer. Also, on the earlier of, 60 days prior to the commencement of Construction Works, or, simultaneously with the submission of the Drawings, submit to NHIDCL/ Independent Engineer a schedule with monthly milestones for implementation of the Project (**"Implementation Schedule"**);

(c) Within 30 (thirty) days of the receipt of the Drawings, NHIDCL/ Independent Engineer shall review the same and convey its comments/observations to the Concessionaire with particular reference to the conformity or otherwise with the Construction Requirements set forth in **Schedule 2**. It is expressly agreed that notwithstanding any review and comment/observations of NHIDCL/ Independent Engineer on any Drawings or failure of NHIDCL/ Independent Engineer to provide comments/ observations thereon, NHIDCL/ Independent Engineer shall not

be liable for the same in any manner whatsoever and the Concessionaire shall remain solely responsible for and shall not be relieved or absolved in any manner whatsoever of its obligations, duties and liabilities as set forth in this Agreement. The Concessionaire shall not be obliged to wait for the comments/observations of NHIDCL/ Independent Engineer on the Drawings submitted pursuant hereto beyond the period set forth hereinabove.

(d) If the comments/observations of NHIDCL/ Independent Engineer indicate that the Drawings are not in conformity with the Construction Requirements, such Drawings shall be revised by the Concessionaire to the extent necessary and resubmitted to NHIDCL/ Independent Engineer for review, observations and comments. NHIDCL/ Independent Engineer shall give its observations and comments, if any, within 15 (fifteen) days of the receipt of such revised Drawings provided, however, that any observations or comments of NHIDCL/ Independent Engineer or failure of NHIDCL/ Independent Engineer to give any observations or comments on such revised drawings shall not relieve or absolve the Concessionaire of its obligation to conform to the Construction Requirements.

(e) The Concessionaire shall also prepare and submit a detailed project report specifying the Project Implementation Plan, project schedule, specifications and standards, date of commencement and completion of construction activity. The detailed project report shall have to be submitted within 45 days of the issue of LoA by NHIDCL.

5.4 Project Implementation and Clearances

(a) The Concessionaire shall obtain necessary permissions/ approvals as suggested under Schedule 3 of the Agreement, from the relevant authorities within 6 months from Appointed Date. In case of delay in obtaining necessary permissions/ approvals as suggested under Schedule 3 of the Agreement, the Concessionaire shall pay to NHIDCL a penalty of Rs 20,000/- per week of delay in obtaining such approvals. However, in special circumstances/ unavoidable reasons of delay, NHIDCL at its option and request of the Concessionaire may waive off or lessen the penalty under this clause, on such terms & conditions as may be deemed fit and expedient in the interest of the Project.

(b) The Concessionaire shall design, engineer, procure and construct the Project Facilities in accordance with the Construction Requirements as set out in the Schedules to this Agreement, including, inter-alia, the provision of the Equivalent Car Spaces, as specifically set out in **Schedule 1**.

(c) The Concessionaire shall adhere to the Implementation Schedule and the Construction Requirements during the Construction Period and achieve COD for the Project on or before the Scheduled Project Completion Date. In case of delay in achieving COD beyond Scheduled Project Completion Date, the Concessionaire shall pay to NHIDCL a penalty of Rs 1,00,000/- (Rupees one lakh) per week of delay for upto 6 months beyond Scheduled Project Completion Date. For a delay beyond 6 months from Scheduled Project Completion Date, the Concessionaire shall pay to NHIDCL a penalty of Rs 2,00,000/- (Rupees Two Lakhs) per week of delay.

(d) The Concessionaire may undertake Construction Works by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Concessionaire shall remain solely responsible to meet the Construction Requirements.

(e) The Concessionaire shall, before commencement of Construction Works:

(i) have requisite organisation and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Independent Engineer/NHIDCL and to be responsible for all necessary exchange of information required pursuant to this Agreement;

(ii) obtained approval of NHIDCL/ Independent Engineer for the Drawings and carried out such changes as may be suggested by NHIDCL/ Independent Engineer towards conformity with the Construction Requirements; and

(iii) all Applicable Permits required for commencement of Construction Works have been obtained.

(f) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements, Approved Development Control Norms and the Drawings approved pursuant to ***Article 5.3(a),*** the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Independent Engineer and such Tests shall be carried out under the supervision of the Independent Engineer. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.

(g) If the Tests are successful and the Project Facilities can be safely and reliably be opened for operation, the Independent Engineer with permission from NHIDCL shall issue the Completion Certificate within 7 days of the completion of such Tests to the satisfaction of Independent Engineer.

Provided, notwithstanding that certain works or things forming part of Construction Works related to Project Facilities are not complete and if following the Tests, the Independent Engineer determines that the Project Facilities can be safely and reliably opened for operations, the Independent Engineer may issue Provisional Completion Certificate to the Concessionaire. The Provisional Completion Certificate shall have appended thereto a list of outstanding items signed jointly by the Independent Engineer and the Concessionaire (**"Punch List"**). All Punch List items shall be completed by the Concessionaire within such time as may be determined by the Independent Engineer, but not exceeding 30 (thirty) days from the date of issue of the Provisional Completion Certificate. Upon satisfactory completion of all Punch List items, the Independent Engineer, shall promptly and in any case within 7 days thereof, issue the Completion Certificate. Upon issue of Provisional Completion Certificate, the Concessionaire can start the commercial operations.

(h) If the Concessionaire fails to complete the Punch List items within the period of 30 days, it will constitute Concessionaire Event of Default under ***Article 10*** of this Agreement. Provided, in respect of the Commercial Facility, the Concessionaire may extend the period for completion of Punch List at its discretion. Provided further, in the event that the Punch List in respect of the Commercial Facility is not completed and the Concession is terminated in accordance with the provisions of this Agreement, NHIDCL shall get the work under Punch List items completed on the behalf of Concessionaire and the cost of completion of such activities falling under the Punch List items shall be recovered from the Concessionaire under Termination Payments

(i) The Independent Engineer may, by written notice with the permission of NHIDCL, require the Concessionaire to suspend forthwith the whole or any part of the Construction Works, if in its reasonable opinion the same is being carried on in a manner that is not in conformity with the Construction Requirements.

(j) The Construction Works shall be deemed to be complete and ready for commercial operations only when the Provisional Completion Certificate or the Completion Certificate is issued by the Independent Engineer in accordance with the provisions hereof.

(k) Provided if COD in respect of the Parking Facility is delayed beyond 365 days of the Scheduled Project Completion Date, NHIDCL shall, subject to the provisions of ***Article 10***, be entitled to terminate this Agreement and to appropriate the Performance Security in accordance with Article 10 of this Agreement. However, in special circumstances, NHIDCL at its discretion and request of the Concessionaire may grant such extension beyond the period of 365 days on such terms & conditions as may be deemed fit and expedient in the interest of the Project.

5.5 Operation and Maintenance

The Concessionaire shall operate and maintain the Project Facilities in accordance with the O&M Requirements in terms of Schedule 4 from COD till the end of Concession Period.

(a) The Concessionaire may undertake operations and maintenance of the Project Facilities by itself or through a Contractor possessing requisite technical, financial and managerial expertise/capability; but in either case, the Concessionaire shall remain solely responsible to meet the O&M Requirements.

(b) The Concessionaire shall, during the Operations Period:

i. have requisite organisation and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facilities, to deal with the personnel deployed by NHIDCL/ Independent Engineer for monitoring proper operations and maintenance of the Project, consistent with the O&M Manual and the O&M Requirements, and to be responsible for all necessary exchange of information required pursuant to this Agreement;

ii. For the purposes of determining that the Project Facilities are being maintained in accordance with the O&M Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of NHIDCL/ Independent Engineer and such Tests shall be carried out under the supervision of personnel deputed by NHIDCL/ Independent Engineer. The Concessionaire shall maintain proper record of such Tests and the remedial measures taken to cure the defects or deficiencies, if any, indicated by the Test results.

(c) In the event the Concessionaire has failed to operate and maintain the Project Facilities in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the NHIDCL ("Notice to Remedy"), NHIDCL may, without prejudice to any of

its other rights/remedies under this Agreement, be entitled to cause the repair and maintenance of the Project Facilities at the risk and cost of the Concessionaire. The Concessionaire shall reimburse one and half times the costs incurred by NHIDCL on account of such repair and maintenance within 7 days of receipt of NHIDCL's claim therefor. In case the Concessionaire fails to comply with NHIDCL claim hereunder, NHIDCL shall encash the Operations Performance Security and deduct such cost of repair and maintenance. The Concessionaire shall have to refurnish the Operations Performance Security of appropriate amount to NHIDCL.

(d) The Concessionaire shall be deemed to be in material breach of O&M Requirements, if NHIDCL, acting reasonably and in accordance with the provisions of this Agreement, has determined that due to breach of its obligations by the Concessionaire,

(i) the maintenance of the Project Facilities or any part thereof has deteriorated to a level which is below the acceptance level prescribed by the O&M Requirements;
(ii) there has been a serious or persistent breach in adhering to the O&M Requirements and thereby the Project Facilities or any part thereof is not safe for operations;

For avoidance of doubt, persistent breach shall mean:
any breach of O&M Requirements by the Concessionaire which has not been remedied by the Concessionaire despite a Notice to Remedy in respect thereof issued by the NHIDCL;

a) recurrence of a breach by the Concessionaire, during the pendency of Notice to Remedy by the NHIDCL requiring the Concessionaire to remedy a breach, and

b) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.

(e) Upon occurrence of a Material Breach of O&M Requirements, NHIDCL shall, without prejudice to and notwithstanding any other consequences provided therefor under this Agreement, be entitled to terminate this Agreement in accordance to the Article 10

5.6 Insurance

(a) **Insurance Premium Payment**

The Concessionaire shall, in accordance with Good Industry Practice, at its cost and expense, purchase and maintain by due re-instatement or otherwise, all insurances in respect the Project Facilities during the Concession Period.

The Concessionaire shall maintain a register of entry in order of premium paid towards the Project Facilities and proof of payments made shall be submitted to NHIDCL whenever requested for.

(b) **Application of Insurance Proceeds**

Subject to the provisions of the Financing Documents, the proceeds of all insurance policies received shall be promptly applied by the Concessionaire towards repair, renovation, restoration or re-instatement of the Project Facilities or any part thereof which may have been damaged or destroyed. [The Concessionaire may designate the Lenders as the loss payees under the insurance policies or assign the insurance policies in their favour as security for the financial assistance provided by them to the Concessionaire]. The Concessionaire shall carry out such repair, renovation, restoration or re-instatement to the extent possible in such manner that the Project Facilities after such repair, renovation, restoration or re-instatement be as far as possible in the same condition as it were prior to such damage or destruction, normal wear and tear excepted.

(c) **Un-insurable Risks**

If during the Concession Period, any risk which has been previously insured becomes un-insurable due to the fact that the insurers have ceased to insure such a risk and therefore insurance cannot be maintained/re-instated in respect of such risk, the Concessionaire shall not be deemed to be in breach of its obligations regarding insurance under this Agreement.

5.7 Legal Compliance

The Concessionaire shall, ensure that all aspects of the Project Facilities during the Concession Period and processes employed in the construction, operation and maintenance thereof shall conform to the extant applicable laws, including those pertaining to environment, labour, health and safety aspects including, policies and guidelines related thereto.

5.8 The Company and its Shareholding

The successful bidder has promoted and incorporated the Concessionaire as a Limited Company pursuant to the LOA to enter into this Concession Agreement;

The aggregate equity shareholding of the Successful Bidder in the issued and paid up equity share capital of the Concessionaire shall be as per the following clauses:

In case the Successful Bidder is a Type 1 Bidder

a) Successful Bidder shall hold a minimum equity stake equal to 51% in the Concessionaire for a period up to 2(two) years from COD.
b) Successful Bidder shall commit to hold a minimum equity stake equal to 26% till the end of the Concession Period.

In case the Successful Bidder is a Type 2 Bidder

a) Lead Member of Successful Bidder shall hold a minimum equity stake equal to 26% in the Concessionaire for the entire Concession Period of the Project.
b) All other members of the Consortium shall jointly, commit to hold a minimum equity stake equal to 26% in the Concessionaire up to 2(two) years from COD. Subsequent to period of 2(two) years the members other than Lead Member are allowed to divest their stake in the Project.
c) A minimum of 26% (twenty six percent) combined of the subscribed and paid up equity share capital of SPV, shall, at all times till the end of second anniversary of COD, be held by Members whose experience and net worth/aggregate net cash accruals have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP Document..

Provided that any change in Shareholding under the conditions mentioned in this clause 5.8 can only be done after prior approval of NHIDCL. Provided that NHIDCL shall have to respond to such request within 30 days from the date of receipt of any such communication from the Concessionaire failing which it shall be treated as deemed approved by NHIDCL.

5.9 Specific Obligations

(a) Availability of the Parking Facility

The Concessionaire shall, subject to mandatory reservation of slots for Commercial Area as may be required under the Master Plan of Jammu 2032 or by Applicable Law, allow use of Parking Facility by vehicles on a first come first serve basis at all times during the Concession Period.

(b) Management of Parking Facility

The Concessionaire shall operate, maintain and manage the Parking Facility in terms of the details set out in Schedule 4 and Schedule 7.

(c) Sub-license of Commercial Area

The Concessionaire shall be at liberty to negotiate the License Agreement(s) for the occupation and use of Commercial Area Facilities. The Concessionaire and the prospective users of the Commercial Facilities shall enter into License Agreements. The Concessionaire shall get the License Agreements executed between the Concessionaire and the Prospective users as per Schedule 13 of the present agreement. Provided, such License Agreement(s) shall be entered into and occupation and use of Commercial Facilities permitted only after the Independent Engineer has certified that 100% of the Parking Facility is Commissioned and the Parking Facility has been operational for a minimum period of 2 months after COD. Provided, the Concessionaire shall be allowed to do advance booking for a maximum of 80% of the total space allowed for Commercial Facilities before achieving COD of the Parking Facility.
Provided, the Concessionaire shall ensure that the end-use of the Commercial Facilities shall conform to the laws, byelaws framed for undertaking commercial activities and to the list of end-uses provided as Schedule 6 or any other end-use as may be mutually agreed between the Parties failing which the License Agreements shall be void ab initio and the Concessionaire shall have deemed to committed a Concessionaire Event of Default provided further that the purpose for which the space is utilised is within the ambit of laws, byelaws framed for undertaking commercial activities.

The parties agree that the Sub License of the Commercial Area shall be in accordance with the present Agreement, and in the event of termination of the present Agreement under Article 10, the same shall be co-terminus with the present Agreement.

(d) Staggered sale of Commercial Area

The Concessionaire shall be allowed to sale upto 50% of the commercial area in the first operational year and remaining 50% area at the end of the concession period.

5.10 General Obligations

The Concessionaire shall at its own cost and expense:

(a) investigate, study, design, finance, construct, operate and maintain the Project Facilities in accordance with the provisions hereof;

(b) obtain all Applicable Permits and be in compliance thereof at all times during the Concession Period;

(c) comply with Applicable Law governing the operations of the Project Facilities, as the case may be, at all times during the Concession Period;

(d) ensure and procure that each Project Agreements contains provisions that would entitle NHIDCL or a nominee of NHIDCL or the Lender or the Lender's nominee to step into the same at NHIDCL's discretion, in place and substitution of the Concessionaire, pursuant to the provisions of this Agreement or the Substitution Agreement;

(e) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions for materials, methods, processes and systems used in or incorporated into the Project Facilities;

(f) appoint, supervise, monitor and control as necessary, the activities of Contractors under the respective Project Agreements;

(g) make efforts to maintain harmony and good industrial relations among the personnel employed in connection with the performance of its obligations under this Agreement and shall be solely responsible for compliance with all labour laws and solely liable for all possible claims and employment related liabilities of its staff employed in relation with the Project Facilities and hereby indemnifies NHIDCL against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall NHIDCL be treated as employer in this regard;

(h) make its own arrangements for construction materials and observe and fulfil the environmental and other requirements under the Applicable Law and Applicable Permits

(i) be responsible for all the health, security, environment and safety aspects of the Parking Facility/Commercial Area, as the case may be, at all times during the Concession Period;

(j) ensure that the Project Facilities remains free from all encroachments and take all steps necessary to remove encroachments, if any;

(k) be responsible for the shifting of utilities if any with due permission if any required and in the manner stipulated by the relevant Government Agency;

(l) ensure that the shifting of utilities is carried out in a manner so as to cause least damage and inconvenience to the users thereof;

(m) upon receipt of a request thereof, afford access to the Project Facilities to the authorised representatives of NHIDCL for the purpose of ascertaining compliance with the terms, covenants and conditions of this Agreement and to any Government Agency having jurisdiction over the Project, including those concerned with safety, security or environmental protection to inspect the Project Facilities and to investigate any matter within their authority and upon reasonable notice, the Concessionaire shall provide to such persons assistance reasonably required to carry out their respective duties and functions.

(n) pay all taxes, duties and outgoings, including utility charges relating to the Project Facilities;

(o) advise the NHIDCL for alternate regulation of parking until such time that the Parking Facility is operational and on a best effort basis maintain the Existing Parking Facility to the extent possible subject to it not causing a hindrance in the implementation of the Project;

(p) upon Termination, vacate the Project Site and handback the Project Facilities in accordance with the Handback Requirements.

(q) The Concessionaire for the development of the present project site shall be responsible for the compliance of the Jammu and Kashmir Preservation of Specified Trees Act, 1969, or any other Law, order or direction applicable to the site in question, and shall obtain such permissions, approvals, licences etc. as may be required from time to time. The Concessionaire shall be responsible for any penalty imposed by any authority in case of non-compliance of any law applicable hereunder.

(r) The Concessionaire shall be under obligation at its own costs to remove all establishments, utilities, structures, etc. existing on the Project Site at the Appointed Date in association with the NHIDCL, and shall take all necessary steps towards the shifting / relocation of the same as may be required, and shall remain responsible towards clearance of the Project site for the implementation of the Project within a period of 12 months from the Appointed Date. NHIDCL subject to circumstances may extend the period beyond 12 months on case to case, and on such costs/ charges / terms as may be deemed fit. In the event, the Concessionaire fails to complete the same within the period of 12 months. NHIDCL has the option of termination of the present Agreement as per Clause 10. In

case of utilities required to be shifted by any other agency, the cost/ charges of shifting such utility shall be borne by the Concessionaire.

5.11 Accounts and Audit

The Concessionaire shall, appoint a Charted Accountant for maintenance of the full accounts of all Project investments, parking revenues collected and O&M expenses on the Project. NHIDCL shall have the right to appoint at its cost an independent auditor to verify all matters, revenues, expenses, costs etc. The Concessionaire shall provide access to NHIDCL to all the documents and records without and objections and reservations.

5.12 No Breach of Obligations

The Concessionaire shall not be considered to be in breach of its obligations under this Agreement nor shall it incur or suffer any liability if and to the extent performance of any of its obligations under this Agreement is affected by or on account of any of the following:

(i) Force Majeure Event, subject to ***Article 9.1***;

(ii) NHIDCL Event of Default;

(iii) Compliance with written instructions of the NHIDCL or the directions of any Government Agency in writing, other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder;

(iv) Closure of the Parking Facility or part thereof with the prior written consent of NHIDCL.

ARTICLE 6

NHIDCL's OBLIGATIONS

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, NHIDCL shall have the following obligations:

6.1 Specific Obligations

(a) NHIDCL shall handover the Project Site to the Concessionaire pursuant to and in accordance with Clause 3.1 of this Agreement, and the Concessionaire complying the terms and conditions of the present agreement;

(b) Prior to handover of the Project Site, NHIDCL shall remove all illegal encroachments and unlawful occupancy from the Project Site;

(c) NHIDCL shall grant/assist in obtaining all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek from NHIDCL under this Agreement, in connection with implementation of the Project and the performance of its obligations. Provided where authorisation from NHIDCL for availment of utilities such as power, water, sewerage, telecommunications or any other incidental services/utilities is required, the same shall be provided by NHIDCL in the form as set out in **Schedule 10**, within 15 (fifteen) days from receipt of request from the Concessionaire to make available such authorisation. In the event the Concessionaire is required to obtain permission, approvals and authorizations from any authority or agency other than NHIDCL, the same shall be obtained by the Concessionaire independently.

(d) NHIDCL from time to time and on the request of the Concessionaire will provide all necessary assistance with respect to the clearance of the project site by the Concessionaire under Clause 5.4 (b).

(e) Prior to COD, NHIDCL shall:

(i) notify the revised schedule of Parking Fee and all other fees and charges as per the rates set out in **Schedule 7**.

(ii) notify a no-parking zone for vehicles

(f) NHIDCL shall execute the Substitution Agreement within 30 days from the date of the intimation of Financial Close by the Concessionaire.

(g) NHIDCL shall grant/assist in obtaining necessary permissions and approvals to the Concessionaire so as to enable the Concessionaire to meet his obligations relating to the Construction Requirements and for

regulation of traffic and/or removal of obstructions and other impediments, if any, to facilitate the same.

6.2 General Obligations

NHIDCL shall:

(a) upon a reasonable request from the Concessionaire, in writing, assist, by issuing letters of recommendation, the Concessionaire in obtaining access to all necessary infrastructure facilities and utilities, including water, electricity and telecommunication facilities at rates and on terms no less favourable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent facilities/utilities;

(b) assist the Concessionaire, by issuing letters of recommendation, in obtaining police assistance, upon payment of prescribed costs and charges by the Concessionaire, if any, for traffic regulation, patrolling and provision of security on the Project Site/Project Facilities and implementing this Agreement in accordance with the provisions hereof;

(c) observe and comply with all its obligations set forth in this Agreement.

ARTICLE 7

CONCESSION FEE PAYABLE TO NHIDCL, LEVY AND COLLECTION OF USER FEES AND OTHER CHARGES

7.1 Annual Concession Fee

The Concessionaire shall pay to NHIDCL, an Annual Concession Fee in terms of the below mentioned provisions:

i. Subject to provisions of this Agreement and in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms, conditions and covanents set forth in this Agreement, Concessionaire agrees and undertakes to pay to NHIDCL a Concession Fee **of Rs. _____/- (Rupees _____only) ("the Concession Fee" or the "Annual Recurring Fee")** to be paid each Year for the entire duration of Concession Period. Payment of the Concession Fee shall be due and payable from SPCD or COD whichever is earlier. Such Concession Fee shall be increased year on year @ 5% per annum.

ii. The Annual Recurring Fee shall be payable in advance on a quarterly basis for each quarter of the respective Year within 15 days from the start of every quarter.

iii. For the purpose of payment of Annual Recurring Fee, the quarter shall be from January to March, April to June and so forth for every year of the Concession Period.

iv. In case where the payment of Annual Recurring Fee is to be done for a part of the quarter the same shall be done on a pro-rata basis.

Non-payment of the Concession Fee at the stipulated time above shall be construed as Concessionaire Event of Default and would be dealt as per Article 10 of this Agreement.

7.2 User Fees

(a) Subject to the provisions of this Agreement and Applicable Law from time to time, in consideration of the Concessionaire accepting the Concession and undertaking to perform and discharge its obligations in accordance with the terms and conditions set forth in this Agreement, the Concessionaire shall be

entitled to levy, collect, retain and appropriate the following from COD till the end of Concession Period:

Parking Fee from vehicles using the Parking Facility in accordance with **Schedule 7**.

The Concessionaire shall, at its own cost, arrange the necessary infrastructure as may be required for levy and collection of amounts mentioned above in terms of the requirements of the Agreement.

During the period when the Concessionaire is awaiting the approvals necessary for commercial operations of the Project Facilities, however has constructed the Project Facilities in accordance with the Construction Requirements as approved by the Independent Engineer **("Trial Run Period")** the users of Parking Facility shall be allowed to park the vehicles without charging any Parking Fee. However such period cannot be extended beyond three (3) months.

7.3 Advertisement / Hoarding Charges

The Concessionaire shall have the right to permit/allow and charge for advertisement/hoarding in the Project Site as per Applicable NHIDCL Laws Provided, no such activity shall affect the safe and smooth flow of vehicular and/or pedestrian movement or cause any physical damage to the Project Facilities.

7.4 Changes arising out of Change in Law

In the event the Concessionaire expands the Commercial Area on account of Change in Law and pursuant to prior written approval of NHIDCL, the Concessionaire agrees and undertakes to pay to NHIDCL such additional Upfront Payment in proportion to additional facility developed actually by the Concessionaire, or elsewhere as may be mutually agreed upon by the Parties

ARTICLE 8

8.1 Site office and facilities

(a) The Concessionaire shall open at its own cost a Site Office at the Project Site with suitable provisions for communication and seating of its officials and whenever required for NHIDCL officials and the Independent Engineer till COD. The Concessionaire shall arrange and operate at its own cost one (1) official vehicles i.e. SUV for the NHIDCL officials for commutation purposes during the Construction Period and would also bear the running expenses for the vehicle.

(b) The Concessionaire at its own cost shall equip the Site Office with two sets of computers (networked), Plotter with latest Microsoft operating system (Windows 10 or above) or any updated version, MS Office, AutoCAD etc. with internet connectivity and two laser black and white printers to print A-3 size.

ARTICLE 9

FORCE MAJEURE

9.1 Force Majeure Events

Any of the following events which is beyond the control of the Party claiming to be affected thereby (**"Affected Party"**), and which the Affected Party has been unable to overcome or prevent despite exercise of due care and diligence, and results in Material Adverse Effect shall constitute Force Majeure Event:

(a) earthquake, flood, inundation and landslide;

(b) storm, tempest, hurricane, cyclone, lightning, thunder or other extreme atmospheric disturbances;

(c) fire caused by reasons not attributable to the Concessionaire or any of the employees, contractors or agents of the Concessionaire;

(d) acts of terrorism;

(e) strikes, labour disruptions, any other industrial disturbances or public unrest not arising on account of the acts or omissions of the Concessionaire; or

(f) war, hostilities (whether war be declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military action or civil war;

9.2 Notice of Force Majeure Event

(a) As soon as practicable and in any case within 7 days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify Independent Engineer and the other Party of the same setting out, inter alia, the following in reasonable detail:

(i) the nature and extent of the Force Majeure Event;

(ii) the estimated Force Majeure Period;

(iii) the nature of and the extent to which, performance of any of its obligations under this Agreement is affected by the Force Majeure Event; and

(iv) the measures which the Affected Party has taken or proposes to take to alleviate/mitigate the impact of the Force Majeure Event and to resume performance of such of its obligations affected thereby;

9.3 Performance of Obligations

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

(a) due notice of the Force Majeure Event has been given as required by the preceding Clause 9.2 (a);

(b) the excuse from performance shall be of no greater scope and of no longer duration than is necessitated by the Force Majeure Event;

(c) the Affected Party has taken all reasonable efforts to avoid, prevent, mitigate and limit damage, if any, caused or is likely to be caused to the Project Facilities as a result of the Force Majeure Event and to restore the Project Facilities, in accordance with the Good Industry Practice and its relative obligations under this Agreement;

(d) the Affected Party shall continue to perform such of its obligations which are not affected by the Force Majeure Event and which are capable of being performed in accordance with this Agreement;

9.4 Termination due to Force Majeure Event

If a Force Majeure Event leads to a situation that in the reasonable judgement of the Parties, the Project Facilities cannot be restored ("Total Loss") or if a Force Majeure Event subsists for a period exceeding 365 days either Party shall be entitled to terminate this Agreement by a notice in writing in respect thereof ('Termination Notice').

Following the issue of Termination Notice by a Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that the Project Site and Project Facilities are handed back to NHIDCL by the Concessionaire on the Termination Date free from all Encumbrances.

9.5 Liability for other losses, damages on a Force Majeure Event

Save and except as expressly provided in this **Article 9**, neither Party hereto 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. It is however agreed that any loss caused or damages occurred by either party on account of Force Majeure shall not avoid, suspend or postpone the obligations under the present agreement except during the term of such event, and also shall not allow any of the party to seek any set off of the obligations and performances.

ARTICLE 10

EVENTS OF DEFAULT AND TERMINATION

10.1 Events of Default

Event of Default means either Concessionaire Event of Default or Concessioning Authority Event of Default or both as the context may admit or require.

(a) Concessionaire Event of Default

Any of the following events shall constitute an event of default by the Concessionaire (**"Concessionaire Event of Default"**) unless such event has occurred as a result of one or more reasons set out in ***sub- article 5.12*** of ***Article 5***;

(i) The Concessionaire has failed to achieve Financial Closure by 90 days from the Appointed Date.

(ii) The Concessionaire has failed to pay the Upfront Payment as per Clause 7.1

(iii) The Concessionaire has failed to provide the Project Facilities in terms of requirement specified in Schedule 1 of the Concession Agreement

(iv) The Concessionaire has failed to adhere to the Construction Requirements and the Implementation Schedule and such failure, in the reasonable estimation of the Independent Engineer, is likely to delay achievement of COD beyond 365 days of the Schedule Project Completion Date.

(v) Pursuant to Clause 5.4 (c), the Concessionaire has failed to achieve COD within 365 days from the Scheduled Project Completion Date.

(vi) The Concessionaire is in Material Breach of O&M Requirements.

(vii) Any representation made or warranties given by the Concessionaire under this Agreement is found to be false or misleading.

(viii) The Concessionaire has created any Encumbrance on the Project Site/ Project / Parking Facilities in favour of any Person save as otherwise expressly permitted under this Agreement.

(ix) The Concessionaire has failed to ensure minimum shareholding requirements specified in ***sub-article 5.8*** of ***Article 5***.

(x) A resolution has been passed by the shareholders of the Concessionaire for the voluntary winding up of the Concessionaire.

(xi) Any petition for winding up of the Concessionaire has been admitted and liquidator or provisional liquidator has been appointed or the Concessionaire has been ordered to be wound up by Court of competent jurisdiction except for the purpose of amalgamation or reconstruction with the prior consent of NHIDCL, provided that, as part of such amalgamation or reconstruction, the 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 further that:

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

b) 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 Commencement Date and

c) each of the Project Agreements remains in full force and effect.

(xii) A default has occurred under any of the Financing Documents and any of the Lender(s) has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable.

(xiii) The Concessionaire has abandoned the Project Facilities for a continuous period of 7 days.

(xiv) The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement.

(xv) The Concessionaire has suffered an attachment levied on any of the assets located or comprised in the Project Site/Project Facilities, causing a Material Adverse Effect on the Project and such attachment has continued for a period exceeding 90 days.

(xvi) The Concessionaire has delayed any payment that has fallen due under this Agreement for 90 days or more.

(xvii) The Concessionaire has otherwise been in Material Breach of any of its other obligations and terms and conditions under this Agreement and the RFP.

(xviii) The Concessionaire has misused the Parking Facility or utilised the space provided for parking for any other purpose

(xix) The Concessionaire has failed to provide Performance Security in accordance with Clause 5.1 of this Agreement

(xx) The Concessionaire has violated any of the conditions mentioned in Clause 2.6(i)

(xxi) The Performance Security has been partially or fully invoked and appropriated by NHIDCL as per the Concession Agreement and the Concessionaire fails to replenish or provide fresh Performance Security within a Cure Period of 30 (thirty) days.

(b) NHIDCL Event of Default

Any of the following events shall constitute an event of default by NHIDCL (**"NHIDCL Event of Default"**), unless caused by a Concessionaire Event of Default or a Force Majeure Event:

(i) NHIDCL is in breach of any of its obligations under this Agreement and has failed to cure such breach within 120 (One hundred and twenty) days of receipt of notice thereof issued by the Concessionaire.

(ii) NHIDCL has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement.

(iii) NHIDCL is unable to continue this Concession for any reason whatsoever including but not limited to (a) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Site/Project Facilities, and (b) any judgement or order of a court of competent jurisdiction or statutory authority in India made against the Project or the Concessionaire which is not a consequence of an omission of the Concessionaire, is non-collusive and duly prosecuted by the Concessionaire.

(iv) NHIDCL has (a) failed to execute the Substitution Agreement in accordance with ***sub-article 6.1(f)*** or having executed the same is in breach of any of its obligations there under and such breach has not been cured within 30 days from the date of written notice thereof given by the Concessionaire.

(v) NHIDCL has unreasonably withheld or delayed grant of any approval or permission, which the Concessionaire is obliged to seek under this Agreement, and thereby caused Material Adverse Effect.

(vi) Any representation made or warranties given by NHIDCL under this Agreement have been found to be false or misleading.

10.2 Termination due to Events of Default

(a) Termination for Concessionaire Event of Default

(i) Without prejudice to any other right or remedy which the NHIDCL may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, the NHIDCL shall subject to the provisions of the Substitution Agreement, be entitled to terminate this Agreement as hereinafter provided.

(ii) If NHIDCL decides to terminate this Agreement pursuant to preceding ***sub-article10.2 (a) (i),*** it shall in the first instance issue Preliminary Notice to the Concessionaire. Within 30 days of receipt of the Preliminary Notice, the Concessionaire shall submit to NHIDCL in sufficient detail, the manner in which it proposes to cure the underlying Event of Default (the **"Concessionaire's Proposal to Rectify"**). In case of non-submission of the Concessionaire's Proposal to Rectify within the period of 30 days, NHIDCL shall be entitled to terminate this Agreement by issuing Termination Notice, and to appropriate the Performance Security, if subsisting.

(iii) If the Concessionaire's Proposal to Rectify is submitted within the period stipulated therefor, the Concessionaire shall have further period of 30 days to remedy / cure the underlying Event of Default (Cure Period). If, however the Concessionaire fails to remedy/cure the underlying Event of Default within such further period allowed, NHIDCL shall be entitled to terminate this Agreement by issue of Termination Notice and to appropriate the Performance Security if subsisting.

(b) Termination for NHIDCL Event of Default

(i) Without prejudice to any other right or remedy which the Concessionaire may have in respect thereof under this Agreement, upon the occurrence of NHIDCL Event of Default, the Concessionaire shall be entitled to terminate this Agreement as hereinafter provided.

(ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding **article10.2 (b)(i)** it shall in the first instance issue Preliminary Notice to NHIDCL. Within 120 days of receipt of Preliminary Notice, NHIDCL shall forward to the Concessionaire its proposal to remedy/cure the underlying Event of Default the **"NHIDCL's Proposal to Rectify"**. In case of non-submission of NHIDCL's 'Proposal to Rectify' within the period stipulated therefor, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(iii) If NHIDCL's Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefore, NHIDCL shall have further period of 120 days to remedy/cure the underlying Event of Default. If, however NHIDCL fails to remedy/cure the underlying Event of Default within such further period allowed, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

(c) Termination Notice

If a Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding **article 10.2 (a) or (b),** it shall issue Termination Notice setting out:

(i) in sufficient detail the underlying Event of Default;
(ii) the Termination Date which shall be a date occurring not earlier than 60 days from the date of Termination Notice;
(iii) the estimated Termination Payment including the details of computation thereof and;
(iv) any other relevant information.

(d) Obligation of Parties

Following issue of Termination Notice by a Party entitled to do so, the Parties shall promptly take all such steps as may be necessary or required to ensure that:

(i) until Termination the Parties shall, to the fullest extent possible, discharge their respective obligations so as to maintain the continuity of service to the users of the Project Facilities,

(ii) the Termination Payment, if any, payable by NHIDCL is paid to the Concessionaire on the Termination Date and

(iii) the Project Facilities are handed over to NHIDCL by the Concessionaire on the Termination Date free from any Encumbrance.

(e) Withdrawal of Termination Notice

Notwithstanding anything inconsistent contained in this Agreement, if the Party who has been served with the Termination Notice cures the underlying Event of Default to the satisfaction of the other Party at any time before the Termination occurs, the Termination Notice may be withdrawn by the Party which had issued the same.

Provided that the Party in breach shall compensate the other Party for any direct costs/consequences occasioned by the Event of Default which caused the issue of Termination Notice.

10.3 Termination Payments

Upon Termination of this Agreement, the Concessionaire shall be entitled to receive Termination Payment as under;

(i) The Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default.

(ii) If the Agreement is terminated due to NHIDCL Event of Default (including Early Determination referred to in ***Article 10.6***), the Concessionaire shall receive from NHIDCL, Termination Payment equal to

a) Debt Due; and

b) 100% (one hundred per cent) of the equity subscribed in cash and actually spent on the Project.

c) Less any Premia paid by lessees/ Allottees

Provided that NHIDCL shall be entitled to deduct from the Termination Payment any amount due and recoverable under this Agreement by NHIDCL, from the Concessionaire as on the Termination Date.

10.4 Rights of Authority on Termination

Upon Termination of this Agreement for any reason whatsoever, NHIDCL shall upon payment of the Termination Payment to the Concessionaire have the power and authority to:

(i) Enter upon the Project Site and take over the Project Facilities, subject to the provisions of the Substitution Agreement;

(ii) Subject to the provisions of the Substitution Agreement, enter into a Concession Agreement with another party on such terms and conditions as NHIDCL shall deem fit;

(iii) prohibit the Concessionaire or any Person claiming through or under the Concessionaire from entering upon/dealing with the Project Site / Project Facilities;

(iv) step in or nominate any person to step in without the necessity of any further action by the Concessionaire, to the interests of the Concessionaire under such of the Project Agreements, as NHIDCL may in its discretion deem appropriate with effect from such date as NHIDCL may specify;

Provided any sums claimed by counter party to any such Project Agreements as being due and owing for work or services performed or accruing on account of any act, omission or event prior to such date specified by NHIDCL for step in shall and shall always constitute debt between the Concessionaire and such counter party and NHIDCL shall in no way or manner be liable or responsible for such sums. The Concessionaire shall ensure that the Project Agreements contain provisions necessary to give effect to the provisions of this ***sub-article 10.4***;

(v) Notwithstanding anything contained in this Agreement, NHIDCL shall not, as a consequence of Termination or otherwise, have any obligation whatsoever including but not limited to obligations as to compensation for loss of employment, continuance or regularisation of employment, absorption or re-employment on any ground, in relation to any person in the employment of or engaged by the Concessionaire in connection with the Project, and the handback of the Project Site/Project Facilities by the Concessionaire to NHIDCL shall be free from any such obligation.

Notwithstanding anything contained in this Agreement, the right of NHIDCL to vacant and peaceful possession of the Project Facilities, upon Termination is absolute. If the Concessionaire fails to

delivervacant and peaceful possession of the Project Facilities as contemplated in this provision, the Concessionaire shall be liable to pay to NHIDCL and NHIDCL shall be entitled to recover from the Concessionaire, an amount that represents a genuine estimate of the losses, damages and costs suffered by NHIDCL by way of liquidated damages. The parties agree that the said liquidated damages shall be calculated at the rate of 200% of the costs incurred by NHIDCL for recovery of the Project Facilities. Such liquidated damages shall be recoverable from the Termination Date to the date when NHIDCL receives vacant and peaceful possession of the Project Facilities. Provided, the recovery of liquidated damages shall be without prejudice to the rights and remedies available to NHIDCL against the Concessionaire who shall be deemed to be a trespasser in illegal and unauthorized possession and occupation of the Project Site and Project Facilities, upon Termination.

10.5 Rights of Parties

Notwithstanding anything to the contrary contained in this Agreement, Termination pursuant to any of the provisions of this Agreement shall be without prejudice to accrued rights of either Party including its right to claim and recover money damages and other rights and remedies which it may have in law or contract. The rights and obligations of either Party under this Agreement, including without limitation those relating to Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

10.6 Early Determination

Notwithstanding anything inconsistent contained anywhere in this agreement, in the event of early determination of this Agreement by NHIDCL without the consent of the Concessionaire or in the absence of any default by the Concessionaire, the procedure for Termination prescribed in the preceding sub articles shall not apply. In such an event, the Concessionaire shall be entitled to receive from NHIDCL, Termination Payment specified in the preceding ***sub article 10.3***, as if and on the basis that this Agreement was terminated for NHIDCL's Event of Default.

ARTICLE 11

CHANGE IN LAW

11.1 Change in Law

(a) Change in Law shall mean the occurrence or coming into force of any of the following, after the Appointed Date:

i. the enactment of any new Indian law;
ii. the repeal, modification or re-enactment of any existing Indian law including Rules and Regulations thereunder;
iii. a change in the interpretation or application of any Indian law by a court of record.

Provided that Change in Law shall not include:

i. coming into effect, after the Appointed Date, of any provision or statute which is already in place as of the Appointed Date,
ii. any change in the rates of the Taxes.

(b) Subject to Change in Law resulting in Material Adverse Effect and subject to the Concessionaire taking necessary measures to mitigate the impact or likely impact of Change in Law on the Project, if as a consequence of a Change in Law, the Concessionaire is obliged to incur Additional Costs of not less than 1,00,00,000 (Rupees One crore)the Parties may by mutual consent modify the terms of the Agreement, including but not limited to by way of extension in the Concession Period, so as to mitigate the impact of Change in Law.

(c) Upon occurrence of a Change in Law, the Concessionaire may, notify NHIDCL of the following:

i. the nature and the impact of Change in Law on the Project
ii. in sufficient detail, the estimate of the Additional Cost likely to be incurred by the Concessionaire on account of Change in Law
iii. the measures, which the Concessionaire has taken or proposes to take to mitigate the impact of Change in Law, including in particular, minimising the Additional Cost
iv. the relief sought by the Concessionaire

(d) Upon receipt of the notice of Change in Law issued by the Concessionaire pursuant to preceding ***sub-article 11.1(c),***NHIDCL and

the Concessionaire shall hold discussions and take all such steps as may be necessary as to determine the quantum of relief to be provided by NHIDCL to the Concessionaire.

(e) NHIDCL shall within 120 days from the date of determination of quantum of Additional Cost, provide relief to the Concessionaire in the manner as mutually agreed upon by the Parties.

ARTICLE 12

HANDBACK OF PROJECT SITE

12.1 Vesting

Without prejudice and subject to the Concession, the Project Site and the Project Facilities, including all improvements made therein by the Concessionaire, shall at all times vest in NHIDCL. Further the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 shall apply to the Project Site.

12.2 Parking Facilities – Obligations of Parties

(a) Concessionaire's Obligations

i. The Concessionaire shall on the date of expiry of the Concession Period, hand back peaceful possession of the Parking Facility to NHIDCL free of cost and in good operable condition.

ii. Atleast 6 months before the expected expiry of the Concession Period, a joint inspection of the Parking Facility shall be undertaken by NHIDCL, Concessionaire and Independent Engineer. NHIDCL and Independent Engineer shall, within 45 days of such inspection prepare and furnish to the Concessionaire a list of works/ jobs (**"Parking Facility Handback Requirements"**), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Concessionaire shall promptly undertake and complete such works/jobs at least three months prior to the expected expiry of the Concession Period and ensure that the Parking Facility continues to meet such requirements until the same are handed back to NHIDCL.

iii. NHIDCL/Independent Engineer shall, within 45 days of the joint inspection undertaken under preceding ***sub-article 12.2 (a) (ii)***prepare and furnish to the Concessionaire a list of items, if any, with corresponding distinctive descriptions, which are to be compulsorily handed back to NHIDCL along with the Parking Facility.

iv. The Concessionaire hereby acknowledges NHIDCL's rights specified in ***Article 10.6*** enforceable against it upon Termination and its corresponding obligations arising therefrom. The Concessionaire undertakes to comply with and discharge promptly all such obligations.

v. At least 12 months prior to the expiry of the Concession period, the Concessionaire shall, for due performance of its obligations relating to handback of the Parking Facility, submit to NHIDCL a bank guarantee, in the form as set forth in Schedule 8 ("Handback Guarantee"), equal to a sum

of Rs. 1,05,00,000/- (One Crore Five Lakh Only), from a bank acceptable to NHIDCL. The Handback Guarantee shall be kept valid for a period of thrity (30) months.

(b) NHIDCL's Obligations

NHIDCL shall, subject to NHIDCL's right to deduct amounts towards;

i. carrying out works/jobs listed under ***Article 12.2(a)(ii),*** which have not been carried out by the Concessionaire,

ii. purchase of items, which have not been handed back to NHIDCL along with the Parking Facility in terms of ***Article 12.2(a)(iii),*** and

iii. any outstanding dues, which may have accrued in respect of the Parking Facility during the Concession Period,

iv. duly discharge and release to the Concessionaire the Performance Security within 3 months from the expiry of the Concession Period.

12.3 Commercial facilites – Obligations of Parties

(a) Concessionaire's Obligations

i. The Concessionaire shall on the date of expiry of the Concession Period, hand back vacant and peaceful possession of the Commercial Facilities, Public Convenience Facilities and walkways to NHIDCL free of cost and in good operable condition.

ii. Atleast 12 months before the expected expiry of the Concession Period a joint inspection of the Commercial Facilities, Public Convenience Facilities and walkways shall be undertaken by NHIDCL, Independent Engineer and the Concessionaire. NHIDCL and Independent Engineer shall, within 45 days of such inspection prepare and furnish to the Concessionaire a list of works/ jobs ("Handback Requirements"), if any, to be carried out so as to conform to the Construction Requirements and O&M Requirements. The Concessionaire shall promptly undertake and complete such works/jobs at least three months prior to the expected expiry of the Concession and ensure that the Commercial Facilities, Public Convenience Facilities and Walkways continue to meet such requirements until the same are handed back to NHIDCL.

iii. NHIDCL/Independent Engineer shall, within 45 days of the joint inspection undertaken under preceding ***sub-article 12.3 (a) (ii)*** prepare and furnish to the Concessionaire a list of items, if any, with corresponding distinctive

descriptions, which are to be compulsorily handed back to NHIDCL along with the Commercial Facilities, Public Convenience Facilities and Walkways.

iv. The Concessionaire hereby acknowledges NHIDCL's rights specified in ***Article 10.6*** enforceable against it upon Termination and its corresponding obligations arising therefrom. The Concessionaire undertakes to comply with and discharge promptly all such obligations.

vi. At least 12 months prior to the expiry of the Concession, the Concessionaire shall, for due performance of its obligations relating to handback of the Commercial Facilities, Public Convenience Facilities and walkways, submit to NHIDCL a bank guarantee, in the form as set forth in **Schedule 8** ("Handback Guarantee") equal to a sum of Rs. 1,05,00,000/- (One Crore Five Lakh Only), from a bank acceptable to NHIDCL. The Handback Guarantee shall be kept valid for a period of thirty (30) months.

(b) NHIDCL's Obligations

NHIDCL shall, subject to NHIDCL's right to deduct amounts towards;

i. carrying out works/jobs listed under ***Article 12.3(a)(ii),*** which have not been carried out by the Concessionaire,

ii. purchase of items, which have not been handed back to NHIDCL along with the Project Site in terms of ***Article 12.3(a)(iii),*** and

iii. any outstanding dues, which may have accrued in respect of the Commercial Facilities, Public Convenience Facilities and Walkways during the Concession Period,

iv. duly discharge and release to the Concessionaire the Handback Guarantee within 3 months from the expiry of the Concession.

12.4 Default in Handback

Notwithstanding anything contained in this Agreement, the liability of the Concessionaire to handover possession as stipulated in *Article 12.2.(a) is* absolute.Without prejudice to anything contained hereunder, if the Concessionaire fails to deliver vacant and peaceful possession of the Project Facilities as contemplated in this provision, the Concessionaire shall be liable to pay to NHIDCL and NHIDCL shall be entitled to recover from the Concessionaire, an amount that represents a genuine estimate of the losses, damages and costs suffered by NHIDCL by way of liquidated damages. The parties agree that the said liquidated damages shall be calculated at the rate of 200% of costs incurred by NHIDCL for recovery of the Project Facilities. Such liquidated damages shall be recoverable from the Termination Date to the date when NHIDCL receives vacant and peaceful possession of the Project Facilities.

Provided, the recovery of liquidated damages shall be without prejudice to the rights and remedies available to NHIDCL against the Concessionaire who shall be deemed to be a trespasser in illegal and unauthorized possession and occupation of the Project Site and Project Facilities, upon expiry of the License Period.

ARTICLE 13

DISPUTE RESOLUTION

13.1 In the event that any dispute, controversy or claim arises among the Parties in connection with or under this Agreement or the interpretation of any of its provisions or upon the occurrence of an event of Default any party may refer the dispute, controversy or claim to the Commissioner, NHIDCL for amicable settlement.

13.2 Mediation by Commissioner

(a) The Commissioner NHIDCL upon the written request received from any party under Clause 13.1 will appoint an officer who will look into the written documents;

(i) a description of dispute;

(ii) a statement of that party's position;

(iii) copies of relevant documentary evidence in support of such position of the party referring the dispute for settlement. The party referring the dispute shall supply a copy of the documents to the other party(ies) also.

(b) Within 10 days of receipt of the above documents, the other party shall submit; a description of the dispute;

(i) a statement of that party's position;

(ii) copies of relevant documentary evidence in support of such position.

(c) The officer appointed by Commissioner NHIDCL may call for such further documentary evidence and/or interview such persons, as it may deem necessary in order to reach a decision.

(d) The officer appointed by Commissioner NHIDCL shall attempt to amicably settle the dispute between the parties, and may also call the parties through their Official Representatives for personal hearing. In case the parties agree for an amicable settlement, the same shall be final and binding upon the parties, and which shall be reduced in writing by the Officer Appointed by Commissioner NHIDCL.

(e) In the event the parties are unable to settle the dispute through the aforementioned mechanism, the documents, papers, and documents filed before the appointed Officer shall not be called for by either of the parties in any future proceedings before any Court of Law, and cannot be relied upon for any purpose whatsoever.

13.3 Performance during Dispute Resolution

Pending the submission of a dispute, controversy or claim to the officer appointed by the Commissioner NHIDCL and thereafter until the final decision of the officer appointed by the Commissioner NHIDCL, as the case may be, the parties shall continue to perform all of their obligations under this Agreement, without prejudice to a final settlement in accordance with such decision.

ARTICLE 14

REPRESENTATIONS AND WARRANTIES, DISCLAIMER

14.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to NHIDCL that:

(a) it is duly organised, validly existing and in good standing under the laws of India;

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

(c) it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorise the execution, delivery and performance of this Agreement;

(d) it has the financial standing and capacity to undertake the Project;

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

(f) 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 the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

(g) there are no actions, suits, proceedings or investigations pending or to the Concessionaire's 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 constitute Concessionaire Event of Default or which individually or in the aggregate may result in Material Adverse Effect;

(h) 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 Agency which may result in Material Adverse Effect;

(i) it has complied with all Applicable Laws 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 Material Adverse Effect;

(j) subject to receipt by the Concessionaire from NHIDCL of any amount due under any of the provisions of this Agreement, in the manner and to

the extent provided for under the applicable provisions of this Agreement all rights and interests of the Concessionaire in and to the Project Site/Project Facilities shall pass to and vest in NHIDCL on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or NHIDCL;

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

(l) no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any person to procure the Concession.

(m) Without prejudice to any express provision contained in this Agreement, 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 Project Site, and the information provided by NHIDCL including but not limited to the area of Project Site, existing structures at the Project Site etc., and has determined to its satisfaction the nature and extent of risks and hazards as are likely to arise or may be faced by the Concessionaire in the course of performance of its obligations hereunder.

The Concessionaire also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that NHIDCL shall not be liable for the same in any manner whatsoever to the Concessionaire.

(n) The Concessionaire shall claim no right, title or interest in the Project Site independent of the concession granted under the present agreement and towards the development of the Project Site, and the present agreement will not be construed as a lease in its favour.

14.2 Representations and Warranties of NHIDCL

NHIDCL represents and warrants to the Concessionaire that:

(a) NHIDCL has full power and authority to grant the Concession;

(b) NHIDCL has taken all necessary action to authorise the execution, delivery and performance of this Agreement;

(c) This Agreement constitutes NHIDCL's legal, valid and binding obligation enforceable against it in accordance with the terms hereof;

(d) There are no suits or other legal proceedings pending or threatened against NHIDCL in respect of the Project, Project Site or Project Facilities.

14.3 Obligation to Notify Change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same in writing.

ARTICLE 15

MISCELLANEOUS

15.1 Assignment and Charges

(a) The Concessionaire shall not assign in favour of any person this Agreement or the rights, benefits and obligations hereunder, save and except with prior consent of NHIDCL.

(b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Site/Project Facilities, except with prior consent in writing of NHIDCL, which consent NHIDCL shall be entitled to decline without assigning any reason whatsoever.

(c) Restraint set forth in ***sub-articles 15.1 (a) and (b)*** above shall not apply to:

(i) liens/encumbrances arising by operation of law (or by an agreement evidencing the same) in the ordinary course of business of the Concessionaire for and towards the project facilities:

(ii) Pledges/hypothecation of goods/ moveable assets, revenue and receivables as security for indebtedness, in favour of the Lenders and working capital providers for the Project;

(iii) assignment of Concessionaire's rights and benefits under this Agreement and other Project Agreements to or in favour of the Lenders as security for financial assistance provided by them subject to the prior approval of NHIDCL.

15.2 Interest and Right of Set Off

Any sum which becomes payable under any of the provisions of this Agreement by one Party to the other Party shall, if the same be not paid within the time allowed for payment thereof, shall be deemed to be a debt owed by the Party responsible for payment thereof to the Party entitled to receive the same. Such sum shall until payment thereof carry interest at 15% per annum from the due date for payment thereof until the same is paid to or otherwise realised by the Party entitled to the same. Without prejudice to any other right or remedy that may be available under this Agreement or otherwise under law, the Party entitled to receive such amount shall also have the right of set off.

Provided the stipulation regarding interest for delayed payments contained in this ***Article 15.2*** shall neither be deemed nor construed to authorise any delay in payment of any amount due by a Party nor be deemed or construed to be a waiver of the underlying breach of payment obligations.

15.3 Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India. The Courts at Jammu shall have jurisdiction over all matters arising out of or relating to this Agreement.

15.4 Waiver

(a) 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:

shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions or obligations under this Agreement;

i. shall not be effective unless it is in writing and executed by a duly authorised representative of such Party; and

ii. shall not affect the validity or enforceability of this Agreement in any manner.

(b) 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 hereunder nor time or other indulgence granted by a Party to the other Party shall be treated or deemed as waiver/breach of any terms, conditions or provisions of this Agreement.

15.5 Liability and Indemnification

(a) **Liability of third parties**

i. Each Party shall, during the Concession Period, including extension thereof, use reasonable endeavours to mitigate any liability to Third Parties arising out its respective actions in the course of the development, establishment, finance, design, construction, management and operation and maintenance of the Facilities and the regulation of the use of and access of third Parties to the Facilities or the Project Site.

ii. Each Party shall promptly inform the other Parties of any claims or proceedings or anticipated claims or proceedings against any of them and in respect of which they are entitled to be indemnified under this Article as soon as it becomes aware of the same. Each party shall give reasonable assistance to the others in defending such claims and the party giving such assistance shall be entitled to be indemnified to the extent of the costs incurred by it sin this regard.

iii. None of the Parties shall permit any claim or proceedings referred to in subsection (ii) above to be settled without the prior written consent of the

other Party. NHIDCL shall not be liable in any manner for the Concessionaire's contracts with Third Parties.

iv. Upon the transfer of the Facilities, and the Project Assets NHIDCL shall not be liable for the obligations and liabilities incurred by the Concessionaire during the Concession Period, including extension thereof.

(b) **Indemnification**

i. Each Party shall indemnify, defend and hold harmless the other Parties from and against all liabilities, damages, losses, expenses and claims of any nature whatsoever for personal injury, for damage to or loss of any property and Third Party liability arising out of or in any way connected with the indemnifying Party's negligence, nuisance, breach of this Agreement or the Project Agreements to which the indemnifying Party is a party and failure to perform its obligations under this Agreement or the Project Agreements to which the indemnifying Party is a Party, except to the extent that such injury, damage or loss is attributable to a negligent or wilful act or omission of the Party seeking to be indemnified.

(c) **Risk and liability**

i. Except as expressly provided in the Concession Agreement, the Concessionaire shall carry out and perform its rights and obligations under the Concession Agreement and the Project Agreements at its own cost and risk. It shall be fully responsible for and shall bear the financial risks in relation to the Project and all its rights and obligations under or pursuant to the Concession Agreement and the Project Agreements.

15.6 Survival

Termination of this Agreement:

(a) shall not relieve the Concessionaire or NHIDCL of any obligations already incurred hereunder which expressly or by implication survives 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.

(c) The provisions relating to indemnification contained in Section 15.5 and the dispute resolution provisions contained in this Article 13 shall survive the termination of this Agreement.

15.7 Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding 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 agreed to by both the Parties hereto and evidenced in writing.

15.8 Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, recognised international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to NHIDCL:
General Manager (Technical), _____, National Highways and Infrastructure Development Corporation Ltd.

_____
Delhi -11___

If to the Concessionaire:
The Managing Director,
……

Or such address, telex number, or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered

i. in the case of any communication made by letter, when delivered by hand, by recognised international courier or by mail (registered, return receipt requested) at that address, and

ii. in the case of any communication made by telex or facsimile, when transmitted properly addressed to such telex number or facsimile number.

15.9 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 shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid,

unenforceable or illegal provisions, as nearly as is practicable. Provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

15.10 No Partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever except towards the performance under the present agreement.

15.11 Language

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

15.12 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 and any representation by any Party not contained in a binding legal agreement executed by the Parties.

15.13 Counterparts

This Agreement is to be executed in two counterparts, each of which when executed and delivered shall constitute an original of this Agreement but shall together constitute one and only the Agreement.

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

SIGNED SEALED AND DELIVERED

For and on behalf of NHIDCL by:	For and on behalf of CONCESSIONAIRE by:
(Signature)	(Signature)
(Name)	(Name)
(Designation)	(Designation)
In the presence of :	
1)	2)

SCHEDULE 1:

PROJECT SITE, FACILITIES, DEVELOPMENT & DESIGN CONTROL NORMS

1 PROJECT AREA

1.1 Location

The **"Project Site"** is located in Panchvakhtar Temple, Jammu as shown in **Figure 2** of this **Schedule**.

1.2 Project Site

The Project Site shall cover the area measuring approximately 3285 sq.m.as shown in ***Figure 2*** of this **Schedule** for parking cum commercial structure. The present structures and facilities at the Project Site are indicated in the topographical survey drawing.
The area of Project Site is an estimation based on initial studies. However the Concessionaire shall be required to conduct its own study/ survey to finalize the Project Site area.

2 PROJECT FACILITIES

The facilities identified to be developed by the concessionaire are as follows:

(i) Parking Facilities **:**

The Concessionaire is free to choose a parking arrangement-

1. Conventional parking system
2. Automated parking system

Concessionaire shall provide state of art facility for his chosen parking system.
Multi-Level Parking Structure to be developed at the Project Site, to provide a minimum parking for **312 (228 + parking of permissible commercial area tentative 84 ECS as per Jammu Master Plan 2032) Equivalent Car Spaces** (hereafter referred as **"ECS"**) ,in multi-levels in the basement or above ground level or a combination of basement and above ground level of Project site including:

a. Motor Vehicle circulation area and ramps for floors used for Parking
b. Provision for stack based parking facility in basement (if required)
c. Internal approach pathways
d. Administration counters
e. Entry exit gates for Parking

f. Parking Management System including all its equipment (hardware & Software)
g. Public Utilities at Parking floors
h. Information signages, display boards etc. in parking area
i. Complete power supply system for the Project Site
j. Utilities at Parking Site
k. Any area other than area permissible under Commercial Facilities

(ii) In case of any shortfall in achieving the required number of ECS as mentioned in clause (i) above, during the design/ construction stage, the Concessionaire shall be liable to pay to NHIDCL a one-time penalty at the rates mentioned below

a. Shortfall in ECS upto 10% of required ECS mentioned in clause (i) above – at a rate of Rs 50,000/- (Rupees Fifty Thousand) per shortfall ECS.
b. Shortfall in ECS in excess of 10% and upto 20% of the required ECS mentioned in clause (i) above – at a rate of Rs 10,00,000/- (Rupees Ten Lakhs) per shortfall ECS below 10% of the required ECS.

Any shortfall beyond 20% of required number of ECS as mentioned in clause (i) above shall be deemed as Concessionaire Event of Default under the Concession Agreement.

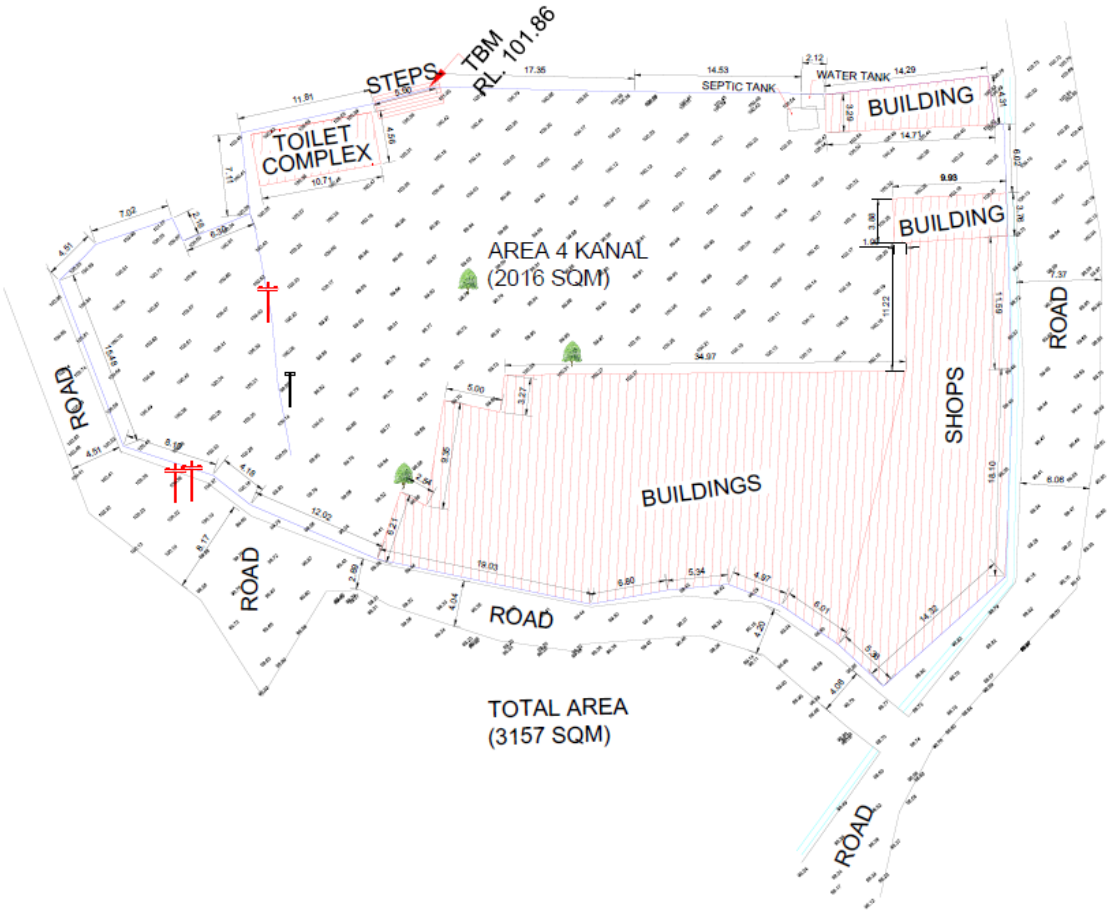
(iii) Commercial facilities: Commercial Facilities shall include commercial facilities to be developed at the Project Site. The area permissible for development under Commercial Area shall be as per Master Plan of Jammu 2032.

3 APPROVED DEVELOPMENT CONTROL NORMS

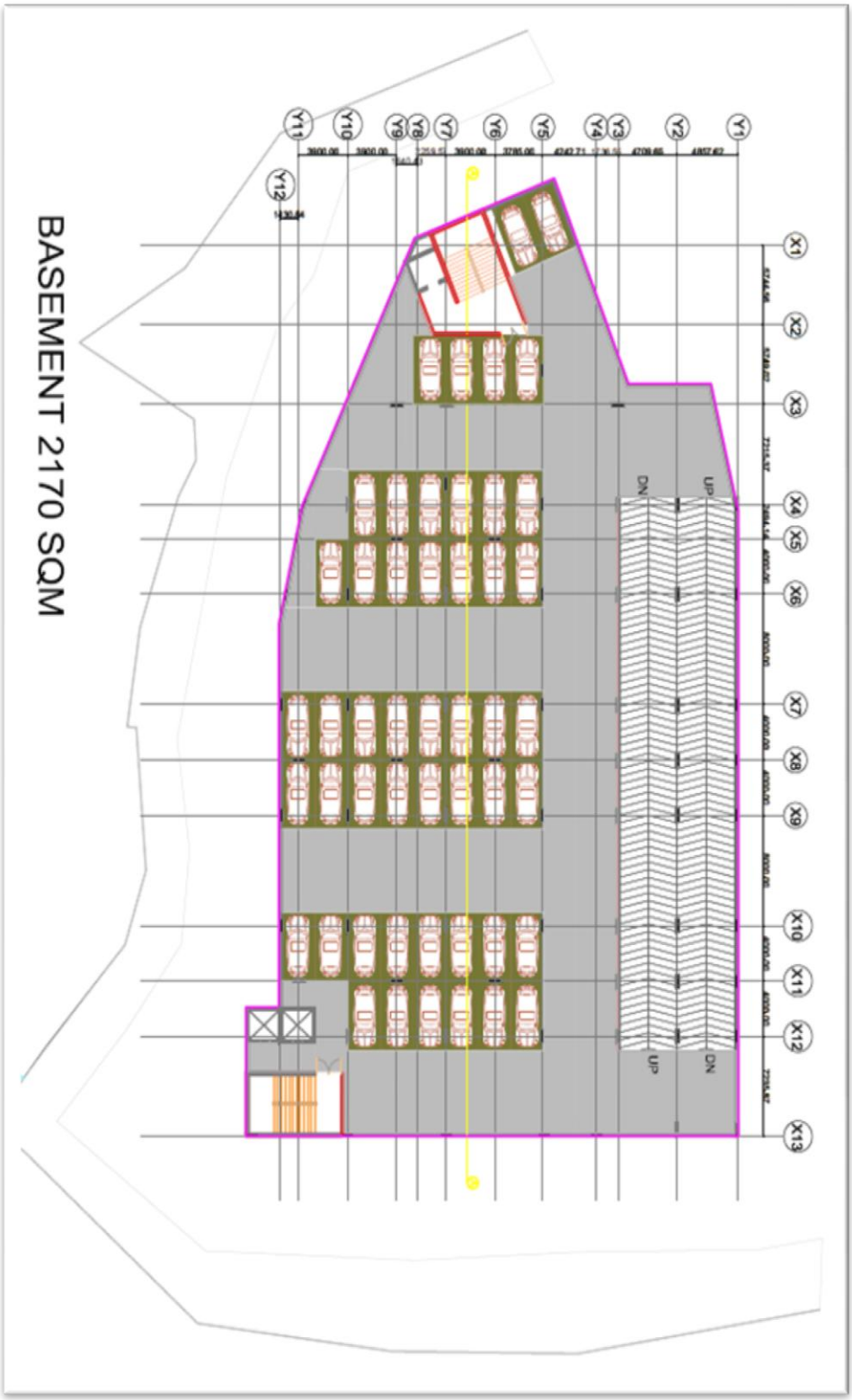
The concessionaire shall follow the approved development control norms as per Master Plan of Jammu 2032.

Figure 1: Topographical Survey for the Project Site

The detailed Topographical Survey is provided in the Project Information Memorandum available with NHIDCL and may be collected from NHIDCL office.

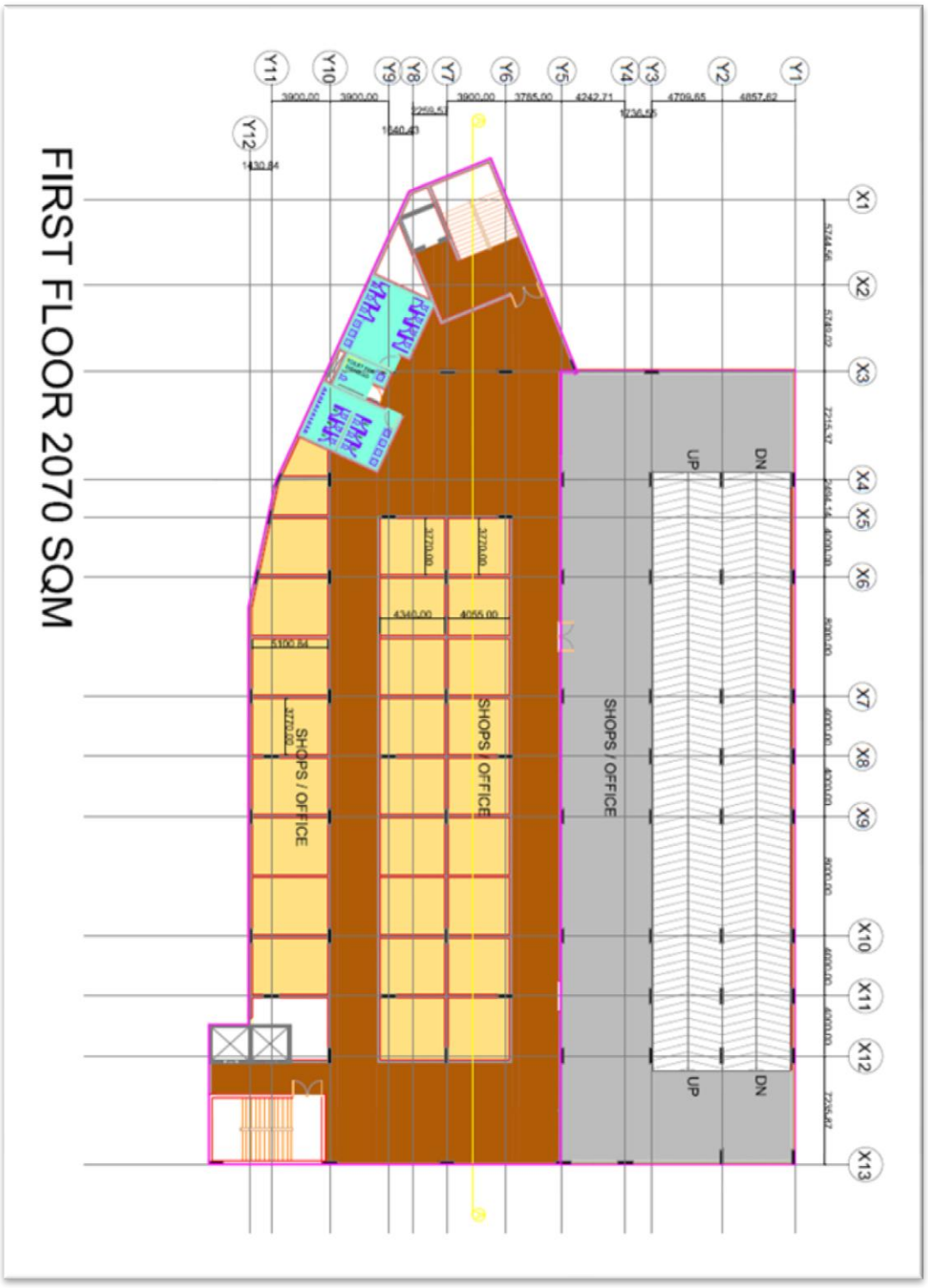

STEPS
TBM
RL 101.86
TOILET COMPLEX
SEPTIC TANK
WATER TANK
BUILDING
BUILDING
AREA 4 KANAL
(2016 SQM)
ROAD
ROAD
ROAD
ROAD
ROAD
SHOPS
BUILDINGS
TOTAL AREA
(3157 SQM)

Basement Floor Plan

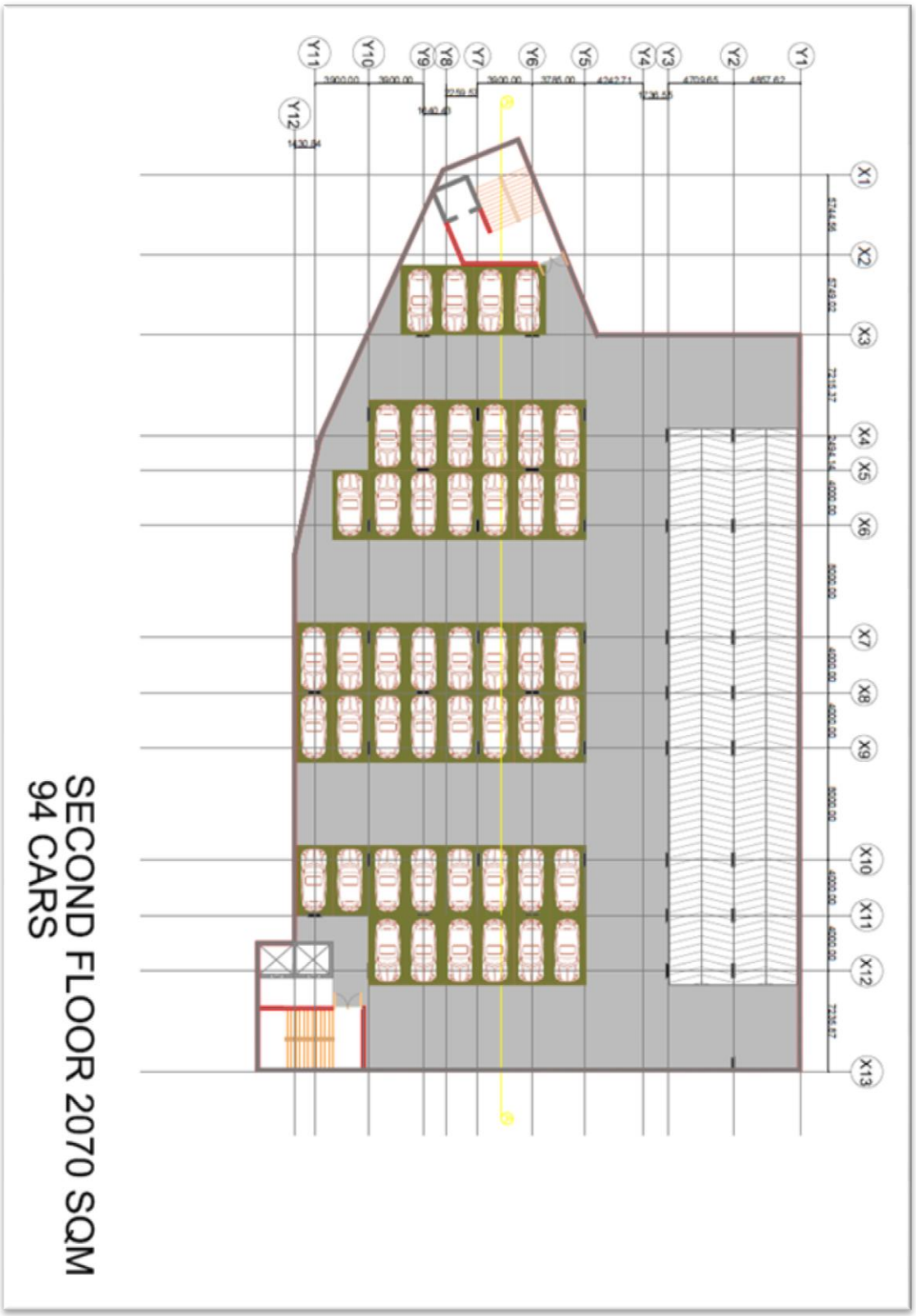


Ground Floor Plan

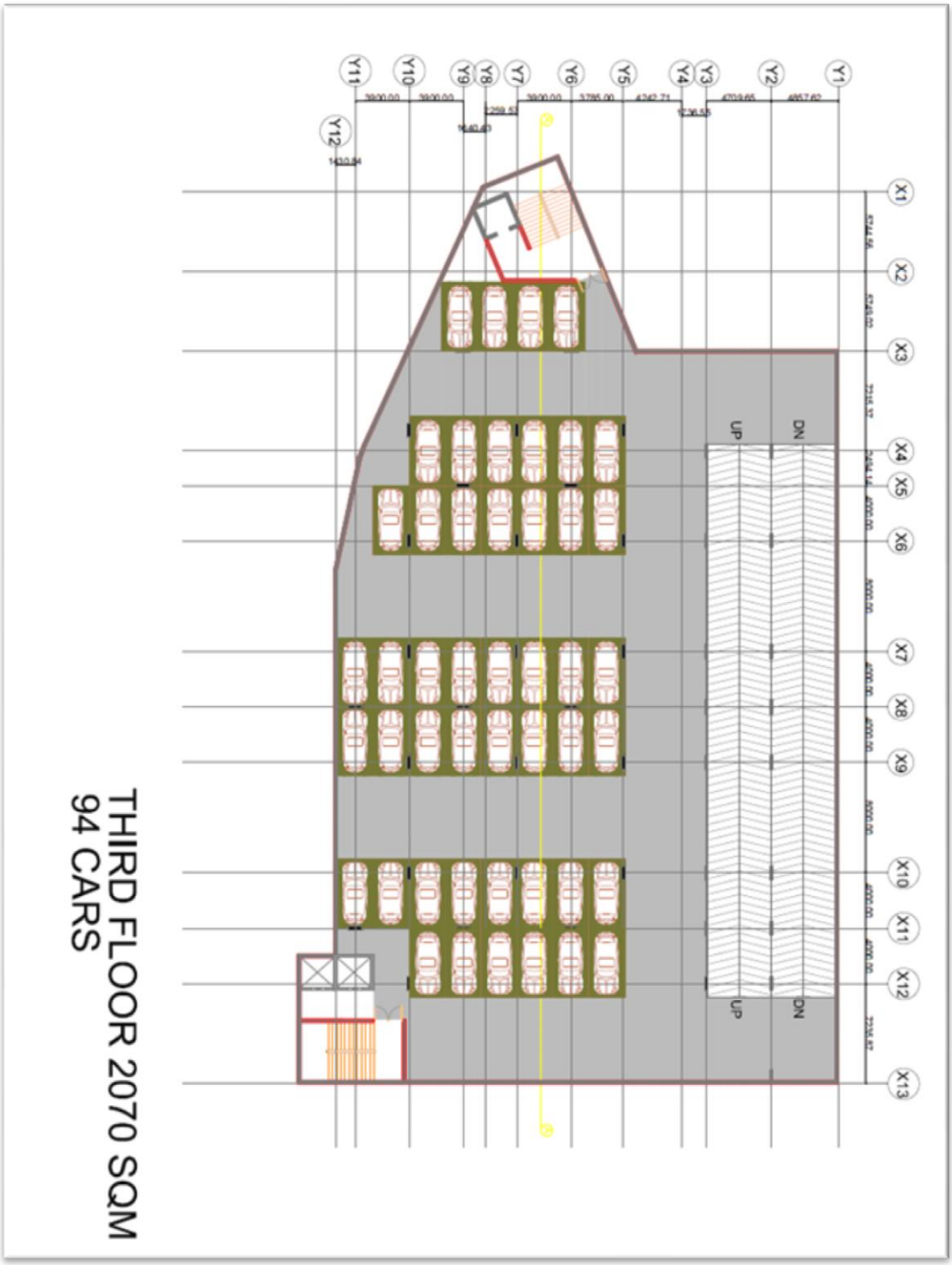
First Floor Plan



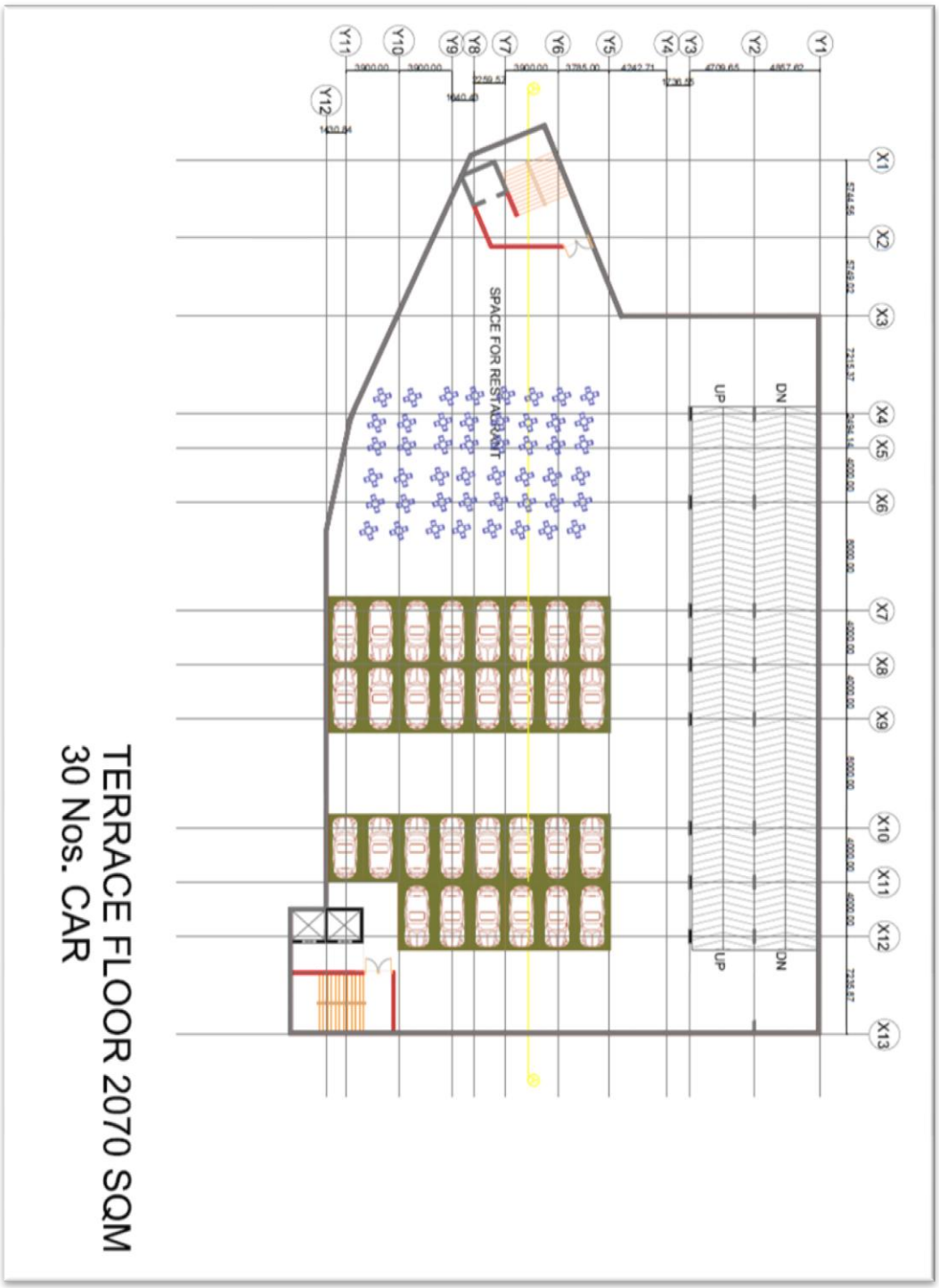
Second Floor Plan



Third Floor Plan



Terrace Floor Plan



SCHEDULE 2

CONSTRUCTION REQUIREMENTS

1.1 General

At the time of Hand-back of Project Facilities as per the terms of the Agreement, NHIDCL desires to take over an asset that would

- be operationally the most safe and convenient design
- Environmentally the most friendly and aesthetic structure.

Towards satisfying this objective, the Table 2.1 below lists the parameters that the Concessionaire shall comply with while selecting and designing the facilities there under.

The list given in the Table 2.1 is not exhaustive and it shall be the obligation of the Concessionaire to adhere to all applicable norms and good industry practices in the design of the Project Facilities.

a. Objective

i. The overall aims of the Construction Requirements are:

- To provide a clear and consistent framework within which, the development of the Project can be undertaken within the set concepts of _____ regulations and Applicable Laws thereof;
- To allow for the orderly development of in accordance with the Master Plan for Multi-Level Car Parking Complex development;

b. The Construction Requirements aims to achieve these objectives by setting out the principles and controls that will be applied to Project Site within the Panchvakhtar Temple Jammu. Development includes matters such as:

i. Height of the buildings;
ii. FAR and ground coverage;
iii. Setback;
iv. Parking requirement;
v. Infrastructure utilities/services integration;
vi. Construction regulation; Sign board and advertising within the Project Site;
vii. Minimum development obligations
viii. Design features and façade material specifications

a) **Development Consents**

a. NHIDCL shall, in addition to applicable Governmental authorities, act as a development control agency for all development within the Panchvakhtar Temple, Jammu, assuming responsibility for:

i. Establishing control procedures to regulate development within the Panchvakhtar Temple, Jammu,

ii. Establishing policies for, and regulating the use and development of land and infrastructure facilities for the development of MLCP Facility;

iii. Ensuring that development is in compliance with these set procedures.

b. In making its determinations and exercising this control, the Authority will, in addition to Applicable Law have regard to:

i. The concept master plan for the Project.

ii. Any other plans adopted by _____ for development within Panchvakhtar Temple Jammu

iii. All other applicable rules, technical codes, design guides and regulations that apply to development within Jammu

b) **Permissible and Prohibited activities in the Project Facilities**

(i)	Permissible activities	Banks / ATM, Business Centre, Conference Centre, Flight Catering Services, Freight Consolidators / forwarders or agent, General Retail Shops, Hotels and Motels, Hotel Reservation Services, Line maintenance Services, Locker rental, Logistic Centres, Restaurants, Bars and other refreshment facilities, Special Assistance Services, Services, Travel Agency, Vehicle Rental, Vehicle Parking, Vending Machines, Warehouses.
(ii)	Prohibited activities	Prohibited activities includes but not limited to, use of any built up space for the purposes directly or indirectly, as Residential, Hospital, Industrial Activities, LPG Godowns, Petrol Bunk, any trade or activity involving any kind of obnoxious, hazardous, inflammable, non-compatible and polluting substance or process or any other activity that has any material adverse effect on parking operations

c) **Development Controls and Regulations as per Master Plan of the Project**

The principal aim in setting out development controls and guidelines for Multi-Level Car Parking cum commercial complex, is to ensure that a clear and consistent framework is available in accordance with the concept master plan for the Project.

a. Following are the development controls applicable to the development of the Project:

Table 4: Development Controls applicable to Project Site

S. No	Description	Value
(i)	Site Area for MLCP	3285 sq.m.
(ii)	Minimum Car Parking Spaces	**312 (228 + parking of permissible commercial area tentative 84 ECS as per Master Plan Jammu 2032)**
(iii)	Maximum Built-up Area (GBA) for commercial	Maximum GBA for Commercial purpose 3285 (Three Thousand Two Hundred Eighty Five) square metre.
(iv)	Maximum Permissible Height	No restriction as per development norms
(v)	Minimum Green Area	As per the development regulations and guidelines issued by the Authority.
(vi)	Setbacks	Building line shall be at the distance shown in the Master Plan for Multi-Level Car Parking Complex Development as per Schedule A. Setbacks at ground level and overhangs shall be got approved by Authority at the design stage.
(vii)	Roof-top	Parking/commercial is permissible

d) **Minimum Development Obligations**

Project Facilities developed as per the terms of the Agreement should be :

- Operationally be the safest and convenient design
- Environmentally be the most friendly and aesthetic structure and shall have to substantially meet the green building norms.

The Minimum Development Obligation to be fulfilled by the Concessionaire as a part of Agreement are defined in table below:

Table 5: Minimum Development Obligations

Sl. No.	Project Facilities	Requirement
(i)	Parking Facilities	Multi-Level Car Parking (MLCP) having Minimum car parking spaces of 312 (228 + parking of permissible commercial area tentative 84 ECS as per Master Plan Jammu 2032)
(ii)	Other facilities	Support Facilities & infrastructure like Motor Vehicle circulation area and ramps, internal road network, Future provision for charging of electric vehicle, Parking Management & Parking Guidance System with centralized pay Station, Dedicated Pick up areas for commercial vehicles, security, air conditioning, Complete CCTV footage system, Live Flight Information Display system (FIDS), provision of meet & greet point inside MLCP, Water supply and rain – water harvesting, solid waste management, landscaping/ tree plantation, signage and other services required for the Project.

Towards satisfying this objective, the Table 2.1 below lists the parameters that the Concessionaire shall comply with while selecting and designing the facilities there under.

The list given in the Table 2.1 is not exhaustive and it shall be the obligation of the Concessionaire to adhere to all applicable norms and good industry practices in the design of the Project Facilities.

The parameters listed in the table shall be read with and applied in conjunction with the development control norms, as appropriate. Any deviations, from these parameters, however, being within the compliance of the approved development control norms, shall be accepted by NHIDCL only at its sole discretion.

Table 2.1

Sr. No.	Item	Requirement
1	Height of Building	As per Master Plan of Jammu 2032
2	Depth of the Building below Ground Level	3 basements shall be allowed for parking as specified in the basement norms.
3	Height of each floor	As per the system, to accommodate the car dimensions given later
4	Air Changes	3 during normal conditions and 15 in emergency conditions

Sr. No.	Item	Requirement
5	Grades	As per Master Plan of Jammu 2032 and 1 in 10 were not available
6	Drive ways and ramps	As per Master Plan of Jammu 2032 with a minimum of 4 m for one way and 8 m for two way and shall conform to fire safety norms
7	Setbacks	As per Master Plan of Jammu 2032
8	FAR	As per Master Plan of Jammu 2032
9	Ground Coverage	As per Master Plan of Jammu 2032
10	Turning radius	7.5m for internal circulation and 15m where a fire tender has to move (for circulation outside the building)
11	Sound emissions	40dba or as per NBC codes whichever is lower
12	Power backup	Not less than 110% with automatic switchover mechanism
13	Gas and Smoke detection systems	To be provided
14	Security Systems	To be provided, shall include CCTVs
15	Redundancy	100% for each component
16	Lifts	To be provided as per norms
17	Security system for checking the vehicles	To be provided at the entry gate to check the cars
18	Parking for physically handicapped (PH)	5 ECS on Ground Floor
19	Parking Management System	Boom Barrier based system with IT enabled ticketing, complete data storage and logging facility and Parking information system and the entry gates
20	Public Conveniences	To be provided as per norms

The above are only minimum guidelines one shall follow while selecting a system. The system to be designed shall conform to the relevant provisions in the Jammu Master Plan 2032 and approved Development Control Norms.

Suitable security system as per applicable norms of J & k Police needs to be provided for checking of vehicles at the entry gate.

e) **Space Standards for Car Parking**

For provision of Car Parking Spaces, the space standards shall be given in the following table:

Table 7: Space Standards for Car Parking

Sr. No.	Type of Parking	Area in sqm per Car Parking Spaces
i	Open	23
ii	Ground floor covered	28
iii	Basement	32

1.2 Other consideration and Facilities

1.2.1 Structural Systems

The selection of the structural system should be given careful consideration. Structural Steel or Reinforced concrete either 'cast in place' or precast can be used. Hybrid structures comprising part in situ and part precast and/or pre-stressed or composite construction where in situ concrete is bonded over a precast under-deck can be provided. Structural steelwork can also be used as a framework of columns and beams and also for resisting vehicle impact, but the decks and internal walls shall be constructed using concrete.

The Structure shall be designed and constructed so as to have a life expectation exceeding 60 years. The choice of construction forms shall be based on considerations such as site layouts, problems of access to the construction site, construction programme, constraints of space, material transportation problems, Openness and perceived headroom and local availability of product and labor.

1.2.2 Appearance & Façade

It is essential the car park should provide a safe and attractive internal environment. Before the design of the external envelope is fixed too firmly, consideration should be given to optimising the available site area and creating an efficient vehicle circulation layout. The proposed MLCP is located at a highly visual location. The design layout and appearance of the car park shall give due considerations to the following:

- Height, scale, massing and choice of materials to be sympathetic with the adjoining buildings and environmental requirements.
- Building facade material shall be durable and of high quality. Preferred material includes:- brick, stone, high quality precast concrete, metal panels, metal & glass curtain walls and pre-approved newly developed

materials as may present themselves in the future. The façade should have architectural significance.

- Building may vary in depth to undulate the façade, providing variety and interests.
- Front and side facades shall be of the same material or similar material and of a similar level of detail.
- Main entrance shall be at the front façade and can be emphasized with canopy or similar features.
- No mechanical or utility equipment may be visible from main front or side façade. Unit exhaust and louvers are not allowed on these facades.
- Open type construction should have sufficient opening in the facade to ensure permanent ventilation of building. Facade shall include a minimum 40 % opening or windows.
- Transparent facade to reduce the necessity for artificial lighting and mechanical / electrically powered ventilation.
- Stair and lift towers should be expressed by height and form to identify pedestrian entry/exit locations.
- Where blank walls are unavoidable, elevation relief features and decoration are advisable.
- The appearance and security aspect of ventilation openings can be enhanced by the use of decorative grills and/or louvres.
- Glazing features should be added to stair and lift cores to aid lighting levels and promote personal security.
- Parked cars should be screened from external view, but views out of the car park from within should be promoted.
- Building forms and elevations at street level should be to a human scale and incorporate weather protection, canopies and low-level landscaping.
- Projecting balconies are not allowed. Recessed balconies are allowed.
- Façade mounted signs / information displays are allowed.
- Flat roofs should drain to internal drainage system.
- Solar collector panels on the roof or on the façade is allowed to contribute to energy production.

1.2.3 Durability Consideration

It is recommended to perform an analysis in the schematic design phase to determine which durability elements should be included in the design of a parking structure. These elements include sealers, deck coatings, concrete additives, corrosion inhibitors, and epoxy coated reinforcement. Enhanced durability systems should be provided in areas with severe exposure, such as supported structure near vehicular entries. Deck coatings (membrane) are recommended over occupied space and over electrical and storage rooms.

1.2.4 Lighting

The Concessionaire shall provide adequate lighting system in Parking facility area to achieve a minimum lux level in accordance with Table 2.2 below or as per the latest NBC codes whichever is higher.

Table 2.2

Area	Minimum Lux Level
Parking areas and ramps	70
Roofs	20
Entrance & exit Areas for Parking	150
For external lighting	20
Pedestrian Movement Area	70
Stairways and subways	100
Toilets	100

The subway and stairways, Toilets and Entry and Exit Areas for Parking shall be provided with auxiliary emergency lighting system such that in the event of failure in general power supply the auxiliary emergency lighting system is activated immediately.

1.2.5 Signage

The Concessionaire shall provide illuminated signages in accordance with NBC/ IRC Norms at suitable locations within the Parking Facility. The scheme for signages shall be finalised in consultation with the Independent Engineer. Signs and notices should advise, direct, be easily understood and easily recognizable

Guidelines should be consulted for pedestrians with sight problems, such as the use of Braille and for disabled drivers, such as the positioning of lift buttons, viewing panels, etc. Provide signs for protection of liability, such as ‘Don’t leave valuables’, ‘Don’t fill petrol’, and located so as not to conflict with other direction or advice signs.

To assist the motorist there should be a combination of deck markings and overhead signs located at key changes of direction. In one-way-flow layouts, signs over the traffic aisles showing single arrows in the direction of the traffic flow and no entry symbols when going in the wrong direction, should occur frequently. Pedestrians need to identify the level they are on and then be directed towards the principal access core. This can be helped by colour coding each floor level. The color coding must appear on each parking floor (e.g., on columns and walls) and adjacent to elevator lobbies and stairwells – as well as inside elevators.

Pavement Markings

Pavement makings should conform to local standards. Pavement markings can be an effective way to direct and control traffic flow in a parking facility. However, pavement markings must be re-applied due to wear and deterioration from vehicular traffic.

Space Availability Display System

For faster traffic movement, MLCP shall be provided both electronic and static signages to guide the drivers to reach a vacant parking spot on the closest parking level through the use the electronic system such as Space Availability Display System (SADS).

1.2.6 Generator Back-up

The Concessionaire shall provide power back-up adequate for 110% of the designed power load of the Parking Facility (except Walkways), and Toilet Area. The generator shall be equipped to have a switch-over mechanism so as to be activated automatically in the event of power failure. The generator shall be silent type generator and shall be installed in a separate sound-proof enclosure.

1.2.7 Drainage

The Concessionaire shall design and implement drainage facilities in such a manner that there is no stagnation of water in the Project Site. The internal drainage system shall be connected to main common drain at an appropriate location in accordance with the approved drawings. The existing storm-water drain at site shall be integrated in the overall scheme in such a way that the storm-water drain remains unaffected by the proposed parking complex.

1.2.8 Worker Amenities

The Concessionaire shall provide worker/employee amenities in accordance with Good Industry Practice.

1.2.9 Safety Barriers

The Concessionaire shall provide, at appropriate locations, safety barriers to effectively manage pedestrian and vehicular traffic.

1.2.10 CODES AND STANDARDS

a. The codes and standards applicable for the design of the Project/Project Facilities are given in Table below :

Building Works and Electrical System	Road/Pedestrian Path Works
i. Central Public Works Department Specifications (CPWD); ii. Bureau of Indian Standards (BIS); iii. National Building Codes (NBC); and iv. CPWD Specifications on fire fighting and fire alarm systems v. Fire fighting requirements at Jammu	i. Indian Road Congress (IRC) Codes and Standards ii. Jammu Building Byelaws, and Jammu Master Plan 2032 (on parking space).

b. Electrical system shall be provided as per the following applicable codes:

Sr. No.	Code No.	Application Details
1	IS-10118 (Part I), 1982	Code of practice for selection, installation and maintenance of switch gear & control gear
2	IS-3646 (part-I), 1992 (Rev.-I) & part-II	Guide for interior illumination
3	IS-732, 1989 Rev. 3	Electrical wiring system
4	IS-3043, 1987	Code of practice for earthing
5	IS-13032, 1992 (Rev. 2)	MCB distribution boards for voltage up to and including 1000V AC
6	IS-12640, 1988	Residual current operated circuit breakers
7	IS-649, 1990 (Rev. –3)	PVC insulated cables for working voltage upto and including 1100 V AC.
8	IS-9537 (Part-I), 1980	Conduits for electrical installations-general requirements
9	IS-10322 (Part-I), 1982	General requirements of luminaries

10	IS-13118, 1991	Circuit breakers-general requirements
11	IS-13947 (Part-III), 1993	Air break switches for voltage not exceeding 1000V AC or 1200 V DC
12	IS-1248 (All parts), 1983, 1984, 1993	Electrical direct acting instruments
13	IS-2147, 1962	Degree of protection provided by enclosures for LV switch gear and control gear
14	National Electrical Code Part 4 Appendix	Recommended values of illumination and limiting values of Glare Index-Industrial Building (Parking Space Indoor and Outdoor)

c. Where the aforesaid are silent on any aspect, the following standards in order of preference shall be adopted in consultation with the Independent Engineer, unless otherwise specified in this Schedule:

(i) Euro norm standards EN: 14010: 2003 for parking structure safety
(ii) American National Standard Institute (ANSI)
(iii) Building Officials and Code Administrators of America (BOCA)
(iv) International Standards Organization (ISO)
(v) British Standards (BS)
(vi) National Fire Protection Association of America (NFPAA)
(vii) National Electric Code of America (NEC)
(viii) Safety Code for Mechanized Parking Garage Equipment of America(ASA.A113.1)
(ix) American Society of testing Materials (ASTM)
(x) International Society for Measurement and Control (ISA)
(xi) ISO 9000
(xii) Occupation Safety and Health Administration of U.S. Department of Labour (OSHA)
(xiii) Americans with Disability Act Accessibility Guidelines (ADA)
(xiv) American Association of State Highway and Transport officials (AASHTO)
(xv) American Society of Mechanical Engineers code on Storage Retrieval (S/R) Machines and Associated Equipment (ASME B30.13)
(xvi) National Mechanical Code of America (NMC)
(xvii) Suitable specification/standard devised by the Independent Engineer
(xviii) Any other standard proposed by the Concessionaire and approved by the Independent Engineer

1.3 OVERALL DESIGN PARAMETERS

1.3.1 Entry and Exit Areas of the Parking Facility: Location, size and components

1.3.1.1 Location

All entries shall be located away from the traffic junctions and exit locations. The preferred location of the Entry and Exit Areas and of the driveways serving it is near the centre of the Parking structure on the perimeter. The preferred elevation of the Entry and Exit Areas is that of the connecting road system.
The entry and exit of vehicles shall be provided so that it does not hinder pedestrian movements and shall under no circumstances be from Walkways.

1.3.1.1.1 Size

The Entry and Exit Areas must be sized to allow drivers to safely and comfortably drive in and out the vehicle. Turning radii and width of drive aisles and minimum clear width of Entry and Exit Area shall be designed according to the respective needs and leaving adequate space to the left and right of the car for passengers to leave / enter the car and in accordance with Applicable Codes listed in ***Para 1.2*** of this Schedule.

The length of the Entry and Exit Area and unobstructed height inside the Entry and Exit Areas shall be in accordance with Applicable codes listed in ***Para 1.2*** and Para ***1.2*** of this Schedule.

1.3.1.2 Function of Entry and Exit Areas

The driveways for inbound and outbound traffic shall be designed to provide sufficient queuing spaces; simple visual signage and guidance shall clearly direct approaching traffic off the street and into the Entry and Exit Areas. Respective commands via a visual message centre shall be applied inside the Terminals for the drivers in such manner that an easy use of the system is possible.

Inbound / outbound traffic crossing shall be prevented.

1.3.1.3 Traffic Effects and Queuing

The queuing issue shall be addressed taking peak traffic volume Based on peak volume data from PIM adequate number of Entry and Exit Areas shall be provided.

1.3.1.4 Fire Safety

Fire safety measures as recommended in applicable codes (Indian as well as International) listed in ***Para 1.2*** shall be implemented.

The fire fighting system shall be adequate to control petroleum fires.

1.3.1.5 Ventilation / Air Conditioning

Areas accessible to the public / drivers shall be equipped with sufficient air conditioning and ventilation. The system shall be designed to provide positive and uniform supply of fresh air in the parking and its exhaust through ducts/ fans. The ventilation system shall be designed to achieve minimum 15 air changes /hour in the parking areas during the normal operation and should achieve minimum 30 air changes/hour of exhaust in case of fire.

Depending on the design of the Entry and Exit Areas, ventilation of emissions shall be required in that area.

1.3.1.6 Payment Control System

The Concessionaire shall primarily employ Pay-on-Foot revenue control system and shall facilities for Cashless Transactions. Payment on exit may also be provided in conjunction with the above systems.

Pay-on-foot (POF)—Pay-on-foot is a revenue control system that requires or encourages customers to pay their parking fees using cash or credit cards at an automated pay station or kiosk upon returning to the parking facility (or in the terminal building) rather than at an exit plaza. Upon paying their fees, customers are issued exit passes that are verified by exit readers (or verifiers) located in the exit lane. The ticket is time limited to prevent motorists from short-circuiting the system.

Payment on exit – where a time-stamped ticket is dispensed upon entry and handed back to an operative in a kiosk when leaving. Payment is then assessed on the time difference. The main ongoing cost of this system is that of having an operative manning the exit station at all open times.

Cashless Transactions – This include pay-on-foot (POF) systems, credit card in/out, automatic vehicle identification (AVI) systems, pay by cell phone etc.

1.3.1.7 Parking Space Availability and Guidance Systems.

Provide the systems that guide customers to empty spaces located in specific parking facilities, empty spaces on specific parking levels or in specific zones, or

specific individual empty spaces. This guidance can be provided to customers using dynamic signs at each level and before entrance to the car park.

1.3.1.8 Perimeter Protection / concrete parapet walls

Impact resistance considerations to prevent vehicles breaking through the external walls and also damaging vertical structural elements within the building shall be provided at the design stage. Vehicle impact based upon a 1500 kg vehicle travelling at 16 kph (4.45 m/sec) and vehicle barrier systems or structural cladding should provide restraint without failing catastrophically shall be considered. This shall be achieved using any of the following system:

- Concrete walling, either cast in situ or pre-cast
- Horizontal steel beams bolted between columns.
- Proprietary restraint systems
- Steel meshwork and wire cables

1.3.1.9 Protective coating

Although concrete appears to be dense, it is, actually, open textured and relatively absorbent. Protective Coatings shall be provided on the deck of parking to improve the appearance and to prevent water and salt ingress

Surface coatings on flooring shall be high performance PU deck coating with integrated floor striping and UV specified for peripheral areas exposed to direct sunlight. The crack-bridging and chemical resistant polyurethane traffic deck coating shall be extremely low in VOC content and provide a durable, watertight and hardwearing finish designed to protect the concrete structure. It shall be used in a range of colours including different colours for drive ways, pedestrian ways and parking bays with coloured navigational markings and signage.

1.3.1.10 Facilities at Car Park

The Concessionaire shall at all times provide or cause to be provided, at the Car Park, all of the following:

- Free drinking water outlets at convenient locations;
- Waiting area for Drivers: The Concessionaire shall, adjacent to the entry or exit point of the Car Park, provide a waiting area for the drivers, with adequate seating facilities.
- Public address system for passengers and Visitors.

1.3.1.11 Water supply and Storage

Adequate underground water storage shall be provided to cater for one day requirement of domestic flushing requirements. An additional separate underground storage shall be provided exclusively for fire-fighting purposes.

Underground tanks shall be located at the lower basement of underground facilities and at the ground floor at other locations. The design and detailing for the provision of plumbing and sanitary facilities for the parking complex shall be done in accordance with National Building Code & Hand Book of Water Supply & Drainage SP: 35 (S&T)-1987.

Water supply for drinking purposes shall be filtered, chlorinated/ UV treated to remove harmful solids and pathogenic organism.

1.3.1.12 Power Supply:

i. **Concessionaire**: All the external power supply from Electricity Board in Jammu substation and internal power supply distribution (including metering panel, transformer, cable network, etc.) from the ring main unit inside each Project Site to each of the development components within Project Site shall be procured and installed by the Concessionaire. Concessionaire is required to take all permits/approval from concerned Department of State/ Central Government for power supply.

The Concessionaire shall be required to use the means of improvement of power factor to reduce the power consumption.

ii. **Authority**: The layout of route for laying of HT cable from _____ substation shall be provided by Authority.

1.4 OTHER GUIDELINES

Construction sequence of Parking Facility shall be planned to minimise the blockage of traffic and access to offices/market.

2 PROCEDURE

2.1 Before Commencement of Construction

2.1.1 Prior to commencement of any construction activity, the Concessionaire shall finalise an implementation plan for the Project ("Construction Plan") in consultation with the Independent Engineer. The Construction Plan shall, inter alia, include:

(i) A detailed schedule of implementation for putting up and operationalising the Project Facilities, and which shall specify at least 4 major milestones;

(ii) Advise to NHIDCL on alternate regulation of parking until such time that the Parking Facility is operational and operate the approved Scheme by NHIDCL during the construction period ;

(iii) Advise to NHIDCL on the details of the utilities that are necessary to be shifted, including suggestions on the alternate routing, and the estimates of the costs associated with such shifting

(iv) The Critical Path Method (CPM)/ Programme Evaluation and Review Technique (PERT) charts or similar activity planning technique/ method for monitoring. This would cover all stages/ aspects of the Project implementation including design and engineering, procurement of materials and equipment, installation, construction and testing;

(v) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project activities. (This would include the designation of suitably qualified personnel for areas such as contract administration and supervision, construction management, traffic and safety, environmental management, plant and equipment maintenance, procurement, materials management and quality control); and

(vi) A broad method statement for key items setting out the methodology of construction, materials and construction equipment mobilisation/ utilisation plans, broad output calculations and details of the quality assurance and quality control procedures.

(vii) Format of the monthly report giving details of the physical progress in implementation of the Project and operations and maintenance activities undertaken (Monthly Progress Report).

2.2 The Concessionaire shall, in consultation with the Independent Engineer workout an appropriate schedule for submission of documents set out in 3.1 above to the Independent Engineer for review.

2.3 Prior to commencement of construction of any of the Project Facilities, the Concessionaire shall have:

(i) Obtained all such Applicable Permits as mentioned in **Schedule 3** as are necessary to commence construction of such Project Facilities;

(ii) Obtained the approval with regard to:

- Detailed schemes as per stipulated norms along with layout plan of the area under reference and integrating surrounding road network and land uses
- A Traffic management scheme for the influence area (about 500 m to 1 km around the site)

(iii) Mobilised the requisite resources, personnel and organisation necessary for the same and designated and appointed suitable officers/ representatives as it may deem appropriate with responsibility to supervise implementation of the Project and for exchange of information with the Independent Engineer and NHIDCL;

(iv) Finalised in consultation with the Independent Engineer a method statement setting out details of the actual methods that would be adopted by the Concessionaire for the construction of such Project Facilities including details of equipment and machinery that would be used, their locations, and arrangements for conveying and handling materials;

(v) Finalised in consultation with the Independent Engineer quality assurance and quality control procedures to cover all aspects of the work so as to ensure the desired quality. This would include establishment of a well-equipped functional laboratory.

2.4 During Construction

2.4.1 The Concessionaire shall:

(i) Strictly follow the guidelines on quality as set out in BIS/NBC/IRC and for Parking Structure where earlier codes are silent, international specifications as set forth in ***Article 1.3.***

(ii) Ensure that the construction of the Project Facilities is undertaken with minimal inconvenience to the traffic using the roads surrounding the Project Site.

(iii) On a best effort basis maintain the Existing infrastructure facilities (including parking if any) to the extent possible subject to it not causing a hindrance in the implementation of the Project;

(iv) Take the necessary precautions to minimise accidents and respond to Emergency as quickly as possible;

(v) Take precautions to avoid inconvenience to, damage to, destruction of or disturbance to any third party rights and properties;

(vi) Provide a safe, clear and informative system of road signs in connection with the Project, wherever required;

(vii) Ensure adequate safety of the personnel deployed at the Project Site which would include measures for the safety such as the provision and maintenance of barricades, traffic signs and illumination during night in consultation with the Independent Engineer;

(viii) Be in compliance with the Applicable Laws and Applicable Permits obtained for the Project including the clearances obtained by the Government Agency;

(ix) Deploy adequate number of qualified and competent personnel having relevant experience and skills for implementation of the Project and interaction with the Independent Engineer/ the Government Agency.

2.4.2 Positions and Levels

(i) The Concessionaire shall be responsible for :

(a) the accurate setting-out of the Project Site;

(b) the correctness of the positions, levels, dimensions and alignment of all parts of the works;

(c) the provision of all necessary instruments, appliances and labour in connection with the foregoing responsibilities.

2.4.3 Tests

(i) Various quality control tests would be undertaken for the Project as per the standards prescribed by Bureau of Indian Standards. Where no testing methods are specified by the said standards, details of the tests to be carried out and specifications to be achieved for the respective Project Facilities/Construction Works or part thereof shall be agreed upon with the Independent Engineer prior to construction;

(ii) The tests would be carried out at a location (place of manufacture, fabrication or preparation, at site or any specialised testing laboratory) that the Independent Engineer may reasonably require, at the cost and expense of the Concessionaire.

2.4.4 No part of the Construction Works shall be covered up or put out of view before the same has been examined by the Independent Engineer.

2.4.5 The Independent Engineer may from time to time require:

(i) removal from the Project Site, within such time as may be specified in its instructions, any material, equipment, machinery or plant which, in its opinion, do not meet the standards specified in the Construction Requirements;

(ii) substitution/ replacement of such improper material, equipment, machinery or plant;

(iii) re-execution, of any or part of the Construction Works which in the opinion of the Independent Engineer do not meet the standards set out in the Construction Requirements;

(iv) the Concessionaire to make boreholes or to carry out exploratory excavation for the Project.

2.4.6 The Concessionaire shall arrange for all the material requirements for the Project and disposal of all material wastes. The Applicable Permits in this regard would have to be obtained by the Concessionaire. All excess and unsuitable excavated materials shall be piled at appropriate dumping places or otherwise disposed of by the Concessionaire in consultation with the Independent Engineer.

2.4.7 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to the Independent Engineer/NHIDCL the following, duly finalised in consultation with the Independent Engineer:

(i) the Operation and Maintenance Manual for the Project (O&M Manual) setting out in detail the standards, schedules, procedures, type, periodicity and other details of the operation and maintenance activities to be carried out for the Project during the Operations Period so as to meet the O&M Requirements as well as details of the management information system to be incorporated, reports to be submitted and procedure for reviews.

2.5 After Completion of Construction

Upon completion of construction but prior to issue of the Completion Certificate, the Project Site shall be cleared of all construction equipment, surplus materials, debris and temporary installations and shall be left in tidy and an aesthetically pleasing appearance to the satisfaction of the Independent Engineer.

2.6 Reporting Requirements and Documents to be provided

2.6.1 During the Construction Period, the Concessionaire shall submit to the Independent Engineer/NHIDCL Monthly Progress Report (for each calendar month or part thereof) within 5 working days of the last day of the month. The report shall review the progress made, identify slippages, if any, and project the future activities to be undertaken (including rectifications), operations and maintenance activities undertaken and would, inter alia, include the following:

(i) Listing of working drawings/sketches submitted, as approved by relevant authorities
(ii) Progress of pre-construction activities - mobilization of plant and equipment, personnel, site office, utility relocation etc.
(iii) Concessionaire's compliance inspection report, if any required
(iv) Constraints in construction
(v) Progress data with "S" curves, if applicable
(vi) Project data with contract detail and sectional completion details
(vii) Tests carried out, if any, and results thereof
(viii) Remedial measures taken by the Concessionaire following such tests, where required
(ix) Traffic management steps taken by the Concessionaire
(x) Review of milestones and reasons for delay, if any
(xi) Suspension of construction, if any, its reasons, duration and the steps undertaken to resume construction
(xii) Change of Scope Notice issued by the Government Agency, if any, and status thereof
(xiii) All actual or potential deviations from the Construction Plan
(xiv) Disagreements/ Disputes , if any and proposed measures to be taken
(xv) Maintenance activities carried out by the Concessionaire on the existing carriageway
(xvi) Injury to any construction personnel during construction, its severity, cause and remedial measure(s) taken to avoid recurrence
(xvii) Brief report of any accident/incident within the Project Site, injury/fatality, property damage, cause of accident and actions taken to avoid recurrence

(xviii) Traffic detour/diversion for construction - time and duration

(xix) Notes of meetings between the Concessionaire, the Independent Engineer and the Government Agency highlighting critical decisions taken or agreements reached. Minutes of the meeting issued by the client shall also be included in the monthly progress reports.

2.6.2 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to NHIDCL the following documents, free of costs: Three hardcopies and two copies in electronic form (two Compact Discs) of the Operations and Maintenance Manual.

Construction Requirements (Automated Puzzle based Parking)

In addition to the aforesaid the construction requirements to be adhered to for the MLCP; in case the Concessionaire develops an automated Puzzle based parking the following shall have to be adhered to:

1.1 GENERAL

Puzzle parking system provides independent parking spaces for cars depending upon the no. of rows & columns it can accommodate. The platforms at top floor (TF) are moved vertically only whereas the platforms at the ground floor (GF) are moved horizontally only. At approach level (GF) one parking space is kept vacant. This vacant space is used for shifting the parking spaces sideways, thus enabling a Top floor (TF) parking space to be lowered or lifted to approach level.

All necessary safety devices shall be installed for smooth functioning of the system. This consists mainly of a chain monitoring system, locking lever for platforms and electromagnetic door locks (optional). The parking bays are accessed horizontally (installation deviation ± 1%).

Noise（Db）：≤85（INSIDE) / ≤80（OUTSIDE）
Environmental conditions: Temperature range – 10 to + 50 ° C.
Relative humidity: 90 % at a maximum outside temperature of + 50 ° C.
Vehicle Size: Big Sedan and SUV
Car Platform size = Car Dimensions +300

1.2 Operations

Operation via operating device withhold-to-run-device using master keys. All operations are PLC controlled. The operation boxes are placed at Easy-to-survey positioning (e.g. on column) and protected against un-authorised use.

1.3 Corrosion Protection

Corrosion protection according to DIN EN ISO12944-2, Corrosive category C3 moderate, Platform profiles : 2mm Hot-dip galvanised with > 200gm/m2 All other steel Members: hot-peened (particle cleanliness SA 2,5) and Colour powder coating (Epoxy / Polyester base) RAL 7040, dry film thickness approx. 60-80 µm Fastening screws for platform profiles: Galvazined steel.

1.4 Operational Data

Lift Speed： 5.0-8.0 m/min depending on level of parking
Slide Speed: 7.0 to -9.0m/min
Retrieval Time: 60- 90 sec (maximum)

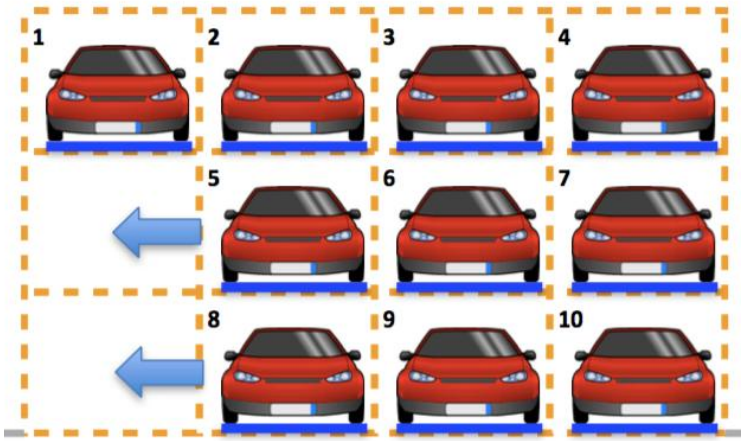
Lift Motor: 3 phase 2.20 KW / 3.70 KW MCN Continuous Duty
Slide Motor: 3 phase 0.20 KW MCN
Motor Chain: 16A -2
Main Drive: 20 A
Wheel Block: 48 dia x 3 Steel Tube
PLC: OMRON CP1E
Current Stabiliser: Schneider ABL2REM24
AC Contactor: Schneider LC1E
Relay: Schneider LRE
IR Sensor: German Make F3STP5003SM
Phase Sequence Protector OR: DPA51C: SWISS
Emergency Stop: PB1M SIEMENS
Key Switcher: LA39/ PB1M SIEMENS
Travel Switcher: SD-8108/8107
Power Supply: 3phase 415 V 50 Hz

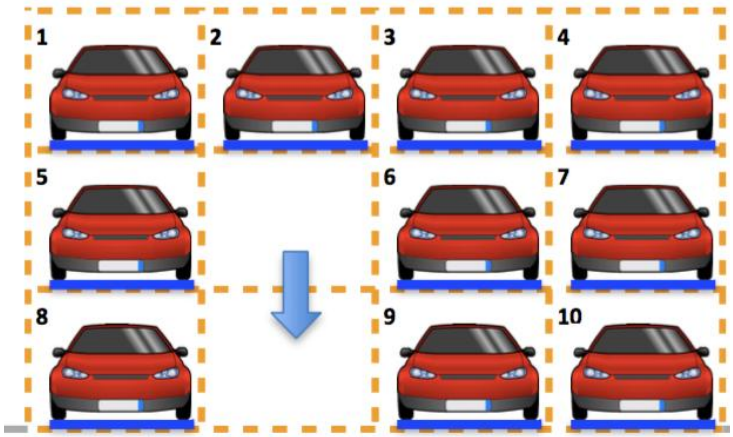
1.5 Safe-Guard Device

- **Up and down position limit, safety switch of ultra-limit.**: When car pallet lifts or sinks down to the position, it will touch the up limit and down limit switch to turn off power of the drive motor and stop the lifting and falling.
- **Sliding limit switch**: When the car pallet slides to the position, it touches the sliding limit switch and turn of the power of drive motor thus stopping the pallet sliding.
- **Chain relaxed protection**: When the chain relaxed to the certain extent will activate the function to stop the equipment running.
- **People and car enter detector photo-electronic detector**: If the people and car enter the garage when the system is running, the equipment will stop at once.
- **Length of the car limit detector**: If the car is over the certain size, equipment will stop running automatically.
- **Device anti-falling**: Avoid car pallet dropping because the chain is broken or off, when the pallet is at upper level, protect the car and passengers.
- **Car blocking device:** Avoid the car sliding on the pallet.
- **Power off braking device:** When the power of motor is shut off, the electromagnetic brake will work to avoid pallet movement and lifting pallet falling.
- **Motor overload protection**: Motor over current protection, low voltage, short-circuit protection.
- **Sound and light alarm while running**: When the system is running, sound and light alarm remind user to pay attention to safety.
- **Protection measure for 3 phase voltage gap**: Power supply gap or not balance, system will be protected by interrupting the power.
- **Time out and interlock protection**: When the running time exceed the certain time, the system will stop and alarm.

- **Emergency stop**: When the system encounter emergency, knob the button, all the movement will stop, at same time the system will not run without get rid of the emergency.
- **Fault warning**: When the system is break down, alarm will sound and display the fault message

1.6 Pictorial Operation Sequence Example - Car No-2 Need to Be Taken Out





1.7 OTHER GUIDELINES

Construction sequence of Parking Facility, shall be planned to minimise the blockage of traffic and access to offices/market.

SCHEDULE 3

APPLICABLE PERMITS
(Indicative but not exhaustive)

- Jammu Development Authority
- Fire Department
- Services Agencies/Road owning Agencies
- Traffic Police for traffic management schemes and pedestrianization during construction and entire concession period.
- Land/ drain owning agencies
- Environmental Clearance from State Environmental Impact Assessment Agency (SEIAA) / Pollution Control Committee (PCC) as per the Environmental Impact Assessment Notification, 14th September 2006, Category 8 (a) – Building and Construction.
- Any other applicable permits

SCHEDULE 4

OPERATIONS AND MAINTENANCE REQUIREMENTS

1. General

(a) The Concessionaire shall comply with the O&M Requirements set out in this Schedule.

(b) In the planning and implementation of all works and functions associated with the operation and maintenance of the Project Facilities, the Concessionaire shall take all such actions and do all such things (including without limitation, organising itself, adopting measures and standards, executing procedures including inspection procedures, and engaging contractors) in such manner, as will:

(i) Ensure the safety of personnel deployed on and users of the Project Facilities or part thereof;
(ii) Keep the Project Facilities from undue deterioration and wear;
(iii) Permit unimpaired performance of statutory duties and functions of any party in relation to the Project.

(c) During the Concession Period, the Concessionaire shall ensure that the Project Facility:

(i) is kept free from undue deterioration and undue wear;
(ii) The facility shall be open and available to users twenty-four hours;
(iii) applicable and adequate safety measures are taken;
(iv) adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Parking Facility, due to any of its actions, is minimised;
(v) any situation which has arisen or likely to arise on account of any accident or other emergency is responded to as quickly as possible and its adverse effects controlled/minimised;
(vi) disturbance to property of third party by operations of the Parking Facility is controlled/minimised;
(vii) there is no destruction or damage to property of third party by operations of the Parking Facility
(viii) members of the public are treated with due courtesy and consideration by its employees/ agents;
(ix) users are provided with adequate information and forewarned of any event or any other matter affecting the Parking Facility to enable them to control/minimise any adverse consequences by such event or matter;
(x) a complaint register to record grievances of any member of the public in relation to the operations and maintenance of the Parking Facility is duly maintained;

(xi) all materials used in the maintenance, repair and replacement of any of the Parking Facility shall meet the Construction Requirements.

(xii) the personnel assigned by the Concessionaire have the requisite qualifications and experience and are given the training necessary to enable the Concessionaire meet the O&M Requirements.

2. Operation and Maintenance Plans

(a) The Concessionaire shall finalise O&M Plan prior to COD and shall submit an annual O&M Plan for the next year of operations in future. Such plan shall be submitted to NHIDCL for their consideration and evaluation. Any inconsistencies, improvements as may be suggested by NHIDCL shall be incorporated in the revised O&M Plan.

3. Operation Requirements

The operations of the Project Facilities shall include the following:

(a) Parking Operations

(i) Collection of Parking Fees, in such a manner that the maximum queuing of cars at the entrance of the Parking Facility does not exceed 3 cars

(ii) Entry and Exit Area management : Directional/destination demarcation of Entry and Exit Areas for Parking Facility and monitoring the same

(iii) Monitor Vehicle arrival and departures

(b) Pedestrian Management along Walkways

(i) Management of the Pedestrian Movement Area in accordance with Construction Requirements

(ii) Management of public conveniences

(c) Security

(i) Provision of round-the-clock security

4. Maintenance Requirements

A. Routine Maintenance Activities

(a) In order to ensure smooth and uninterrupted use of the Project Facilities during normal operating conditions for all 24 hours of a day, the Concessionaire shall perform routine maintenance of the Project Facilities that shall include but not be limited to:

(i) repairs to equipment, pavement, building and other civil works which are part of the Project Facilities;

(ii) replacement of equipment/consumables,
(iii) maintenance of the Parking Facility and Commercial Area in accordance with Good Industry Practice;
(iv) keeping the Project Facilities in a clean, tidy and orderly condition free of litter and debris;
(v) removing and disposing of in accordance with all Applicable Laws and Applicable Permits, all rubbish, debris, etc. including any and all equipment, supplies, materials and wastes brought or produced by the Concessionaire/Contractor;
(vi) taking all practical measures to prevent damage to the Project Facilities;
(vii) undertaking maintenance works in accordance with the O&M Plan and O&M Manual;
(viii) preventing, with the assistance of concerned law enforcement agencies where necessary, any unauthorised entry to and exit from and any encroachments on the Project Facilities;
(ix) taking all reasonable measures for the safety of all the workmen, material, supplies and equipment brought to the Project Site. Explosives, if any, shall be stored, transported and disposed of by the Concessionaire in accordance with Applicable Laws/Applicable Permits.

(b) The Concessionaire shall regularly carry out the necessary preventive maintenance activities for the Project Facilities to ensure adherence to the Construction Requirements throughout the Concession Period.

(c) All maintenance activities shall be planned and coordinated in such a way that the maintenance works shall generally be done during nights and holidays (if unavoidable) so as to cause least disturbance.

B. Emergency Maintenance Activities

(a) The Emergency Response Protocol ("ERP") shall be developed by the Concessionaire in consultation with the local police, hospital/ambulance services, fire departments and other authorities/support personnel and the Independent Engineer. This shall be a part of the O&M Plan developed by the Concessionaire.

(b) The ERP shall set out steps to be taken and measures to be adopted by the Concessionaire in responding to dealing with Emergency including those situations related to vehicle accidents, fire in Project Facilities involving personal injuries or fatalities, property damage and force majeure:

(c) In case of Emergency, the Concessionaire shall

(i) carry out such emergency maintenance and repairs as may be required to repair the damages, if any, in consultation with the Independent Engineer and where required under the supervision of the police in order to ensure that the Project Facilities are returned to normal operating standards as quickly as possible.

(ii) follow the relevant operating procedure specified in the O&M Manual including the setting up of temporary traffic cones and lights as well as the removal of obstruction and debris expeditiously.

5. Safety

The Concessionaire shall implement a Safety Management Programme in line with relevant guidelines (NBC/TAC/any other). This shall form a part of the O&M Manual.

6. Inspections & Frequency

The Concessionaire shall plan inspection programme for the Project Facilities for its smooth operations as follows:

6.1 Visual Inspection

Visual Inspections are broad general inspections carried out frequently by maintenance engineers having adequate knowledge of building and parking structures. The purpose of visual inspection is to report fairly obvious deficiencies, which could lead to accidents or maintenance problems. Such inspections should be frequent. The visual inspection may be carried out by visual assessment with careful observation of the specific object/item of the Project Facilities for identification and for quantification of the deficiencies or damages of the Project Facilities.

6.2 Close Inspection

Close inspections may be visual and/or by standard instrumental aids for assessment of defects/deficiencies of the Project Facilities with careful observation of specific element(s). The close inspection would require detailed examination of the specific element of the Project Facilities and should cover all the aspects against a checklist. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/deficiencies, suggest suitable remedial measures to rectify/remedy them and quantify repair work.

6.3 Thorough Inspection

Such an inspection is to be carried out on the basis of comprehensive checklist of items related to the materials, condition and situation of the structure etc. This inspection is to be carried out by the engineer having good knowledge of the specific element to analysis the nature, and extent of defects/deficiencies, suggest suitable remedial measures to rectify/remedy them and quantify repair work.

6.4 Frequency of Inspections

The type of inspection and related frequency of various items of Project Facilities have been indicated in the Table 1 below. The frequency of inspection can be suitably revised in consultation with the Independent Engineer if the situation so warrants.

Table 4.1

Asset	Daily	Monthly	Quarterly	Before and After Monsoon
Parking System	V	C	T	T
Entry and Exit Area	V	C	T	T
Floors and Walls	V	C	T	T
Chairs /Seats in Pedestrian /Driver Waiting Area	V	C	T	
Drinking Water Facilities	V	C	T	
Toilets	V	C	T	
Signs	V	C	T	T
Markings	V	C	T	T
Pavements/Ramps	V	C	T	T
Access Roads / Underpasses	V	C	T	T
Stair cases	V	C	T	
Lifts	V	C	T	
Doors and Windows	V	C	T	
Entry and Exit Gates	V	C	T	
Fee Collection Systems	V	C	T	
Power Backup	V	C	T	T
Lighting	V	C	T	

Fire fighting System	V	C	T	T
Air Conditioning	V	C	T	T
Painting	V		T	T
General Cleanliness	V	C		

LEGEND :
V : Visual inspection
C : Close inspection
T : Thorough inspection

7. Reporting Requirements and Penalties

The reporting and information that generally need to be provided by the Concessionaire are given below. The Requirements given below are indicative of the type of information to be provided.

Operation Requirement	How/ When measured	Performance Target	Penalty
Minimum Operation Hours of the Parking Facility 16 hours per day	Each Calendar Month.	Parking Facility to be found open at all such inspections	Rs 50,000 for non compliance for a month Payable Monthly
Housekeeping / Maintenance of Project facility	Each Calendar Month. Rating of Monthly O&M Report into : • Good • Satisfactory • Bad	Not more than 1 “Bad” rating in any 12 month period	Rs 1 lakh for non-compliance at the end of 6 Months (Payable – Half yearly)

* The decision of the NHIDCL would be final and binding in respect of this rating

SCHEDULE 5

INDEPENDENT ENGINEER - SCOPE OF WORK

1.0 Role of the Independent Engineer

1.1 The Independent Engineer is expected to play a positive and independent role in discharging its functions, thereby facilitating the smooth implementation and operation of the Project. Broadly, the role of the Independent Engineer is to:

(i) independently review, monitor and where required by the Agreement, to approve activities associated with the Design, Construction, Operation and Maintenance of the Project Facilities to ensure compliance by the Concessionaire with the Construction Requirements,

(ii) report to the Parties on the various physical, technical and financial aspects of the Project based on inspections, site visits and Tests,

(iii) assist the Parties in arriving at an amicable settlement of disputes, should the need arise, and

(iv) review matters related to safety and traffic management measures adopted by the Concessionaire for the Project.

(v) monitor the performance of the Concessionaire and report on incidence of Material and Persistent Breach of O&M Requirements with reference to the Compliance and Tolerance Criteria as laid out in Annexure1 of the O&M Requirements.

2.0 Scope of Services

The services to be provided by the Independent Engineer are listed below. In addition, the scope of services would also include such other functions as are required to be undertaken pursuant to specific provisions of the Agreement.

2.1 Design and Planning

Review of the following submitted by the Concessionaire:

(i) Drawings prepared by the Concessionaire and approved by the Competent Authority;

(ii) Quality Assurance Plan;

(iii) Construction Plan;

(iv) O & M Plan – Construction Period;

2.2 Design Review and Design Responsibilities

i) Review the adequacy of the geotechnical and sub-soil investigations for buildings and other structures, hydrological investigation and the topographical survey.

ii) Review the Design and working drawings prepared for the construction of various components of the buildings/structures and report to the Concessioning Authority (NHIDCL) its observations/comments within 30 days.

iii) Review the impact on the archaeological structures, if any.

iv) Review the implementation schedule of Engineering, Design, Procurement and Construction of the Project submitted by the Concessionaire.

v) Review the Planning and Design of amenities, emergency relief arrangements and safety arrangements.

vi) Review the environmental management plan for the Project during Construction and Operation and Maintenance phases.

vii) Review quality assurance and quality control provisions during the design, construction and maintenance stages.

viii) Audit the safety of the Project both during Construction and Operation and Maintenance stages.

ix) To mediate and assist in resolving disputes between NHIDCL and Concessionaire.

x) Any other review of Project document involved either in implementation of the Project or Security clearance for Projects.

2.3 Construction

The Independent Engineer would monitor, in accordance with Good Industry Practice, the progress in implementation and ensure compliance with the Construction Requirements. For this purpose the Independent Engineer shall undertake, interalia, the following activities and where appropriate make suitable suggestions:

(i) Review and approve the Works Programme of the Concessionaire.

(ii) Ensure that the Construction work is accomplished in accordance with the technical specifications.

(iii) Monitor the progress in implementation of the Project based on the Construction Plan submitted by the Concessionaire;

(iv) Identify Construction delays and recommend to NHIDCL the remedial measures to expedite the progress.

(v) Review and certify the `As Built' drawings for each component of the works prepared by the Concessionaire.

(vi) Review the safety measures provided for the traffic and Project workers.

(vii) Require suspension of whole or any part of the Construction Works if in its reasonable opinion the same does not conform to the Construction Requirements;

(viii) Issue Completion Certificate for the project after checking the results of prescribed tests, with the approval of the _____ It is clarified that the sanctions mandated by law to be obtained from a specified authority have to be obtained from that authority only e.g. building plan sanction is by Chief Architect, _____.

(ix) Issue Provisional Certificate duly appended with a list of outstanding items (Punch List, as defined in the Concession Agreement) established after joint inspection with the Concessionaire, if the Concessionaire requests for it, after approval of NHIDCL.

2.4 Tests

(a) Various quality control tests would be undertaken for the Project by the Concessionaire as per the standards prescribed by Bureau of Indian Standards. Where no testing methods are specified by the said standards, details of the tests to be carried out and specifications to be achieved for the respective Project Facilities/Construction Works or part thereof shall be agreed upon with the Independent Engineer prior to construction;

(b) The tests would be carried out at a location (place of manufacture, fabrication or preparation, at site or any specialised testing laboratory) that the Independent Engineer may reasonably require, at the cost and expense of the Concessionaire.

2.5 Quality Assurance and Quality Control

Independent Engineer shall review prior to commencement of design work, quality assurance plan for the design work ("Quality Assurance Plan") prepared by the Concessionaire.

a) Independent Engineer shall review the document prepared by the Concessionaire prior to commencement of any construction activity and finalise an implementation plan for the Project ("Construction Plan"). The Construction Plan shall, inter alia, include:

   i.) Manpower deployment plan, including the designation of key personnel for the management and supervision of all Project activities. (This would include the designation of suitably qualified personnel for areas such as contract administration and supervision, construction management, traffic and safety, environmental management, plant and equipment maintenance, procurement, materials management and quality control)

   ii.) A broad method statement for key items setting out the methodology of construction, materials and construction equipment mobilisation/ utilisation plans, broad output calculations and details of the quality assurance and quality control procedures.

b) Review the quality assurance and quality control procedures prepared by the Concessionaire to cover all aspects of the work so as to ensure the desired quality. This would include establishment of a well-equipped functional laboratory.

2.6 General Obligations

(i) To mediate and assist in resolving disputes between NHIDCL and Concessionaire

(ii) If during the course or upon review / inspection undertaken by the IE or otherwise, it transpires that either of the Parties is in breach/ default of any of its obligations under the Agreement, the IE shall, under intimation to the other Party, require the defaulting Party to remedy such breach/ default within such time and in such manner as the IE may deem fit and in each case the same shall be recorded

(iii) IE shall carry out random inspections of parking facility / logbook for ascertaining the Operation Hours of parking facility.

(iv) For the purpose of ascertaining ECS availability, IE shall provide the slot Identification numbers which are sampled and inspected for previous calendar Month to NHIDCL before the 7th of the succeeding Month.

(v) Review of Monthly O&M Report (containing the report of Visual, close and thorough inspections of Project Facility by Concessionaire) and Rating the report on a scale of 3. Where 1 : Bad; 2 : Satisfactory; 3 : Good

(vi) All other activities as per provisions of the Concessionaire Agreement

3.0 Interaction with NHIDCL

3.1 The IE would be required to participate in the Project review meetings held from time to time by the Parties, which are ordinarily expected to be held once a month during the Construction Period and once every two months during the Operations Period as also to participate in emergency or extra-ordinary meetings of the Parties held to deal with any Emergency, Force Majeure Event or other exigencies.

4.0 Reporting requirement

4.1 The IE would be required to submit the following reports to the Parties during the Concession Period:

(i) Construction Period

- Monthly Progress Report (including details of slippages and remedial measures)
- Report on Tests and report on notices Issued
- Completion Certificate (including Provisional Certificate)
- Any supplemental or special report that may be considered necessary by the IE (including Emergency, Force Majeure, and breach of obligations).

(ii) Any other report as may be reasonably required by NHIDCL or as may be necessary to give effect to the provisions of the Agreement.

5.0 Performance Clause

IE shall be expected to fully comply with all the provisions of the `Terms of Reference', and shall be fully responsible for supervising the Designs, Construction of the facility takes place in accordance with the provisions of the Concession Agreement and other schedules. Any failure of the IE in notifying to NHIDCL and the Concessionaire on non-compliance of the provisions of the Concession Agreement and other schedules by the Concessionaire, non-adherence to the provision of ToR and non-adherence to the time schedule prescribed under ToR shall amount to non-performance.

SCHEDULE 6

End-use of Commercial Facilities

Commercial Facilities shall be of a permanent nature, either in the form of a series of Commercial Facilities or in any other manner to cater to the users of the project facilities as well as the adjoining office buildings. The end-use may be :

1……..
2……..
3…….

SCHEDULE 7

SCHEDULE OF PARKING FEES & OTHER CHARGES

1.0 Parking Fees

The Concessionaire shall be allowed to charge Parking Fees subject to a maximum cap specified in accordance with Table 7.1 below.

Table 7.1

Duration	Car	Two-wheeler
Upto 2 hour	Rs. 25/-	Rs 12
Upto 3 Hour	Rs. 35/-	Rs. 14
Upto 4 hour	Rs. 45/-	Rs. 17
Upto 5 hour	Rs. 60/-	Rs. 20
Upto 6 hour	Rs. 70	Rs. 25
Upto 24 hour	Rs 100	Rs. 40

.

SCHEDULE 8

HANDBACK GUARANTEE

(PROFORMA OF BANK GUARANTEE)

THIS DEED OF GUARANTEE executed on this the _____day of _____at _____ by _____ _____ *(Name of the Bank)* having its Head/Registered office at _____ hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

National Highways and Infrastructure Development Corporation Ltd., represented by the Managing Director having its office at _____, New Delhi – 110___, hereinafter referred to as "NHIDCL", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

A. By the Concession Agreement entered into between NHIDCL and _____[1], a company incorporated under the provisions of the Companies Act, 1956/firm having its registered office at _____ ("the Concessionaire") the Company/firm had been granted the Concession to implement the Project, as defined under the Concession Agreement mentioned hereinabove.

B. In terms of ***Article 12.2 or Article 12.3*** as the case may be, of the Concession Agreement, the Concessionaire is required to furnish to NHIDCL, an unconditional and irrevocable bank guarantee for a sum equal to a sum of Rs. 1,05,00,000/- (One Crore Five Lakh Only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to handback of the Parking Facility[2].

C. At the request of the Concessionaire, the Guarantor has agreed to provide guarantee, being these presents, guaranteeing the due and punctual

[1] In case of Consortium both members would be included as Parties to the Agreement and collectively referred to as 'the Concessionaire/Consortium' as the context may require.

[2] To be replaced with Commercial Area in this agreement in case of handback under Article 12.3

performance/discharge by the Concessionaire of its obligations under the Concession Agreement relating to handback of the Parking Facility.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

1. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

2. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s._____ (hereinafter called "the Concessionaire") of all its obligations relating to handback of the Parking Facility/Commercial Area.

3. The Guarantor shall, without demur, pay to NHIDCL sums not exceeding in aggregate be equal to a sum of Rs. 1,05,00,000/- (One Crore Five Lakh Only), within five (5) calender days of receipt of a written demand therefor from NHIDCL stating that the Concessionaire has failed to meet its performance obligations relating to handback of the Parking Facility. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NHIDCL and shall pay the amount specified in the demand notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

4. In order to give effect to this Guarantee, NHIDCL shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NHIDCL or any indulgence shown by NHIDCL to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NHIDCL or any indulgence shown by NHIDCL, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

5. This Guarantee shall be irrevocable and shall remain in full force and effect until _____[3]unless discharged/released earlier by NHIDCL in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a equal to a sum of Rs. 1,05,00,000/- (One Crore Five Lakh Only).

[3] 30 Months from the date of issue of the Handback Guarantee in accordance with Article 12.2 and 12.3 of the Concession Agreement

6. This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.

7. The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED
by _____Bank
by the hand of Shri _____
its _____and authorised official.

SCHEDULE 9

PERFORMANCE SECURITY

(PROFORMA OF BANK GUARANTEE)[4]

THIS DEED OF GUARANTEE executed on this the _____day of _____at _____by _____ _____ *(Name of the Bank)* having its Head/Registered office at _____ hereinafter referred to as "the Guarantor" which expression shall unless it be repugnant to the subject or context thereof include successors and assigns;

In favour of

National Highways and Infrastructure Development Corporation Ltd., represented by _____ *(designation of authorised officer)*, National Highways and Infrastructure Development Corporation Ltd and having its office at _____ hereinafter referred to as "NHIDCL", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

By the Concession Agreement entered into between NHIDCL and _____[5], a company incorporated under the provisions of the Companies Act, 1956/firm, having its registered office/ permanent address at _____, ("the **Concessionaire**"), the Concessionaire has been granted the Concession to implement the Project.

A. In terms of ***Article 5.1*** of the Concession Agreement, the Concessionaire is required to furnish to NHIDCL, an unconditional and irrevocable bank guarantee for an amount of Rs. (Rupees) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, by the Concessionaire.

B. At the request of the Concessionaire, the Guarantor has agreed to provide bank guarantee, being these presents guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations relating to the Project.

NOW THEREFORE THIS DEED WITNESSETH AS FOLLOWS:

[4]To be issued by a Scheduled Bank in India

[5]In case of Consortium both members would be included as Parties to the Agreement and collectively referred to as 'the Concessionaire/Consortium' as the context may require.

Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

1. The Guarantor hereby irrevocably guarantees the due and punctual performance by M/s._____ (hereinafter called "the **Concessionaire**") of all its obligations relating to the Project and in connection with achieving COD by the Concessionaire in accordance with the Concession Agreement.

2. The Guarantor shall, without demur, pay to NHIDCL sums not exceeding in aggregate Rs. (Rupees), within five (5) calender days of receipt of a written demand therefor from NHIDCL stating that the Concessionaire has failed to meet its obligations under the Concession Agreement. The Guarantor shall not go into the veracity of any breach or failure on the part of the Concessionaire or validity of demand so made by NHIDCL and shall pay the amount specified in the demand, notwithstanding any direction to the contrary given or any dispute whatsoever raised by the Concessionaire or any other Person. The Guarantor's obligations hereunder shall subsist until all such demands are duly met and discharged in accordance with the provisions hereof.

In order to give effect to this Guarantee, NHIDCL shall be entitled to treat the Guarantor as the principal debtor. The obligations of the Guarantor shall not be affected by any variations in the terms and conditions of the Concession Agreement or other documents or by the extension of time for performance granted to the Concessionaire or postponement/non exercise/ delayed exercise of any of its rights by NHIDCL or any indulgence shown by NHIDCL to the Concessionaire and the Guarantor shall not be relieved from its obligations under this Guarantee on account of any such variation, extension, postponement, non exercise, delayed exercise of any of its rights by NHIDCL or any indulgence shown by NHIDCL, provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.

This Guarantee shall be irrevocable and shall remain in full force and effect until _____[6]unless discharged/released earlier by NHIDCL in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs. (Rupees).

This Guarantee shall not be affected by any change in the constitution or winding up of the Concessionaire/the Guarantor or any absorption, merger or amalgamation of the Concessionaire/the Guarantor with any other Person.

[6]When given at the time of signing of the Agreement - 42 Months from the date of signing the Concession Agreement
When given at the time of renewal of Performance Security - 12 Months from expiry of previous Performance Security

The Guarantor has power to issue this guarantee and discharge the obligations contemplated herein, and the undersigned is duly authorised to execute this Guarantee pursuant to the power granted under _____.

IN WITNESS WHEREOF THE GUARANTOR HAS SET ITS HANDS HEREUNTO ON THE DAY, MONTH AND YEAR FIRST HEREINABOVE WRITTEN.

SIGNED AND DELIVERED

by _____Bank
by the hand of Shri _____
its _____and authorised official.

SCHEDULE 10

FORMAT FOR LETTER OF AUTHORISATION

(To be given on NHIDCL letterhead)

To Whomsoever It May Concern

This is to confirm that pursuant to the Concession Agreement dated _____, entered into between the _____, _____ and _____ ("the Concessionaire"), the Concessionaire has been authorised to construct, operate and maintain the Parking facility _____*(mention Name of the site)* _____- and for that purpose, to apply for and obtain all approvals, licenses and permits required therein and to avail the utilities such as power, water, telecommunication and any other incidental utilities or services required in connection therewith.

Yours faithfully,

National Highways and Infrastructure Development Corporation Ltd.

SCHEDULE 11

Project Schedule

Project Schedule for the Project shall be as follows:

Key Dates	*Description of Activity*	*Time (Months from Appointed Date, i.e. D)*	*Percentage of Liquidated Damages*
KD1	Financial Close	D + 3	10%
KD2	Commencement of construction works	D + 4	10%
KD3	Construction completion up to plinth level	D+12	20%
KD4	Construction completion upto 50% of floors	D+16	20%
KD5	Construction completion of top floor roof	D+20	20%
KD6	Completion of all finishes and fixtures with COD	D+24	20%

*liquidated damages specified in this Schedule are the %age of the aggregate Liquidated Damages (which is equal to Performance Security) chargeable for non-observation of the timelines set out in this Schedule.

The overall extent of the liquidated damages for the Project under Article 5.4(c) and the above Table shall not exceed the Performance Security.

SCHEDULE 12

SUBSTITUTION AGREEMENT

THIS SUBSTITUTION AGREEMENT is entered into on this the _____day of _____(Month) _____(Year) at _____.

AMONGST,

_____ acting through _____[7], _____ , _____, Jammu – 110___, hereinafter referred to as "**the Concessioning Authority**" or "_____" which expression shall unless repugnant to the context include its successors and assigns, OF THE ONE PART,

AND

M/s. Limited, a company incorporated under the provisions of the Companies Act, 1956 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 assigns),

AND

(Financial Institution/ Bank) having its Registered Office/Head Office at _____ _____ hereinafter referred to as "**the Lender**".

OR

(Financial Institution/Bank) having its Registered Office/Head Office at_____ _____ (hereinafter referred as "**the Lenders' Representative**") acting for and on behalf of the Lenders listed in Schedule A hereto.

WHEREAS,

_____ desires to develop a multilevel parking cum commercial complex at , Panchvakhtar Temple, Jammu through private participation on Build, Operate and Transfer (BOT) basis and the same has been approved by the _____ vide _____ dated _____;

[7] Designation of authorised officer

A. By the Concession Agreement dated _____ entered into between _____ and the Concessionaire (hereinafter referred to as "the Concession Agreement") the Concessionaire has been granted the Concession to implement the Project on BOT basis;

B. With a view to facilitate financing of the Project by the Concessionaire, _____and the Concessionaire have agreed to enter into a Substitution Agreement being these presents with the Lender(s)/Lenders' Representative.

C. As a condition to making any disbursement pursuant to the Financing Documents, the Lender(s) has/have required that the Substitution Agreement being these presents be entered into, and the Concessioning Authority and the Concessionaire have agreed to the same.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS :

ARTICLE 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 agreement and includes any amendment or modification made to this agreement in accordance with the provisions hereof.

"Financial Assistance" means the financial assistance set forth in Schedule A hereto, agreed to be provided by the Lender(s) to the Concessionaire for financing the Project.

"Lender(s)" means the financial institutions/banks whose name(s) and addresses are set out in Schedule A hereto.

"Residual Concession Period" means the period which shall be the remainder of the period relating to PFCP or CACP or both as the case may be, computed from the date of substitution of the Concessionaire by the Selectee.

"Selectee" means a Person proposed by the Lender/Lender's Representative pursuant to this Agreement and approved by NHIDCL for substituting the

Concessionaire for the Residual Concession Period, in accordance with the provisions of this Agreement.

"Suspension Period" means the period commencing from the expiry of the Cure Period specified in the Preliminary Notice and ending on the date on which all formalities connected with substitution of the Concessionaire by the Selectee including handing over of Project Site/Project Facilities, in accordance with this Agreement are completed and the substitution has become effective.

1.2 Capitalised terms used in this Agreement but not defined shall have the meaning assigned to them respectively in the Concession Agreement.

ARTICLE 2

SUBSTITUTION OF THE CONCESSIONAIRE BY THE SELECTEE

2.1 Lenders right to Substitute

NHIDCL and the Concessionaire hereby irrevocably agree that upon occurrence of a Concessionaire Event of Default, the Lender(s) shall, without prejudice to any other rights or remedies available to them under Applicable Law/Financing Documents and without being required to exercise or exhaust such rights or remedies, have the right to seek substitution of the Concessionaire by Selectee for the Residual Concession Period under the Concession Agreement in accordance with the provisions of this Agreement.

2.2 Preliminary Notice of Termination

NHIDCL shall upon the occurrence of Concessionaire Event of Default issue Preliminary Notice of Termination to the Concessionaire in terms of ***Article 10.2(a)*** of the Concession Agreement, with a copy thereof simultaneously to the Lenders.

Provided, if the Concessionaire Event of Default is the one set out in ***Article 10.1(a)(xiii)*** NHIDCL shall issue Termination Notice to the Concessionaire in terms of ***Article 10.2(a***) of the Concession Agreement, with a copy thereof simultaneously to the Lenders.

Provided further, if the Concessionaire Event of Default is the one set out in ***Article 10.1(a)(ix)*** of the Concession Agreement, NHIDCL shall not be obliged to issue Preliminary Termination Notice until receipt by NHIDCL of the recall notice issued by the Lender(s) to the Concessionaire.

2.3 Suspension of Concession and Takeover of the Project Facilities

The Concessionaire irrevocably agrees that if the Cure Period lapses without the Concessionaire Event of Default having been cured, the Concession shall effective from the expiry of such Cure Period stand suspended, without any further notice or other act of NHIDCL being required, and that NHIDCL shall have the right to enter upon and takeover the Project Site/Project Facilities and to take all such steps as are necessary for the continued operation and maintenance of the Project Facilities, subject to servicing the payment obligations under the Financing Documents, and the substitution of the Concessionaire by the Selectee in accordance with this Agreement. The

Concessionaire hereby irrevocably consents to the takeover of the Project Site/ Project Facilities by NHIDCL forthwith upon suspension becoming effective.

2.4 Substitution Notice

NHIDCL and the Concessionaire hereby irrevocably agree that in the event of the Concessionaire's failure to cure the Event of Default specified in the Preliminary Notice of Termination, the Lender/Lender's Representative may, within 30 (thirty) days of the expiry of the Cure Period, notify NHIDCL and the Concessionaire about the intention of the Lender(s) to seek substitution of the Concessionaire by the Selectee for the Residual Concession Period (the "Substitution Notice").

2.5 Criteria for selection of the Selectee

The Lender/Lenders' Representative shall in addition to any other criteria that it may deem fit and necessary, apply the following criteria in the selection of the Selectee:

the Selectee shall possess the financial and experience capability to perform and discharge all the residual duties, obligations and liabilities of the Concessionaire in respect of the Concession, under the Concession Agreement;

the Selectee shall have the capability and shall unconditionally consent to assume the liability for the payment and discharge of dues, if any, of the Concessionaire to NHIDCL under and in accordance with the Concession Agreement, and also payment of amounts due to the Lender(s) under the Financing Documents upon terms and conditions as agreed to between the Selectee and the Lenders.

ARTICLE 3

MODALITY FOR SUBSTITUTION

3.1 Modalities for Substitution

The following modalities shall be followed for substitution of the Concessionaire by the Selectee pursuant to this Agreement:

(i) The Lender(s)/Lenders' Representative shall be entitled, within a period of 120 (one hundred twenty) days from the date of delivery of the Substitution Notice pursuant to the preceding ***Article 2.2*** to invite or procure offers either through private negotiations or public auction or process of tender or otherwise from the eligible Persons, for the substitution of the Concessionaire by the Selectee and propose to NHIDCL for its approval, the Selectee (the "Proposal"). The Proposal of the Lender/Lender's Representative shall contain the particulars and information in respect of the Selectee, particulars of the amounts due to the Lenders under the Financing Documents, the terms of Substitution and such data and information as would be necessary and relevant for NHIDCL to decide as to the acceptability of the Selectee. The Lender/ Lender's Representative shall provide to NHIDCL such additional information and clarification in respect of any data, particulars or information contained in the Proposal, as NHIDCL may reasonably require.

(ii) The Proposal shall be accompanied by an unconditional undertaking of the Selectee to the effect that it shall upon acceptance by NHIDCL of the Proposal observe, comply with, perform and fulfil the residual terms, conditions and covenants of the Concession Agreement as if the Selectee had been the Concessionaire under the Concession Agreement, and to assume, take over, discharge and pay the Concessionaire's obligations under the Financing Documents on the terms and conditions agreed to by the Selectee with the Lenders. The Selectee shall also undertake to enter into such documents and writings with NHIDCL and the Lender(s) as may be necessary or required to give effect to the substitution of the Concessionaire by the Selectee.

(iii) NHIDCL shall convey to the Lender/Lenders' Representative its acceptance or otherwise of the Selectee within 30(thirty) days of (a) the date of receipt of the Proposal by NHIDCL, or (b) the date of receipt of the additional information and clarifications in respect of any data, particulars or information comprised in the Proposal, provided by the Lender/Lender's Representative to the NHIDCL, whichever is later.

(iv) At any time prior to the acceptance of the Selectee by NHIDCL pursuant to this Agreement, NHIDCL may require the Lender/Lenders' Representative to satisfy it as to the eligibility of the Selectee and the decision of NHIDCL as to acceptance or rejection of any Selectee (which shall be reasonable), shall be final, conclusive and binding on the Lender(s), the Selectee and the Concessionaire. In the event that NHIDCL fails to communicate its acceptance or otherwise or the objections, if any, it has to the acceptance of the Proposal/the Selectee within a period of 30 days prescribed in preceding ***sub-article 3.1 (iii),*** NHIDCL shall be deemed to have accepted the Proposal/the Selectee.

(v) The rejection of the Selectee if made by NHIDCL shall be reasoned and be made after hearing the Lender/Lenders' Representative. Following the rejection of the Proposal, the Lender/Lenders' Representative shall have the right to submit a fresh Proposal, proposing another Selectee, within 30 days of receipt of communication regarding rejection of the Selectee previously proposed. The provisions of preceding ***sub-article 3.1 (iii) and (iv)*** shall apply mutatis mutandis to such fresh Proposal.

(vi) If NHIDCL accepts the Proposal/fresh Proposal, NHIDCL shall take all necessary steps to substitute the Concessionaire by the Selectee by amendment of the Concession Agreement or by execution of fresh agreement or such other writing as may be required or necessary to give effect to the Substitution of the Concessionaire by the Selectee for the Residual Concession Period.

(vii) The substitution of the Concessionaire by the Selectee shall be deemed to be complete upon the Selectee executing all necessary documents and writings with or in favour of NHIDCL and the Lender(s) so as to give full effect to the terms and conditions of substitution, subject to which the Selectee has been accepted by the Lender(s) and NHIDCL and upon the delivery by NHIDCL of the Project Site/Project Facilities to the Selectee. Upon the substitution becoming effective pursuant to this ***sub-article*** all the rights of the Concessionaire under the Concession Agreement shall cease to exist. Provided nothing contained in this ***sub-article*** shall prejudice any pending/subsisting claims of the Concessionaire against NHIDCL or any claim of NHIDCL against the Concessionaire and the Selectee shall incur no liability or consequence on account of any previous breach/default and shall subject to the terms and conditions of the substitution, have a period of 90 days to cure any breach/default subsisting on the date of subsitution and required or agreed to be cured.

(viii) The decision of the Lenders and NHIDCL in the selection of the Selectee shall be final and binding on the Concessionaire and shall be deemed to have been made with the concurrence of the Concessionaire. The

Concessionaire hereby expressly waives all rights to object to or challenge such selection of the Selectee on any ground whatsoever.

3.2 Termination and Termination Payment

(a) Where the Lender/Lenders' Representative (on behalf of all the Lenders) communicates in writing that

(i) the Lender/ Lender's Representative does not intend to seek substitution of the Concessionaire, or

(ii) that the Lender/Lenders' Representative has not been able to find suitable Selectee or

(iii) that NHIDCL has declined to accept the Selectee proposed by the Lender/Lenders' Representative,

NHIDCL shall proceed to terminate the Concession and to make Termination Payment, in accordance with the provisions of the Concession Agreement.

(b) Nothing contained in these presents shall mean or be interpreted as provision of any guarantee or surety by NHIDCL and it is expressly agreed that NHIDCL has not provided any surety, guarantee or counter guarantee whether directly or indirectly for the recovery of amounts advanced by the Lenders to the Concessionaire.

ARTICLE 4

MODE OF TERMINATION PAYMENTS

4.1 Mode of Payment

NHIDCL and Concessionaire hereby irrevocably agree, and confirm that so long as the liabilities of the Concessionaire under the Financing Documents are outstanding the Termination Payment and any other amounts due and payable by NHIDCL to the Concessionaire under any of the provisions of the Concession Agreement shall be paid only by way of credit directly to a bank account designated therefore by the Lender(s)/Lenders' Representative and advised to NHIDCL and the Concessionaire in writing. The Lender(s) shall be entitled to receive and appropriate the same without any further reference to or consent of the Concessionaire towards the satisfaction of the amounts outstanding, due and payable under the Financing Documents, subject to payment by the Lender(s) of the surplus amount, if any remaining after discharge of the liabilities of the Concessionaire under the Financing Documents, to the Concessionaire. Any payment so made shall to the extent of such payment constitute a valid

discharge to NHIDCL of its obligations with regard to the Termination Payment and of any other monies due to the Concessionaire under the Concession Agreement.

ARTICLE 5

GENERAL

(a) The Parties hereto expressly represent and warrant that they are duly empowered to sign and execute this Agreement.

(b) Notices under this Agreement shall be sent to the Addresses first hereinabove mentioned. Any change in the address of any Party shall be duly notified by a Registered post acknowledgement due and delivered to the other parties.

(c) The expressions "NHIDCL", the "Concessionaire", the "Lender" and the "Lenders' Representative" herein used shall unless there be anything repugnant to the subject or context include the respective successors, legal representatives, administrators and permitted assigns.

(d) This Agreement shall not be affected by reorganisation of any Lender, the Concessionaire or NHIDCL and the successor in interest of the Lender or NHIDCL shall have the benefit of this Agreement.

(e) Any dispute, difference or claim arising out of or in connection with or in relation to this Agreement which is not resolved amicably shall be decided finally by arbitration by a Board of Arbitrators comprising of a nominee of each party to the dispute. Such arbitration shall be held in accordance to and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The arbitrators shall issue a reasoned award (the "Award"). The venue of such arbitration shall be Jammu, India. The Award shall be final and binding on the Parties. The Parties agree and undertake to carry out the Award of the arbitrators without delay.

(f) This Agreement and rights and obligations of the Parties shall remain in full force and effect pending the Award in any arbitration proceeding. The Courts in Jammu alone shall have jurisdiction over all matters arising out of or relating to the arbitration agreement contained herein or proceedings arising out of or relating to the arbitration proceedings thereunder.

(g) The consultation, recommendation or approval of the Lenders' Representative under this Agreement shall always be taken as consultation, recommendation or approval of every concerned Lender and each such Lender shall be bound by the same.

(h) This Agreement shall be in addition to and shall not be in derogation of the terms of the Financing Documents.

(i) It shall not be necessary for the Lender(s) or the Lenders' Representative to enforce or exhaust any other remedy available to them before invoking the provisions of this Agreement.

(j) No amendment, variation or modification to this Agreement shall be valid and effectual unless made in writing and executed by the duly authorised representatives of all the Parties hereto.

(k) All stamp duties or other imposts and charges as are applicable on this Agreement or on amendment of the Concession Agreement or execution of fresh Concession Agreement for the purpose of substitution as aforesaid, irrespective of the Lenders making such payment for the time being, shall be borne by and be to the account of the Concessionaire.

(l) The Parties hereby expressly agree that for the purpose of giving full and proper effect to this Agreement, the Concession Agreement and this Agreement shall be read together an construed harmoniously. The terms of this Agreement shall prevail in the event of any inconsistency with the Concession Agreement.

IN WITNESS WHEREOF THE PARTIES HERETO HAVE SET THEIR HANDS HEREUNTO ON THE DAY, MONTH AND YEAR HEREINABOVE MENTIONED.

SIGNED AND DELIVERED ON BEHALF OF
_____ LIMITED

BY : _____
Name :
Designation:

SIGNED AND DELIVERED ON BEHALF OF
_____

BY : _____
Name :
Designation:

SIGNED AND DELIVERED ON BEHALF OF
LENDERS SET FORTH IN SCHEDULE A

BY : _____
Name :
Designation:

SCHEDULE A

PARTICULARS OF FINANCIAL ASSISTANCE

Name and Address of the Lender	Nature and Amount of Financing Assistance

---

SCHEDULE 13

LICENSE AGREEMENT

This License Agreement is executed at Jammu on this the _____ day of_____;

B E T W E E N

_____ *(Name of the Concessionaire)* (hereinafter referred to as the **"Licensor"** (which expression unless it be repugnant to the context or meaning thereof shall mean and include their respective heirs, legal representatives, administrators, executors and assigns) of the **FIRST PART**

A N D

_____ *(Name of the person who is being given the sub-licence)* hereinafter referred to as the **"Licensee"** (which expression unless it be repugnant to the context or meaning thereof shall mean and include its successors and assigns) of the **SECOND PART**

Capitalized terms used in this Agreement, but not defined shall have the meaning assigned to them in the Concession Agreement.

WHEREAS

A. The Licensor is the Concessionaire under the Concession Agreement dated_____ (**"the Concession Agreement"**) entered into between _____ ("_____") and the Concessionaire.

B. The Licensor has been granted, inter alia, the right to enter into License Agreements with suitable Persons in respect of the Commercial Area, subject to the terms set forth in the Concession Agreement.

C. Pursuant to the rights granted to the Licensor as aforesaid, the Licensor has agreed to give on license basis to the Licensee, the Licensed Premises No. _____ more particularly described in Schedule hereto (**"the Licensed Premises"**) for a period of __ years with effect from _____ upto _____, at a License Fee of Rs. _____ per month, for use by the Licensee of the Licensed Premises in accordance with the terms of this Agreement and in accordance with applicable laws;

NOW THEREFORE, THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. The Licensor does hereby grant and the Licensee does hereby accept the license to use, occupy and enjoy the Licensed Premises for a term of ____ years commencing from _____ upto _____ (**"the License Period"**), subject to the terms and conditions hereinafter set out. The term of the License could be renewed/extended for a further period and on such terms as may be mutually agreed between the parties.
   Provided that the tenor of the License Agreement shall be co terminus with the Concession Agreement.

2. The Licensee shall pay to the Licensor, a License Fee of Rs. _____ per month (**"the License Fee"**) during the License Period.

3. The License Fee shall be payable monthly in advance, on or before the seventh day of each month. However, in the event of any receipt of notice from NHIDCL, the Licensee shall pay directly to NHIDCL such amount as may be notified by NHIDCL from out of the License Fee payable to the Licensor and such may shall be deemed to be the payment of License Fee by the Licensee to the Licensor as per the terms of this Agreement.

4. The Licensee shall pay to the Licensor an amount equal to 3 months License Fee as an Advance ie. Rs._____ (**"Advance"**). The Licensor agrees to return the Advance to the Licensee upon termination of this Agreement, after adjusting any amounts that may be due to the Licensor.

5. The Licensor shall make available adequate facilities for maintenance of cleaning of the common areas such as corridor, staircase, toilets, elevators, parking area.

6. The Licensor shall be responsible for the maintenance of all the common areas in the Project Facilities. All cost related to maintenance as aforesaid, would be borne by the Licensor. The Licensor agrees to promptly rectify all defects in the common areas etc. brought to its notice.

7. The Licensee shall not do or suffer to be done anything in the Licensed Premises, which is or is likely to be a nuisance or annoyance to the other occupants of the Project Facilities or to prejudice the rights of the Licensor of the Licensed Premises under the Concession Agreement.

8. The Licensee shall take due and proper care of the Licensed Premises and shall be liable to compensate the Licensor for any loss or damage to the Licensed Premises, save and except for reasonable wear and tear. The Licensee shall not carry out any change in the Licensed Premises, without the prior written of the Licensor.

9. The Licensee declares, agrees and is aware that this Agreement does not create any right, title to or in the Licensed Premises in favour of the Licensee, save and except a limited right to use, occupy and enjoy the Licensed Premises during the term of this Agreement. Further, the Licensee shall not sub-let the Licensed Premises to any party.

10. The Licensee shall be liable to keep the Licensed Premises in good habitable condition and keep the Licensed Premises at his own cost adequately water proofed and carry out such repairs as may be required from time to time and as called upon to do by the Licensor.

11. The Licensee does hereby indemnify and undertake to keep indemnified the Licensor from all damages, claims, liabilities arising out of or as a consequence of any action taken or penalty imposed by any Person or authority on account of use of the Licensed Premises by the Licensee under this Agreement, which action may include an attachment, destraint or any other proceedings.

12. The Licensor shall pay the municipal tax, cess, levies etc in respect of the Licensed Premises.

13. In the event of either party committing breach of any of the terms and conditions of this Agreement and failing to remedy or make good such breach within 30 days of the receipt of notice in writing from the other party, such other party shall be entitled to revoke this Agreement by giving the other party a notice of 15 (Fifteen) days in writing, without payment of any compensation whatsoever.

14. In the event of not requiring the Licensed Premises, the Licensee shall be entitled to terminate this Agreement by giving three month's notice in writing to the Licensor or three month's Licensee Fee in lieu thereof.

The Licensee hereby expressly agrees that this License shall automatically and simultaneously terminate upon termination of the Concession Agreement, for any reason whatsoever including default of the Licensor thereunder. Upon such termination, the Licensor shall refund the Advance to the Licensee. The Licensee shall have no other rights whatsoever against the Licensor/NHIDCL, including compensation or termination payment which the Licensor/NHIDCL may be entitled to receive under the Concession Agreement. Provided, if the Licensee fails to receive the Advance alongwith the receipt of the notice of termination from the Licensor, it may notify NHIDCL of such non-receipt and NHIDCL shall withhold Termination Payment to the Licensor until such time that the Licensee has been discharged of its liability to refund the Advance by the Licensee.

15. Upon termination of this License for any reason except for reason of prior termination of the Concession Agreement, the Licensee shall remove all objects and persons using the Licensed Premises at the cost of the Licensee and deliver vacant and peaceful possession of the Licensed Premises therein to the Licensor in a good condition, normal wear and tear excepted.

16. Upon termination of this License due to prior termination of the Concession Agreement, the Licensee shall remove all objects and persons using the Licensed Premises at the cost of the Licensee and deliver vacant and peaceful possession of the Licensed Premises therein to NHIDCL in a good condition, normal wear and tear excepted.

17. The Licensor and Licensee hereby indemnify and keep indemnified NHIDCL for and against all costs, losses and damages that it may incur due to the breach by them of the provisions hereunder including the costs for recovery of possession of the Licensed Premises in case of unauthorised and illegal occupation thereof by the Licensor or the Licensee.

SCHEDULE

(Licensed Premises)

IN WITNESS WHEREOF the parties have subscribed their respective hands hereunto on the day, month and year first herein above written.

SIGNED AND DELIVERED by the within named Licensor
by the hand of _____ in the presence of

1. _____

2. _____

SIGNED AND DELIVERED by the within named Licensee
by the hand of _____ in the presence of

1. _____

2. _____

RECEIPT

Received from _____an amount of Rs. _____ [Rupees _____Only] as Advance as mentioned in ***Article 3*** of the License Agreement.

Date:
Place: Delhi