

Department of School Education

GOVERNMENT OF UTTARAKHAND

Request for Proposal

for

Setting up Rajiv Gandhi Navodaya Vidyalaya

on

Build, Operate and Transfer mode (BOT) basis

At the following 3 locations

Sr.No.	District	Location
a.	Rudraprayag	Sumari Bhardar
b.	Bageshwar	Amsarkot
c.	Udham Singh Nagar	Tumadiya Ravines Jaspur

Due on 7th November 2016

Note:

Each location shall constitute a separate individual Project. The Bidders can bid for any or all the Projects. The Bidders shall submit single Technical Proposals for all the Projects.

The Bidders shall submit separate Financial Proposals for each Project.

Department of School Education

Disclaimer

The information contained in this Request for Proposal (“RFP”) Document or subsequently provided to Bidder, whether verbally or in documentary form by or on behalf of the Department of School Education, Government of Uttarakhand (“Government Representatives”) or any of their employees or Uttarakhand Public Private Partnership Cell, is provided to the Bidder on the terms and conditions set out in this RFP Document and any other terms and conditions subject to which such information is provided.

This RFP Document is not an agreement and is not an offer or invitation by the Government Representatives to any party other than the Bidders who are qualified to submit the Proposal (Bidders). The purpose of this RFP Document is to provide the Bidder with information to assist the formulation of their proposals. This RFP Document does not purport to contain all the information each Bidder may require. This RFP Document may not be appropriate for all persons, and it is not possible for the Government Representatives, their employees or advisors, Uttarakhand Public Private Partnership Cell to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP Document. Each Bidder should conduct its own investigations and analysis and should check the accuracy, reliability and completeness of the information in this RFP Document and where necessary obtain independent advice from appropriate sources. The Government Representatives, their employees and advisors make no representation or warranty and shall incur no liability under any law, statute, rules or regulations as to the accuracy, reliability or completeness of the RFP Document.

The Government Representatives may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information in this RFP Document.

Contents of RFP Document

Part I	Instructions to Bidders
Part II	Draft Concession Agreement

Part I

Instructions to Bidders

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1. Bidding Procedure

A. General

1.1 Scope of Proposal

- 1.1.1 Department of School Education, Government of Uttarakhand, (hereinafter referred to as “DoSE”) invites detailed proposals (Key Submissions, Technical Proposal and Financial Proposals) from Bidders who fulfil the pre qualification criteria indicated in clause 1.24.2 for setting up of senior secondary coeducational residential schools (imparting education from classes VI to XII) under the name of “Rajiv Gandhi Navodaya Vidyalaya” through Public-Private-Partnership on Build, Operate and Transfer (“BOT”) basis at 3 (three) different locations (the Project).

Bidders who fulfil the pre qualification criteria indicated in clause 1.24.2 are eligible to submit Technical and Financial Proposal in response to this RFP Document.

- 1.1.2 The Proposals would be evaluated on the basis of the evaluation criteria set out in this RFP Document (“Evaluation Methodology”) in order to identify the successful Bidder for the Project (“Successful Bidder”). The Successful Bidder would then have to enter into a Concession Agreement with DoSE and perform the obligations as stipulated therein, in respect of the Project.
- 1.1.3 Terms used in this RFP Document which have not been defined herein shall have the meaning ascribed thereto in the Draft Concession Agreement.
- 1.1.4 DoSE proposes to set up Rajiv Gandhi Navodaya Vidyalaya Vidyalaya on Built, Operate and Transfer (BOT) basis at following locations :

Sr.No.	District	Location
a.	Rudraprayag	Sumari Bhardar
b.	Bageshwar	Amsarkot
c.	Udham Singh Nagar	Tumadiya Ravines Jaspur

Each location shall be treated as an individual Project. The Bidder can bid for any or all the Projects. The Bidders shall submit single Technical Proposals for all the Projects. The Bidders shall submit separate Financial Proposals for each Project.

1.2 Eligible Bidders

- 1.2.1 Bidders who fulfil the pre qualification criteria indicated in clause 1.24.2 are eligible to submit Technical and Financial Proposal in response to this RFP Document.

Bidders shall acknowledge receipt of this RFP Document and notify their intention to bid for the Project in the format provided as Appendix 1.

- 1.2.2 Bidders shall provide such evidence of their continued eligibility to the satisfaction of DoSE, as the DoSE may reasonably request.
- 1.2.3 A Power of Attorney for signing of Proposals needs to be furnished in favour of the Authorised Signatory as per format provided in Appendix-8.
- 1.2.4 In the case of a Consortium, the Members should submit a Power of Attorney in favour of the Lead Member as per format provided in Appendix-9.
- 1.2.5 In case the Bidder is a Consortium, it shall, in addition to forming an Special Purpose Vehicle (SPV), comply with the following additional requirements:
 - a) Number of members in a consortium shall not exceed 4 (four),
 - b) Subject to the provisions of sub-clause (a) above, the Application should contain the information required for each member of the Consortium;
 - c) Members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 26% (twenty six per cent) of the paid up and subscribed equity of the SPV. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-9, signed by all the other members of the Consortium;
 - d) The Application should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
 - e) An individual Bidder cannot at the same time be member of a Consortium. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium;
 - f) The members of a Consortium shall form an appropriate SPV to execute the Project, if awarded to the Consortium;
 - g) Members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-10 (the “**Jt. Bidding Agreement**”), for the purpose of making the Application.

h) The Jt. Bidding Agreement, to be submitted along with the Proposal, shall, *inter alia*:

- i. Convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the concession to undertake the Project is awarded to the Consortium;
- ii. Clearly outline the proposed roles and responsibilities, if any, of each member;
- iii. Commit the minimum equity stake to be held by each member;
- iv. Commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the paid up equity share capital of the SPV; and (ii) 5% (five per cent) of the Total Project Cost.
- v. Members of the Consortium undertake that they shall collectively hold at least 51% (fifty one per cent) of the paid up equity of the SPV at all times until the end of two years commercial operation of the Project.
- vi. Include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the Financial Close of the Project is achieved in accordance with the Concession Agreement.
- vii. Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the DoSE.

1.3 Additional Requirements for Proposals Submitted by a Consortium

- (a) Wherever required, the Proposal shall contain the information required for each of the member of the Consortium;

- (b) The Proposal shall be signed by the duly Authorised Signatory of the Lead Member and shall be legally binding on all the members of the Consortium;
- (c) All witnesses and sureties shall be persons of status and probity and their full names and addresses shall be stated below their signature. All signatures in the Proposal documents shall be dated.

1.4 Change in Composition of the Bidder

- 1.4.1 Any change in composition of the Bidder after the Pre Qualification stage would be at the sole discretion of DOSE and with prior written permission of DOSE.

1.5 Number of Proposals

- 1.5.1 Each Bidder shall submit only one (1) Proposal for the Project in response to this RFP Document. Any entity, which submits or participates in more than one Proposal for the same Project will be disqualified and will also cause the disqualification of Consortium in which it is a member.

1.6 Proposal Preparation Cost

- 1.6.1 The Bidder shall be responsible for all the costs associated with the preparation of its Proposal and its participation in the bidding process. DOSE will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of bidding.

1.7 Contents of RFP Document

- 1.7.1 The RFP Document consists of 2 Parts as listed below and would include any addenda issued in accordance with Clause 1.9.

Part I	Instructions to Bidders
Part II	Draft Concession Agreement

1.8 Clarifications

- 1.8.1 Bidders requiring any clarification on the RFP Document may notify DOSE in writing or by facsimile within such date as specified in the Schedule of Bidding Process. Based on its sole discretion, DOSE may forward to all Bidders, copies of DOSE response, including a description of the enquiry but without identifying its source.

1.9 Amendment of RFP Document

- 1.9.1 At any time prior to the Proposal Due Date, DoSE may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP Document by the issuance of Addenda.
- 1.9.2 Any Addendum thus issued will be sent in writing to all the Bidders who have received and acknowledged the RFP Document and will be binding upon them. Bidders shall promptly acknowledge receipt thereof to DOSE.
- 1.9.3 In order to afford Bidders reasonable time in which to take an Addendum into account, or for any other reason, DoSE may, at its own discretion, extend the Proposal Due Date.

B. Preparation and Submission of Proposal

1.10 Language and Currency

- 1.10.1 The Proposal and all related correspondence and documents shall be written in the English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by an appropriate translation into English. Supporting materials that are not translated into English may not be considered. For the purpose of interpretation and evaluation of the Proposal, the English language translation shall prevail.
- 1.10.2 The currency for the purpose of the Proposal shall be the Indian Rupee (INR).

1.11 Bid Security

- 1.11.1 Proposals would need to be accompanied by a Bid Security for an amount of Rs 10,00,000.00 (Rs Ten Lakhs only) for **each Project**, in the form of a bank guarantee as per Appendix 4.
- 1.11.2 The Bid Security shall be kept valid through the Proposal Validity Period and would be required to be extended if so required by DOSE.
- 1.11.3 The Bid Security shall be returned to unsuccessful Bidders within a period of thirty (30) days from the date of announcement of the Successful Bidder. The Bid Security submitted by the Successful Bidder shall be released upon furnishing of the Performance Security in the form and manner stipulated in the Draft Concession Agreement.

1.11.4 The Bid Security shall be forfeited in the following cases:

- (a) If the Bidder withdraws its Proposal except as provided in Clause 1.20;
- (b) If the Bidder withdraws its Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period; and
- (c) If the Successful Bidder fails to provide the Performance Security within the stipulated time or any extension thereof provided by DOSE.

1.12 Validity of Proposal

1.12.1 The Proposal shall indicate that it would remain valid for a period not less than nine (9) months from the Proposal Due Date (Proposal Validity Period). DoSE reserves the right to reject any Proposal that does not meet this requirement.

1.12.2 Prior to expiry of the original Proposal Validity Period, DoSE may request that the Bidders extend the period of validity for a specified additional period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder agreeing to the request will not be allowed to modify its Proposal, but would be required to extend the validity of its Bid Security for the period of extension and comply with Clause 1.11 of this document in all respects.

1.12.3 The Successful Bidder shall extend the Proposal Validity Period till the date of execution of the Concession Agreement.

1.13 Project Inspection / Site Visit

1.13.1 The Bidder may carry out Project Inspection / Site Visit at any time at their own cost.

1.14 Bidder's Responsibility

1.14.1 The Bidder is expected to examine carefully the contents of all the documents provided. Failure to comply with the requirements of RFP Document will be at the Bidder's own risk.

1.14.2 It would be deemed that prior to the submission of Proposal, the Bidder has:

- (a) made a complete and careful examination of requirements, and other information set forth in this RFP Document;
- (b) received all such relevant information as it has requested from DOSE; and
- (c) made a complete and careful examination of the various aspects of the Project including but not limited to:

- (i) the Project site
- (ii) existing facilities and structures
- (iii) space availability
- (iv) water availability
- (v) the conditions of the access roads and utilities in the vicinity of the Project Site
- (vi) conditions affecting transportation, access, disposal, handling and storage of the materials
- (vii) clearances obtained by DOSE for the Project; and
- (viii) all other matters that might affect the Bidder's performance under the terms of this RFP Document.

1.14.3 DOSE shall not be liable for any mistake or error or neglect by the Bidder in respect of the above.

1.15 Pre-Proposal Meeting

1.15.1 To clarify and discuss issues with respect to the Project and the RFP Document, DOSE will hold Pre-Proposal meeting/s on date specified in the schedule of bidding process.

1.15.2 Prior to the Pre-Proposal meeting/s, the Bidders may submit a list of queries and propose deviations, if any, to the Project requirements and/or the Draft Concession Agreement. Bidders must formulate their responses and forward the same to DOSE at least seven (7) days prior to the meeting. DOSE may amend the RFP Document based on inputs provided by Bidders that may be considered acceptable in its sole discretion.

1.15.3 Bidders may note that DOSE will not entertain any deviations to the RFP Document at the time of submission of the Proposal or thereafter. The Proposal to be submitted by the Bidders will be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP Document with all its contents including the Draft Concession Agreement. Any conditional Proposal shall be regarded as non-responsive and would be liable for rejection.

1.15.4 DoSE will endeavour to hold the meeting as per Schedule of Bidding Process. The details of the meeting will be separately communicated to the Bidders.

1.15.5 Attendance of the Bidders at the Pre-Proposal meeting is not mandatory. However, subsequent to the meeting, DoSE may not respond to queries from any Bidder who has not attended the Pre-Proposal meeting.

- 1.15.6 All correspondence / enquiries should be submitted to the following in writing by fax /post / courier:

ATTN. OF: The Director
ADDRESS: Directorate of School Education
Uttarakhand Nanoorkhera,
Tapovan Road
Dehradun - 248 001
Phone 0135 - 278 1440 , Fax: 0135 - 278 1903

- 1.15.7 No interpretation, revision, or other communication from DOSE regarding this solicitation is valid unless in writing and is signed by Director, Department of School Education or its authorised representative. DoSE may choose to send to all Bidders, written copies of DoSE's responses, including a description of the enquiry but without identifying its source to all the Bidders.

1.16 Format and Signing of Proposal

- 1.16.1 Bidders would provide all the information as per this RFP Document and in the specified formats. DoSE reserves the right to reject any Proposal that is not in the specified formats.

- 1.16.2 The Proposal should be submitted in three parts:

Part 1 : Key Submissions, which would include:

- i. Covering Letter cum Project Undertaking as per Appendix 2 stating the Proposal Validity Period
- ii. Anti-Collusion Certificate as per Appendix 3
- iii. Bid Security in the form of Bank Draft for each Projects separately
- iv. Power of Attorney for Lead Member of Consortium
- v. Bank Draft towards cost of RFP Document or copy of the receipt, if hard copy of RFP is purchased

Part 2 : Technical Proposal would include:

- i. Technical Capability as per format set out in Appendix 6.

Part 3 : Financial Proposal as per the format set out in Appendix 5.

- 1.16.3 The Bidder shall prepare one original of the documents comprising the Proposal as described in Clause 1.17, clearly marked "ORIGINAL". In addition, the Bidder shall make one copy of the Proposal, clearly marked "COPY". In the event of any discrepancy between the original and the copy, the original shall prevail.

1.16.4 If the Proposal consists of more than one volume, Bidder must clearly number the volumes and provide an indexed table of contents.

1.16.5 The Proposal and the copy shall be typed or printed in indelible ink and the Bidder shall initial each page. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialled by the person/s signing the Proposal.

1.17 Sealing and Marking of Proposals

1.17.1 The Bidder shall seal the Key Submissions, Technical Proposal and the Financial Proposal in separate envelopes, duly marking the envelopes as “KEY SUBMISSIONS”, “TECHNICAL PROPOSAL” and “FINANCIAL PROPOSAL”. These envelopes shall then be sealed in an outer envelope.

1.17.2 The original and the copy of the Proposal shall be provided in separate envelopes, duly marking the outer envelopes as “ORIGINAL” and “COPY”.

1.17.3 Each envelope shall indicate the name and address of the Bidder

1.17.4 The envelopes shall clearly bear the following identification:

**“Proposal for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on
Built, Operate and Transfer (BOT) Basis ”**

“To be opened by Tender Opening Committee only”

and

**“Submitted by
Name, Address and Contact Phone No. of the Bidder”**

1.17.5 The envelope shall be addressed to:

ATTN. OF: The Director
ADDRESS: Directorate School Education
Uttarakhand Nanoorkhera,
Tapovan Road
Dehradun - 248 001

1.17.6 If the envelope is not sealed and marked as instructed above, the Proposal may be deemed to non-responsive and would be liable for rejection. DOSE assumes no responsibility for the misplacement or premature opening of such Proposal submitted.

1.18 Proposal Due Date

- 1.18.1 Proposals should be submitted before 1500 hours IST on the Proposal Due Date mentioned in the Schedule of Bidding Process, to the address provided in Clause 1.17.5 in the manner and form as detailed in this RFP Document. Applications submitted by either facsimile transmission or telex will not be acceptable.
- 1.18.2 DOSE, at its sole discretion, may extend the Proposal Due Date by issuing an Addendum in accordance with Clause 1.9.

1.19 Late Proposals

- 1.19.1 Any Proposal received by DOSE after 1500 hours IST on the Proposal Due Date will be returned unopened to the Bidder.

1.20 Modification and Withdrawal of Proposals

- 1.20.1 The Bidder may modify or withdraw its Proposal after submission, provided that written notice of the modification or withdrawal is received by DOSE before the Proposal Due Date. No Proposal shall be modified or withdrawn by the Bidder after the Proposal Due Date.
- 1.20.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, marked and delivered in accordance with the provisions of Clause 1.17 with outer envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" and also "KEY SUBMISSIONS", "TECHNICAL PROPOSAL" or "FINANCIAL PROPOSAL" as appropriate.
- 1.20.3 Withdrawal of a Proposal during the interval between the Proposal Due Date and expiration of the Proposal Validity Period would result in forfeiture of the Bid Security in accordance with Clause 1.11.4 of this document.

1.21 Tests of responsiveness

- 1.21.1 Prior to evaluation of Proposals, DOSE will determine whether each Proposal is responsive to the requirements of the RFP Document. A Proposal shall be considered responsive if
- (a) it is received by the Proposal Due Date.
 - (b) it is signed, sealed, and marked as stipulated in Clause 1.17.
 - (c) it contains the information and documents as requested in the RFP Document.
 - (d) it contains information in formats specified in the RFP Document.
 - (e) it mentions the proposal validity period as set out in Clause 1.12.

- (f) it provides the information in reasonable detail. (“Reasonable Detail” means that, but for minor deviations, the information can be reviewed and evaluated by DOSE without communication with the Bidder). DOSE reserves the right to determine whether the information has been provided in reasonable detail.
 - (g) there are no inconsistencies between the Proposal and the supporting documents.
- 1.21.2 A Proposal that is substantially responsive is one that conforms to the preceding requirements without material deviation or reservation. A material deviation or reservation is one
 - (a) which affects in any substantial way, the scope, quality, or performance of the Project, or
 - (b) which limits in any substantial way, inconsistent with the RFP Document, DOSE’s rights or the Bidder’s obligations under the Concession Agreement, or
 - (c) which would affect unfairly the competitive position of other Bidders presenting substantially responsive bids.
- 1.21.3 DOSE reserves the right to reject any Proposal which in its opinion is non-responsive and no request for modification or withdrawal shall be entertained by DOSE in respect of such Proposals.
- 1.21.4 Conditional proposal shall not be considered. Any bid found to contain conditions attached, will be rejected.
- 1.22 Confidentiality**
- 1.22.1 Information relating to the examination, clarification, evaluation and recommendation for the short listed Bidders shall not be disclosed to any person not officially concerned with the process. DOSE will treat all information submitted as part of Proposal in confidence and will ensure that all who have access to such material treat it in confidence. DOSE will not divulge any such information unless it is ordered to do so by any Government authority that has the power under law to require its disclosure.
- 1.23 Clarifications**
- 1.23.1 To assist in the process of evaluation of Proposals, DOSE may, at its sole discretion, ask any Bidder for clarification on its Proposal. The request for clarification and the response shall be in writing or by facsimile. No change in the substance of the Proposal would be permitted by way of such clarifications.

1.24 Proposal Evaluation

- 1.24.1 To assist in the examination, evaluation, and comparison of Proposals, DOSE may utilise the services of consultant/s or advisor/s.
- 1.24.2 Before opening and evaluation of the Technical Proposals, Bidders are expected to meet the following pre-qualification criteria which would be a part of the Technical Proposal. Bidders failing to meet these criteria or not submitting requisite proof for supporting pre-qualification criteria are liable to be rejected at the Technical Proposal level.

Sl. No.	Criteria	Whether Met	Reference Details
1	The bidder should be a Society registered under society registration act 1860 /Trust registered under Indian Trusts Act 1882 / registered in India or a section 25 company registered under Indian Companies Act 1956 and in existence in India for the last 5 years or more. The bidder should hold atleast 51% equity shareholding in the section 25 company.	Yes / No	Certificate of Incorporation / Any other relevant document
2	The Applicant should have at least 3 (three) years experience in development, operation and management of a Senior Secondary School	Yes / No	The Applicant shall provide certificate of affiliations from recognized board, University Grants Commission under the University Grants Commission Act, 1956.
3	The bidder should have minimum average annual turnover during the last 3 Financial Years (FY12-13, FY13-14 and FY 14-15) For 844 Students Capacity Single School Rs. 5.25 Crore and For 422 Students Capacity minimum net worth be required below (if bidder applies for 422 students and 844 students schools together then total of respective average minimum turnovers shall be qualifying criterion) :		Audited Profit / Loss Statement and Balance Sheet and details as per Appendix 7
	No. of Schools Applied for	Rs. crores	
	1 School	2.75	
	2 Schools	5.50	
	3 schools	8.25	
4	The bidder should have minimum network as on March 31, 2015 For 844 Students Capacity Single School Rs. 3.5 and For 422		Audited Profit / Loss Statement and Balance Sheet and details as per

Students Capacity minimum net worth be required below(if bidder applies for 422 students and 844 students schools together then total of respective minimum network shall be qualifying criterion) :		Appendix 7
No. of Schools Applied for	Rs. crores	
1 School	1.75	
2 Schools	3.50	
3 Schools	5.25	

- 1.24.3 The technical and financial capability of all the members of consortium having equity participation of 26% or more shall be considered for the purpose of evaluation.
- 1.24.4 However experience gained from development, operation and management of the same Senior Secondary School by more than one member of the Consortium shall be counted as experience of only one consortium member.
- 1.24.5 The bidder shall attach signed agreement between consortium members specifying the equity participation in the project.
- 1.24.6 Evaluation of Proposals will be done in two stages.
- 1.24.7 In Stage I of Proposal Evaluation, the Key Submissions submitted by the Bidders shall be checked for responsiveness with the requirements of the RFP Document.
- 1.24.8 The evaluation of Technical Proposal of a Bidder shall be taken up only after the contents of the Key Submissions are found to meet the requirements of this RFP Document. DOSE reserves the right to reject the Proposal of a Bidder without opening the Technical Proposal if the contents of Key Submissions are not substantially responsive with the requirements of this RFP Document.
- 1.24.9 After checking the responsiveness of the Key submission, the Technical Proposal will be opened. The minimum qualifying marks of the Technical Capability Evaluation is 75 as mentioned in Clause 4.1.2.
- 1.25 Evaluation of the Financial Proposal**
- 1.25.1 In Stage II, the Financial Proposals of all the Bidders who pass the Stage I evaluation will be opened in the presence of the Bidders' representatives who choose to attend. The Bidders'

representatives who choose to be present shall be required to sign and record their attendance.

- 1.25.2 Evaluation of Financial Proposal shall be done as per section 4.2 of this RFP Document.

1.26 Notifications

- 1.26.1 Upon acceptance of the Financial Proposal of the Preferred Bidders with or without negotiations, DOSE shall declare the Preferred Bidder as Successful Bidder.

- 1.26.2 DOSE will notify the Successful Bidder by facsimile and by a letter that its Proposal has been accepted.

1.27 DOSE's Right to Accept or Reject Proposal

- 1.27.1 DOSE reserves the right to accept or reject any or all of the Proposals without assigning any reason and to take any measure as it may deem fit, including annulment of the bidding process, at any time prior to award of Project, without liability or any obligation for such acceptance, rejection or annulment.

- 1.27.2 DOSE reserves the right to invite revised Financial Proposals from Bidders with or without amendment of the RFP Document at any stage, without liability or any obligation for such invitation and without assigning any reason.

- 1.27.3 DOSE reserves the right to reject any Proposal if:

(a) at any time, a material misrepresentation is made or uncovered;

OR

(b) the Bidder does not respond promptly and thoroughly to requests for supplemental information required for the evaluation of the Proposal.

This would lead to the disqualification of the Bidder. If the Bidder is a Consortium, then the entire Consortium would be disqualified / rejected. If such disqualification / rejection occur after the Financial Proposals have been opened and the highest Bidder gets disqualified / rejected, then DOSE reserves the right to:

(a) either invite the next highest Bidder to match the Financial Proposal submitted by the highest Bidder;

OR

(b) take any such measure as may be deemed fit in the sole discretion of DOSE, including annulment of the bidding process.

1.28 Acknowledgement of Letter of Acceptance (LOA)

- 1.28.1 Within two (2) weeks from the date of issue of the LOA, the Preferred Bidder shall acknowledge the receipt of LOA.

1.29 Execution of Concession Agreement

- 1.29.1 The Successful Bidder shall execute the Concession Agreement within six (6) weeks of the issue of LOA or such time as indicated by DOSE.
- 1.29.2 DOSE will promptly notify other Bidders that their Proposals have been unsuccessful and their Bid Security will be returned as promptly as possible in any case not later than 30 (thirty) days from the date of announcement of the Successful Bidder.

1.30 Performance Security for Each Project

- 1.30.1 The Successful Bidder shall furnish Performance Security of Rs 80.00 Lakhs (Rs Eighty Lakhs only) by way of an irrevocable Bank Guarantee issued by a scheduled bank located in India in favour of DOSE for **each Project**, as required under the Concession Agreement.
- 1.30.2 The Performance Security shall be in the form of an irrevocable Bank Guarantee in favour of DOSE, as per the format set out in Appendix 4. The Performance Security would be valid for atleast 3 year and renewable every year during the entire project term.
- 1.30.3 The Performance guarantee shall be forfeited and en-cashed in the following cases:
- (a) If the Successful Bidder withdraws from the project midway during the project term
 - (b) If during the project term, there is any incident of gross professional negligence by the successful bidder.
 - (c) Any other act or acts of the successful bidder which renders the project un-operational and DOSE establishes sufficient reasons to forfeit the performance guarantee.
 - (d) If the bidder fails to meet the service levels as agreed.

1.31 Cost of RFP document

- 1.31.1 The cost of RFP document is Rs 5000.00 (Rs Five Thousand Only), inclusive of VAT. The Proposals must accompany with cost of RFP document in the form of a bank draft in favour of "The Director of School Education, Uttarakhand" of Rs 5000.00 (Rs Five Thousand Only). The bidders may also obtain a hard copy of the RFP from the office of Director of School Education, Uttarakhand. The

bidders purchasing the hard copy of the RFP must attach the copy of Receipt along with the Proposal.

- 1.31.2** The cost of RFP document is Rs 5000.00 (Rs Five Thousand Only), for all the Projects. This cost is irrespective of number of projects a bidder is bidding for.

2. Schedule of Bidding Process

DOSE would endeavour to adhere to the following schedule:

Sr. No.	Activity Description	Date
1	Last date for receiving queries	23 rd Sept 2016
2	Pre-Proposal meeting	7 th Oct 2016
3	Proposal Due Date	7 th Nov 2016
4	Opening of Key Submissions	7 th Nov 2016
3	Evaluation of Technical Proposals	Internal Task
4	Opening of Financial Proposals	To be informed later

Pre bid meeting:

Venue : Directorate of School Education
Nanoorkhera,
Tapovan Road,
Dehradun - 248 001
Uttarakhand

Time : 3.00 PM

Bid Submission:

Venue : Directorate of School Education
Nanoorkhera,
Tapovan Road,
Dehradun - 248 001
Uttarakhand

Time : 3.00 PM

Opening of Key Submissions:

Time : 3.30 PM

Contact Numbers:

Uttarakhand Public Private Partnership Cell: 0135-2650374
Directorate of School Education: 0135-2781440

3. Scope of the Project

3.1. Project Overview

- 3.1.1. The Department of School Education (DoSE), proposes to set up 3 (three) senior secondary coeducational residential schools (imparting education from classes VI to XII) under the name of “Rajiv Gandhi Navodaya Vidyalaya” through Public-Private-Partnership on Build, Operate and Transfer (“BOT”) basis.
- 3.1.2. DoSE proposes to set up Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) basis at following locations :

Sr.No.	District	Location
a.	Rudraprayag	Sumari Bhardar
b.	Bageshwar	Amsarkot
c.	Udham Singh Nagar	Tumaria

3.2. Project Details :

- I. Department of School Education, Government of Uttarakhand would provide land for setting up of the Project. The concession period would be for a period of 30 year.
- II. The private partner shall reserve following minimum number of seats for the Government Students :

Sr.No.	District	Maximum No. of Students for each school	Minimum No. of seats to be reserved for Government Students
a.	Rudraprayag	422	211
b.	Bageshwar	422	211
c.	Udham Singh Nagar	844	422

3.3. Fees Structure:

Sr.No.	Students	Payment of School Fees
a.	Government Sponsored Students (50% of total seats shall be reserved for Government sponsored students)	The Government shall pay 100% school fees for Government Sponsored based on the value of Grant quoted by the Bidder
b.	Private Students	For balance 50% students the private partner can charge fees as per market rates.

3.4. Role of PPP Partner:

- 3.4.1. PPP Partner shall design, build, finance & operate the school. It shall be required to undertake the management of teaching & facility management of the entire project.

- 3.4.2. PPP partner shall be required to provide the quality of education, benchmarked to best of industry learning outcome and examination performance criteria.
- 3.4.3. PPP partner shall achieve CBSE affiliation for school as prescribed in the concession agreement.
- 3.4.4. PPP partner shall ensure that school is run with universal & secular education practices and with the intent to provide quality education to all.
- 3.4.5. PPP partner shall ensure that teachers and all other human resources are qualified and trained as per the prescribed norms of the affiliating board of education.
- 3.4.6. PPP partner shall provide all the facilities available at the School including but not limited to the facilities attached as Annexure 1 to the Government Sponsored Students
- 3.4.7. PPP partner shall ensure that the quality of residential facilities, food & other school provisions are as per the prescribed norms or as per the best industry practice.
- 3.4.8. More details of Key Performance Indicators, roles and responsibilities of PPP partner are defined in the concession agreement.
- 3.4.9. More details of roles and responsibilities of PPP partner are defined in the concession agreement.

3.5. Revenues of PPP Partner:

- 3.5.1. PPP Partner shall be paid a pre-determined operating grant per student for government student, subject to performance according to KPIs.
- 3.5.2. PPP partner shall be allowed to charge market determined fee within the applicable laws regarding school fee structure. The fee shall be duly notified to the DoSE by the PPP partner and no other charges shall be levied on students apart from the notified fees.
- 3.5.3. PPP partner shall be allowed to undertake revenue generating activities as per applicable laws for school premises and with due permission from DoSE. Such activities will be permitted only if they do not have any negative impact of quality of education for the students of the school. School however will not be allowed to charge for extra classes or coaching of any kind to the students. The extra classes and coaching etc. shall be provided by the school to all the students in order to ensure the achievement of learning outcomes and examination performance criteria.

3.6. Viability Gap Funding:

- 3.6.1. PPP Partner shall be provided viability gap funding for the project in terms of capital grant quoted by him as per the norms described in section 4 of this document.

4. Evaluation Methodology

4.1 Evaluation of Technical Proposal

The Bidders shall submit one single Technical Proposal irrespective of the number of Projects applied for by the Bidder.

4.1.1 The Technical Capability Proposal for the Project would be evaluated on the following basis:

- a) Previous Experience of the bidder in development, operation & maintenance of Senior Secondary School based on number of years of experience :

S No	Description	Max Marks
1	Number of years : a) more than 10 = 25 b) 8-10 = 20 c) 6-8 = 15 d) 3 -5 = 10 e) Less than 3 = 0	25

Note:

- a. Senior Secondary School Education means schools providing education to Class VI to Class XII or any subset thereof with at least 3 consecutive levels of classes (for example Class VI, VII, VIII) under the Indian schooling system with recognized board affiliations such as Central Board of Secondary Education or State Secondary Board, or Council for Indian School Certificate Examination;
- b. In case of part year, only the completed years will be counted. For example five (5) years and eight (8) months will be counted as five (5) years.

b) Previous Experience of the bidder in development, operation & management of Senior Secondary School based on number of students :

S No	No. of Package Applied for	Max Marks
------	----------------------------	-----------

1	1 School	2 Schools	3 or more Schools	Marks	
	> 300	> 500	> 700	25	25
	251- 300	451- 500	651- 700	20	
	200 - 250	400 - 450	600 - 650	10	
	< 200	< 400	< 600	0	

Note:

1. The bidder should provide details of the total number of Students enrolled in academic year 2014-15
2. In case the bidder has experience of running more than one Senior Secondary School then the total number of Students enrolled in academic year 2014-15 of all the Senior Secondary School shall be counted.

c) Previous averages of three years pass percentage of Class XII.

S No	Description	Max Marks
------	-------------	-----------

1	a) >95 % = 20 b) 90% - 95% = 10 c) 80%- 90% = 5 d) <80% = 0	20
---	--	----

Note:

1. The bidder should provide details as per the format given in Appendix 6 (c).

d) Previous Experience of the bidder in development, operation & management of residential facility for Senior Secondary School based on number of fulltime boarders :

S No	No. of Package Applied for	Max Marks
------	----------------------------	-----------

No. of fulltime boarders:

1	1 School	2 Schools	3 or more Schools	Marks	
	> 201	> 301	> 401	20	20
	151- 200	251- 300	351- 400	15	
	100 - 150	201 - 250	301 - 350	10	
	< 100	< 200	< 300	0	

Note:

2. The bidder should provide details of the total number of students availing full time boarding facility in the academic year 2014-15.
3. In case the bidder has experience of running more than one Senior Secondary School then the total number of students availing full time boarding facility in the academic year 2014-15 of all the Senior Secondary School shall be counted. Only the schools with minimum 100 full time boarders shall be considered for such total experience.

e) Approach & Methodology : 10 Marks

The bidder would be given marks on the basis of their understanding of the project plan.

Bidders would be required to provide following information as part of approach & methodology:

- i. Understanding of the project, issues and proposed approach to solve them
- ii. Approach for providing various facilities to the students
- iii. Proposed approach for phasing of construction
- iv. Proposed Quality Control & Quality Assurance Plan
- v. Proposed measures to have effective control on Completion Schedule, Change of Scope & Project Costing
- vi. Proposed work plan

4.1.2 The minimum qualifying marks of the Technical Evaluation is 75.

4.1.3 The Financial bids of those bidders would be opened who secure at least 75 in their Technical Capability Proposal.

4.2 Evaluation of Financial Proposals

The Bidders shall submit separate Financial Proposal for each of the Projects applied for by the Bidder.

4.2.1 The Bidder shall quote a combination of following two amount required from Government

- i. Amount of Grant under the State Viability Gap Funding (VGF) Scheme. The maximum amount of VGF available per school is as under :

Sr.No.	District	Location	Maximum percentage of VGF available	Total Project Cost* (Rs. Crores)
a.	Rudraprayag	Sumari Bhardar	50% of the Project Cost	Rs. 13.35 Crores (Rupees Thirteen Crores Thirty Five lakhs Only) for each individual project
b.	Bageshwar	Amsarkot	50% of the Project Cost	
c.	Udham Singh Nagar	Tumadiya Revins Jaspur	33% of the Project Cost	Rs. 20.35 Crores (Rupees Twenty Crores Thirty Five lakhs Only)

*The total project cost indicated is as estimated by the Department of School Education, Government of Uttarakhand. The actual Project Cost for the purpose of VGF payment shall be calculated in accordance with the provisions of The Uttarakhand Infrastructure Viability Gap Funding Scheme 2008.

- ii. Amount of grant per government student per annum. The amount of grant per student per annum shall be increased by 10% every 2 years.

4.2.2 The offers of the Bidder on the amount of grant required from Government per government student per annum shall be as per the format prescribed in Appendix 5, shall be used for financial evaluation.

4.2.3 The bidder quoting the sum total of the lowest amount of Grant required shall be declared as the Successful Bidder.

4.2.4 The amount of Grant quoted by the Bidder shall be evaluated based on the following formula :

$\text{Grant} = \text{VGF} + \text{PV of annual grant per Government student} \times 211$

Where
VGF : is the amount of capital Grant quoted by the Bidder.
PV of annual grant per Government student =
$PV = G1/(1.16)^1 + G2/(1.16)^2 + G3/(1.16)^3 + G4/(1.16)^4 + \dots + Gn/(1.16)^n$
<i>G1, G2, G3, G4 and Gn are the Grant required Per Government student during year1, year 2, and up to year 28. The amount of grant per student per annum shall be increased by 10% every 2 year.</i>

The Bidder needs to offer the value of G1 (Year1). The Grant value of subsequent years would be calculated on the basis of 10% increase every 2 years.

211 is the number of Government Students. In case of school at district Udham Singh Nagar the number of Government Students shall be taken as 422 for the purpose of financial evaluation.

28 is the number of years

4.2.5 In the event that two or more Bidders quote amount for any Projects, DOSE may :

(a) invite fresh Proposals from the Bidders;

OR

(b) declaring the bidder securing highest technical capability marks amongst the bidders securing same overall score, as preferred bidder

OR

(c) take any such measure as may be deemed fit in its sole discretion or annulment of the bidding process.

4.2.6 DOSE may either choose to accept or reject the Proposal of the Preferred Bidder.

4.2.7 Upon acceptance of the Financial Proposal of the Preferred Bidders with or without negotiations, DOSE shall declare the Preferred Bidder as Successful Bidder.

4.2.8 DOSE will notify the Successful Bidder by facsimile and by a letter that its Proposal has been accepted.

**APPENDIX 1 : Format For Acknowledgement Of RFP Document
And Notification of Intent to Submit Proposal**

Date :

To

The Director
Director School Education
Uttarakhand Nanoorkhera,
Tapovan Road
Dehradun - 248 001

Dear Sir,

**Sub : Proposal for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on
Built, Operate and Transfer (BOT) Basis (the “Project”)**

The undersigned hereby acknowledges and confirms receipt of all the Parts (Part I and Part II) of the Request for Proposal (RFP) Document for the captioned project from DOSE and conveys its intention to submit a Proposal for the following Projects, on Built, Operate and Transfer (BOT) Basis :

1.(insert name of the Projects)
2.(insert name of the Projects)
3.(insert name of the Projects)

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

Note:

- On the Letterhead of the Bidder or Lead Member of Consortium.
- To be signed by the Lead Member in case of a Consortium.
- The acknowledgement should be sent within 2 weeks of receipt of the RFP Document

APPENDIX 2 : Format For Covering Letter Cum Project Undertaking

To,

The Director
Directorate School Education
Uttarakhand Nanoorkhera,
Tapovan Road
Dehradun - 248 001

Dear Sir,

Re: Proposal for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis (the “Project”)

We have read and understood the Request for Proposal (RFP) Document in respect of the Project provided to us by DOSE. We hereby submit our Proposal for the following Projects :

1.(insert name of the Projects)

We are enclosing our Proposal in one (1) original plus one (1) copy, with the details as per the requirements of the RFP Document, for your evaluation.

We confirm that our Proposal is valid for a period of nine (9) months from (Proposal Due Date).

We hereby agree and undertake as under:

Notwithstanding any qualifications or conditions, whether implied or otherwise, contained in our Proposal we hereby represent and confirm that our Proposal is unqualified and unconditional in all respects and we agree to the terms of the Draft Concession Agreement, a draft of which also forms a part of the RFP Document provided to us.

Dated thisDay of, 2016.

Name of the Bidder

.....

Signature of the Authorised Person

.....

Name of the Authorised Person

Note:

- On the Letterhead of the Bidder.

APPENDIX 3 : Format for Anti-Collusion Certificate

Anti-Collusion Certificate

We hereby certify and confirm that in the preparation and submission of this Proposal, we have not acted in concert or in collusion with any other Bidder or other person/s and also not done any act, deed or thing which is or could be regarded as anti-competitive.

We further confirm that we have not offered nor will offer any illegal gratification in cash or kind to any person or agency in connection with the instant Proposal.

Dated thisDay of, 2016

Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 4 : 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

Department of School Education, Government of Uttarakhand, represented by Director and having its office at Director School Education, Uttarakhand Nanoorkhera, Tapovan Road Dehradun - 248 001, hereinafter referred to as “DOSE”, 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 DOSE and _____, a company incorporated under the provisions of the Companies Act, 1956, having its registered office/ permanent address at _____ (“the Concessionaire”), the Concessionaire has been granted the Concession to Set Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis at (name of the location), Uttarakhand for a period of 30 years (hereinafter referred to as “the Project”).
- B. In terms of the Concession Agreement, the Concessionaire is required to furnish to DOSE, an unconditional and irrevocable bank guarantee for an amount of Rs 10,00,000.00 (Rs Ten Lakhs only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to Project by the Concessionaire.
- C. 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:

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 the Project and in connection with achieving the project objectives by the Concessionaire in accordance with the Concession Agreement.

3. The Guarantor shall, without demur, pay to DOSE sums not exceeding in aggregate Rs 10,00,000.00 (Rs Ten Lakhs only), within seven (7) calendar days of receipt of a written demand thereof from DOSE 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 DOSE 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, DOSE 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 DOSE or any indulgence shown by DOSE 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 DOSE or any indulgence shown by DOSE, 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 _____ unless discharged/ released earlier by DOSE in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs 10,00,000.00 (Rs Ten Lakhs only).
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.

APPENDIX 5 : Format For Financial Proposal

(Note : The Bidder shall provide separate Financial Proposals for each Project)

Date:
The Director
Directorate School Education
Uttarakhand Nanoorkhera,
Tapovan Road
Dehradun - 248 001

Re: Proposal for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis (the “Project”)

We are pleased to submit our Financial Proposal for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis (the “Project”)

Name of the Project	Amount of VGF Grant required from Government	
	(Rupees in Figures)	(Rupees in Words)

Name of the Project	Amount of Grant required from Government per Government Student per annum	
	(Rupees in Figures)	(Rupees in Words)

We have reviewed all the terms and conditions of the Request for Proposal (RFP) Document and will undertake to abide by all the terms and conditions contained therein. We hereby declare that there are, and shall be, no deviations from the stated terms in the RFP Document.

..... Name of the Bidder

.....Signature of the Authorised Person

.....Name of the Authorised Person

Note:

- On the Letterhead of the Bidder and to be signed by the bidder.
- In case of difference in amount quoted in figures and words, the lower value would be considered for evaluation.
- Strike out the Projects whichever is not applicable.

APPENDIX 6 : Format for Technical Capability Proposal

APPENDIX 6 A

- To be provided on the Letterhead of the Bidder and to be signed by the Bidder
- To be provided by each member of the consortium having equity participation of 26% or more
- The Bidder should provide details of each centre on separate sheets.

Previous Experience of the bidder in development, operation & management of Senior Secondary School based on number of years of experience

Sr. No.	Name of the Educational Institution	Location	Date of Start of Commercial Operations
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 6 B :

- To be provided on the Letterhead of the Bidder and to be signed by the Bidder
- To be provided by each member of the consortium having equity participation of 26% or more
- The Bidder should provide details of each centre on separate sheets.

1. Previous Experience of the bidder in development, operation & maintenance of Senior Secondary School based on number of students:

Sr. No.	Details			
1.	Name of the Educational Institution			
2.	Location			
3.	Year of Establishment			
4.	Affiliations from recognised boards			
5.	Number of batches passed out till date.			
6.	Total number of students enrolled in the school. (Please provide information for last three years only.)	Year	No. of Students	RTE Students
		2012-13		
		2013-14		
		2014-15		

Note: the Bidder shall provide details of each Educational Institution separately.

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 6 C :

- To be provided on the Letterhead of the Bidder and to be signed by the Bidder
- To be provided by each member of the consortium having equity participation of 26% or more

Previous Experience of the bidder based on the percentage of students passed out in class XII :

Sr. No.	Details			
1.	Name of the Educational Institution			
2.	Location			
3.	Year of Establishment			
4.	Affiliations from recognised boards			
		2012-13	2013-14	2014-15
5.	Number of students appeared for Class XII exams			
6.	Number of students passed in each academic year			
7.	Percentage of students passed out			
8.	Percentage of students passed out with first division or equivalent			

Note:

- the Bidder shall provide details of each Educational Institution separately.
- Supporting relevant certificate from the board/affiliating authority or board's summary list of class XII results for the school should be submitted.

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 6 D :

- To be provided on the Letterhead of the Bidder and to be signed by the Bidder
- To be provided by each member of the consortium having equity participation of 26% or more

Previous Experience of the bidder in development, operation & management of residential facility for Senior Secondary School based on number of boarders:

Sr. No.	Details		
1.	Name of the Educational Institution		
2.	Location		
3.	Year of Establishment		
4.	Number of batches passed out till date.		
5.	Number of fulltime boarders students per year	Year	No. of boarders
		2010-11	
		2011-12	
		2012-13	
		2013-14	
		2014-15	

Note:

- the Bidder shall provide details of each Educational Institution separately.
- Minimum strength per institution should be 100 atleast
- Bidder shall provide photographs of representative dwelling types, hostel facilities with other details in supporting document.

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 6 E :

To be provided on the Letterhead of the Bidder and to be signed by the Bidder

Approach & Methodology

Bidders would be required to provide following information as part of approach & methodology :

- i. Understanding of the project, issues and proposed approach to solve them
- ii. Approach for providing various facilities to the students
- iii. Proposed approach for phasing of construction
- iv. Proposed Quality Control & Quality Assurance Plan
- v. Proposed measures to have effective control on Completion Schedule, Change of Scope & Project Costing
- vi. Proposed work plan
- vii. Innovative Ideas

.....
Name of the Bidder

.....
Signature of the Authorised Person

.....
Name of the Authorised Person

APPENDIX 7 : Format for Financial Capability Proposal

Bidder	Net Worth	(Equivalent in Rs. Lakhs) Annual Turnover		
	Year 1 (As on 31 st March 2015)	April 2012-Mar 2013	April 2013-Mar 2014	April 2014-Mar 2015
Sole Bidder				
Lead Member of Consortium				
Other Member 1 (in case of Consortium)				
Other Member 2 (in case of Consortium)				
Other Member 3 (in case of Consortium)				
Other Member 4 (in case of Consortium)				
Total				

1. Any Sole Bidder should fill in details as per the row titled Sole Bidder and ignore the rows below. In case of a Consortium, ignore the first row and provide relevant details in subsequent rows.

General Instructions:

1. Net Worth
 - For Company = (Paid-up Capital fund + Reserves) - (Revaluation reserves + Miscellaneous expenditure not written off)
 - For Partnership Firm = Aggregate of partners' capital account + Reserves - Aggregate of drawings by partners - Aggregate of advances to partners - (Revaluation reserves + Miscellaneous expenditure not written off)
 - For Society = Corpus Fund + General Fund
2. Annual Turnover = Total revenues earned from business operation as indicated in the annual financial statement
3. The Bidder shall provide the audited annual financial statements as required for this RFP Document. Failure to do so would be considered as a non-responsive bid.
4. The Bidder should clearly indicate the calculations and references in the financial statements in arriving at the above numbers in an attached worksheet.

APPENDIX 8 : Format for Power of Attorney for Signing
of Application

(On a Stamp Paper of relevant
value)
Power of Attorney

Know all men by these presents, we (name and address of the registered office) do hereby constitute, appoint and authorise Mr / Ms..... (name and residential address) who is presently employed with us and holding the position of as our attorney, to do in our name and on our behalf, all such acts, deeds and things necessary in connection with or incidental to our bid for the Project Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis, (the "Project") including signing and submission of all documents and providing information / responses to Nagar Nigam Dehradun representing us in all matters before Nagar Nigam Dehradun , and generally dealing with Nagar Nigam Dehradun in all matters in connection with our bid for the said Project.

We hereby agree to ratify all acts, deeds and things lawfully done by our said attorney pursuant to this Power of Attorney and that all acts, deeds and things done by our aforesaid attorney shall and shall always be deemed to have been done by us.

For

(Signature)

(Name, Title and Address)

Accepted

.....
(Signature)

(Name, Title and Address of the
Attorney)

Note:

- *To be executed by the Bidder*
- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- *In case the Application is signed by a Partner/ authorised Director of the Applicant, a certified copy of the appropriate*

resolution/ document conveying such authority may be enclosed in lieu of the Power of Attorney.

APPENDIX 9 : Power of Attorney for Lead Member of Consortium

Whereas the Department of School Education, Government of Uttarakhand has invited applications from eligible bidders for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis (the "Project")

Whereas,,, and.....
(collectively the "Consortium") being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal (RFP) and other connected documents in respect of the Project,

AND

Whereas, it is necessary for the Members of the Consortium to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's bid for the Project and its execution.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS

We, having our registered office at,
M/s. having our registered office at,
M/s. having our registered office at, and
M/s. having our registered office at,

(hereinafter collectively referred to as the "Principals") do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. having its registered office at, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "Attorney").

We hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the pre-qualification of the Consortium and submission of its bid for the Project, including but not limited to signing and submission of all applications, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the Authority, and/ or any other Government Agency or any person, in

all matters in connection with or relating to or arising out of the Consortium's bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

AND hereby agree to ratify and confirm and do hereby ratify and confirm all acts, deeds and things done or caused to be done by our said Attorney pursuant to and in exercise of the powers conferred by this Power of Attorney and that all acts, deeds and things done by our said Attorney in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/ Consortium.

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS DAY OF, 201_

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

For
(Signature)

.....
(Name & Title)

Witnesses:

- 1.
- 2.

.....
(Executants)

(To be executed by all the Members of the Consortium)

Notes:

1. The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, lay down by the applicable law and the charter documents of the executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders' resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
3. For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed

The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

APPENDIX 10 : Joint Bidding Agreement

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of, 2014

AMONGST

1. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “First Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

2. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Second Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)

AND

3. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Third Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}

AND

4. {..... Limited, a company incorporated under the Companies Act, 1956} and having its registered office at (hereinafter referred to as the “Fourth Part” which expression shall, unless repugnant to the context include its successors and permitted assigns)}\$

The above mentioned parties of the FIRST, SECOND, {THIRD and FOURTH} PART are collectively referred to as the “Parties” and each is individually referred to as a “Party”

WHEREAS

Department of School Education, Government of Uttarakhand, represented by Director and having its office at Director School Education, Uttarakhand Nanoorkhera, Tapovan Road Dehradun - 248 001, hereinafter referred to as “DOSE”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns has invited applications (the Applications”) by its Request for Proposal No. dated(the “RFP”) for short-listing of bidders for Setting Up of Rajiv Gandhi Navodaya Vidyalaya on Built, Operate and Transfer (BOT) Basis (the “Project”) Districts across Uttarakhand through Public Private Partnership.

The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Application.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

- a) In this Agreement, the capitalised terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

2. Consortium

- a) The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.
- b) The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

3. Covenants

- a) The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "SPV") under the Indian Companies Act, 1956 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;
- b) Party of the Second Part shall be the Technical Member of the Consortium;

- c) Party of the Third Part shall be the Financial Member of the Consortium;
- d) Party of the Fourth Part shall be the Operation and Maintenance Member/ Other Member of the Consortium.

5. Joint and Several Liabilities

- a) The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

6. Shareholding in the SPV

- a) The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:
 - First Party:
 - Second Party:
 - Third Party:
 - Fourth Party:
- b) The Parties undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP
- c) The Parties undertake that each of the Parties specified in Clause 6 (b) above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- d) The Parties undertake that they shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until two (2) years of the commercial operation date of the Project.
- e) The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.
- f) The Parties undertake that the O&M Member shall subscribe and hold at least 10% (ten per cent) of the subscribed and paid up equity shares in the SPV in terms of the Concession Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

- (a) Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- (b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
 - i. require any consent or approval not already obtained;
 - ii. violate any Applicable Law presently in effect and having applicability to it;
 - iii. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - iv. violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it.
- (d) There is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.

8. Termination

- a) This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Close of the Project is achieved under and in accordance with the Concession Agreement, in case the Project is awarded to the Consortium.
- b) However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not pre-qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

9. Miscellaneous

This Joint Bidding Agreement shall be governed by laws of India.

The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of :

LEAD MEMBER by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

SECOND PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

THIRD PART by:

(Signature)

(Name)

(Designation)

(Address)

SIGNED, SEALED AND DELIVERED

For and on behalf of :

FOURTH PART by:

(Signature) (Signature)

(Name) (Name)

(Designation) (Designation)

(Address) (Address)

In the presence of:

1)

2)

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, lay down by the Applicable Law and the charter documents of the executants(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarised in the jurisdiction here the Power of Attorney has been executed.

APPENDIX 11 : List of attachments with the bid

S No	Description
1.	Acknowledgement of RFP Document and Notification of Intent to Submit Proposal
2.	Covering Letter cum Project Undertaking
3.	Anti-Collusion Certificate
4.	Bid Security in the form of demand draft
5.	Performance Guarantee
6.	Financial Proposal
7.	Technical Proposal
8.	Power of Attorney for Lead Member of Consortium
9.	Joint Bidding Agreement
10.	Bank Draft towards cost of RFP document or copy of the receipt, if hard copy of RFP purchased.

Part II

Draft Concession Agreement

Draft Concession Agreement

between

**Department of School Education, Government of Uttarakhand,
("DoSE")**

acting through

(DESIGNATION OF AUTHORISED OFFICER)

AND

(CONCESSIONAIRE)

for

Setting up of "Rajiv Gandhi Navodaya Vidyalaya"
At..... (insert the name of the location)

**through Public-Private-Partnership on Build, Operate And Transfer
("BOT") Mode**

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This CONCESSION AGREEMENT made on this ----- (*insert date*) day of ----
----- (*insert month*), ----- (*insert year*) at ----- (*insert place of
execution*),

BETWEEN

Department of School Education, Government of Uttarakhand, having its registered office at Director School Education, Uttarakhand Nanookhera, Tapovan Road, Dehradun - 248 001 hereinafter referred to as “the Concessing Authority” or “DOSE” or “Government” which expression shall unless repugnant to the context include the successors and assigns, on the one part

AND

-----, a company incorporated under the provision of the Companies Act, 1956, having its registered office at _____, hereinafter referred to as “Concessionaire” which expression shall unless repugnant to the context include the successors and permitted assigns, on the other part.

WHEREAS,

- A. DOSE with an objective to provide educational facilities to the students, decided to set up Rajiv Gandhi Navodaya Vidyalaya at..... (*insert the name of the place*) on Build, Operate and Transfer (BOT) basis.
- B. DOSE had, carried out extensive project preparation works in connection with the Project (as hereinafter defined) including assessment of project viability and subsequently invited proposals, through a competitive bid process from eligible parties for implementing the Project. In response thereto, DOSE received proposals from several parties including the Concessionaire for implementing the Project.
- C. Pursuant thereto, after evaluating the aforesaid proposals, DOSE accepted the proposal submitted by the Concessionaire and issued Letter of Acceptance No. _____ (*insert Letter No.*) dated _____ to the Concessionaire requesting the Concessionaire to execute the Concession Agreement, which the Concessionaire has acknowledged by its Letter No. _____ dated_____.

- D. The Parties hereto are required to enter into the Concession Agreement, being these presents, to record the terms, conditions and covenants of the Concession.

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS :-

DEFINITIONS AND INTERPRETATION

ARTICLE 1

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:

“Academic Session” shall mean the period of twelve months duration, normally starting from April to March unless otherwise specified.

“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.

“Affiliation” shall mean formal enrolment of a school among the list of approved schools of the Central Board of Secondary Education and following prescribed/ approved courses of studies.

“Affected Party” shall mean the Party claiming to be affected by a Force Majeure Event in accordance with Article 8.1.

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

“Applicable Law” shall mean all laws in force and effect, as of the date hereof, and which may be promulgated or brought into force and effect hereinafter in India including judgements, 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.

“Arbitration Act” shall mean the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof as in force from time to time.

“Book Value” means the value of the capital expenditure incurred on the Project as per the books of the Concessionaire, net of depreciation charged on the basis of straight line method and amortized equally over the Operations Period, duly verified and certified by an independent auditor in accordance with IGAAP.

“Project Facility Area” shall mean an area of land within Project Site, more fully described in Schedule 1.

“CBSE” shall mean the Central Board of Secondary Education.

“Change in Law” shall have the meaning ascribed thereto in Clause 14.7.

“COD” or “Commercial Operations Date” shall mean the date on which the Project Engineer has issued the Provisional Completion Certificate or the Completion Certificate for the Project Facility, in accordance with the provisions of this Agreement.

“Completion Certificate” shall mean the certificate issued by Project Engineer certifying, that:

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

“Concession” shall have the meaning ascribed thereto in Clause 2.1 of this Agreement.

“Concession Period” shall have the meaning ascribed thereto in Clause 2.2.

“Concessionaire’s Equipment” means all machinery, equipment, apparatus and other things (other than Temporary Works) required for the execution and completion of the Works and the remedying of any defects, but does not include Plant, Materials, or other things intended to form or forming part of the Permanent Works.

“Construction Documents” means all approved plans, manuals, drawings (including as built drawings), calculations, computer software (programs), samples, patterns and models prepared and used for construction of Project Facility.

“Construction Period” shall mean the duration of construction of Project Facilities commencing from the Appointed Date to the date of issue of Completion Certificate.

“Construction Requirements” shall mean Rajiv Gandhi Navodaya Vidyalaya Construction Requirements as set out in Schedule 3.

“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 Clause 15.2(a)(iii) of this Agreement.

“Debt Due” means the aggregate of the following sums representing the amounts advanced by the Lenders towards Project, expressed in Indian rupees as may be outstanding and payable to the Lenders under the Financing Documents on the Transfer Date:

- a. the principal amount of the debt including any subordinated debt provided by the Lenders under the Financing Documents for financing the Project (“the Principal”) but excluding (i) working capital loans; (ii) any part of the Principal that had fallen due for repayment one year prior to the Transfer Date, if the Transfer Date is related to expiry of the Concession Period or any part of the Principal that had fallen due after the Termination Notice, if the Transfer Date is related to termination prior to the expiry of the Concession Period; and (iii) any debt that has been rescheduled or refinanced, unless such repayment had been rescheduled or refinancing made with the prior consent of Concessioneing Authority; and
- b. all accrued interest, financing fees and charges payable on or in respect of the debt referred to in sub-clause (a) above upto the Transfer Date but excluding (i) any interest, fees or charges that had fallen due one year prior to the Transfer Date, and (ii) penal interest or charges, payable under the Financing Documents to any Lender.

“Rajiv Gandhi Navodaya Vidyalaya” or “School” shall mean a residential Senior Secondary School imparting education to students from Class VI to Class XII in accordance with the provisions of this Agreement.

“Rajiv Gandhi Navodaya Vidyalaya Construction Requirements” shall mean the requirements as to construction of the Rajiv Gandhi Navodaya Vidyalaya as set out in Schedule 3.

“Drawings” shall mean all of the drawings including working drawings for the Project Facility, 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 Facility 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 Facility .

“Examination” means examinations conducted by CBSE.

“Equity” means the paid up share capital of the Concessionaire representing the equity component of the project cost, as capitalized in the books of the concessionaire and duly certified by the Statutory Auditors.

“Equity Documents” means collectively the documents evidencing subscription to Equity to the extent of equity component of cost of the Project.

“Escrow Account” shall have the meaning assigned to it under Article 10.

“Escrow Agreement” means the agreement to be executed *inter alia* between the Concessionaire, the Concessioneing Authority and the Lenders/Lenders representative substantially in the format set out in Schedule 10 hereto.

“Financial Assistance” means all funded and non-funded credit assistance including but not limited to loans, advances and guarantees required for the Project.

“Financial Close” means the date on which the Financing Documents providing for Financial Assistance by the Lenders, Equity Documents and the documents in respect of debt, if any, committed by the Applicant/Consortium have become effective and the Concessionaire has access to such Financial Assistance.

“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 14.

“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 governmental 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.

“Grant” or “Grant Amount” shall mean the amount payable by DoSE to the Concessionaire for each Government Student in accordance with provision of Article 12.

“Handback Requirements” shall have the meaning ascribed thereto in Schedule 9.

“Jawahar Navodaya Vidyalaya” means a school run by Navodaya Vidyalaya Samiti of the Government of India.

“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 Facility or any part thereof.

“Materials” means things of all kinds (other than Plant) to be provided and incorporated in the Permanent Works by the Concessionaire, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.

“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.

“O&M Requirements” shall mean the requirements as to operation and maintenance of the Project Facility as set forth in Schedule 6.

“Operations Period” shall mean the period commencing from COD and ending at the expiry of the Concession /Termination.

“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 Clause 5.1.

“Permanent Works” means the permanent works to be designed and executed in accordance with the Rajiv Gandhi Navodaya Vidyalaya Construction Requirements.

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

“Plant” means machinery and apparatus intended to form or forming part of the Permanent Works, including the supply-only items (if any) which are to be supplied by the Concessionaire as specified in the Agreement.

“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.

“Project” shall mean design, financing, construction, operation and maintenance of Rajiv Gandhi Navodaya Vidyalaya at Project Site in accordance with the provisions of this Agreement.

“Project Agreements” shall mean collectively this Agreement, 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 Engineer” shall mean a reputed Person being a firm, company or a body corporate appointed in accordance with Article 4 for supervision and monitoring of compliance by the Concessionaire with the Construction Requirements and O&M Requirements and to undertake, perform, carry out the duties, responsibilities, services and activities set forth in **Schedule 5**.

“Project Facility” shall mean collectively the School Building and Administrative Block which are required to be constructed, built, installed, erected or provided by the Concessionaire on the Project Site in accordance with the Construction Requirements.

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

“Project Site” shall mean and include an area covering land admeasuring approximately acre at.....
(insert the name of the place) more fully shown and described in Schedule 1.

“Provisional Completion Certificate” means the Completion Certificate that may be issued by the Project Engineer pending completion of the Punch List items in accordance with Clause 5.4.

“Punch List” shall have the meaning ascribed thereto in Clause 5.4.

“Remuneration” shall mean all fees, costs, charges and expenses payable to the Project Engineer in accordance with the terms of his appointment.

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

“School Fees” shall mean tuition fees, non- refundable admission fees and fees collected towards the utilizations of sports, library, outdoor excursions and other allied activities.

“Senior Secondary School” shall mean school preparing students for both the Secondary (Class X) and Senior Secondary (Class XII) Examinations of the CBSE Board.

“Substitution Agreement” shall mean the agreement substantially in the form set out at Schedule 13, to be entered into between DoSE, Lenders and the Concessionaire.

“SPCD” or “Scheduled Project Completion Date” shall mean the date sixty (60) months from the Appointed Date for completion of all major construction activities including expansion of Project Facilities in accordance with the provisions of Clause 5.5.

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

“Temporary Works” means all temporary works of every kind (other than Concessionaire’s Equipment) required for the execution and completion of the Works and the remedying of any defects.

“Termination” shall mean early termination of the Concession, 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 Project Engineer, in accordance with this Agreement.

“Users” shall mean the users of the Project Facilities including but not limited to students, teachers and other non teaching staff.

“Works” means the Permanent Works and the Temporary Works or either of them as appropriate.

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) references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or bylaws which have the force of law;
- (c) 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);
- (d) 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;
- (e) the words "include" and "including" are to be construed without limitation;
- (f) any reference to day, month or year shall mean a reference to a calendar day, calendar month or calendar year respectively;
- (g) 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;
- (h) any reference to any period of time shall mean a reference to that according to Indian Standard Time (IST).

- (i) 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;
- (j) 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;
- (k) 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;
- (l) any agreement, consent, approval, authorisation, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or by Project Engineer shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or Project Engineer in this behalf and not otherwise;
- (m) references to “Construction” includes investigation, design, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental thereto
- (n) the damages payable by either Party to the other of them as set forth in this Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty or liquidated damages (the “Damages”)

Concession

ARTICLE 2

2.1. Grant of Concession

Subject to and in accordance with the terms and covenants set forth in this Agreement, the Concessioneing Authority hereby grants and authorizes the Concessionaire to design, engineer, procure, finance and construct the Project Facility, to operate and maintain the Project Facility and to exercise and/ or enjoy the rights, powers, benefits, privileges, authorizations and entitlements as set forth in this Agreement, (the “**Concession**”).

2.2 Concession Period

- a) The Concession hereby granted is for a period of thirty (30) years from the Appointed Date inclusive of the Construction Period. (Hereinafter referred to as the “Concession Period”)
- b) Provided, in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the Appointed Date and ending with the Termination Date.
- c) After the completion of concession period of thirty (30) years, the Government of Uttarakhand may extend the concession period by another thirty (30) years subject to the condition that the concessionaire, during the initial thirty (30) year period, has satisfactorily fulfilled the project objectives, deliverables, has not indulged in any unfair practice and adhered to all the operation and maintenance standard laid out.
- d) The performance evaluation of the Concessionaire during the initial thirty (30) years would be based on, among other sources, the reports of Expert Committee and other monitoring mechanism of DOSE.
- e) The DOSE at the time of signing of this agreement is not providing any assurance that the Initial Concession period of thirty (30) years would necessarily be extended after the thirtieth year.
- f) At least 12 months before the expected expiry of the Concession Period a joint inspection of the Project Facility shall be undertaken by DOSE, Concessionaire and Project Engineer and a decision would be taken by DOSE either to **extend** the concession period **or not to extend** the concession period.

- g) The Concession period, if extended would be based on same or revised terms and conditions to be negotiated at that point of time wherein first-right-of-refusal will be with the Concessionaire.

2.3 Acceptance of Concession

In consideration of DOSE agreeing to permit the Concessionaire to receive School Fees, and any other amounts, and the rights, privileges and benefits conferred upon by the Concessioneing 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.

Project Site

ARTICLE 3

3.1 Handover of Project Site

- (a) DOSE shall, within of 15 (fifteen) days from the Appointed Date, handover to the Concessionaire, vacant and peaceful physical possession of the Project Site for the purpose of implementing the Project.
- (b) Upon the Project Site being handed over pursuant to the preceding Clause (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 implement the Project in accordance with the provisions of this Agreement.

3.2 Rights, Title and Use of the Project Site

- (a) The Concessionaire shall have the right to the use of 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.
- (b) The Project Site including the Project Facility developed thereon belongs to DOSE and shall continue to be the property of DOSE.
- (c) The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Project Site, save and except as set forth and permitted under this Agreement.

- (d) The Concessionaire shall not without the prior written approval of DOSE use the Project Facility for any purpose other than for the purpose of the Project and purposes incidental or ancillary thereto.
- (e) The Concessionaire shall have the right to collect School Fees as set out in Schedule 4.
- (f) The Concessionaire shall allow access to and use of the Project Site for laying/ installing/ maintaining telegraph lines, electric lines or for such other public purposes as DOSE may specify.

Provided that such access or use shall not result in a Material Adverse Effect and that DOSE shall, in the event of any physical damage to the Project Site/ Project Facility/ on account thereof, ensure that the Project Site/ Project Facility is promptly restored at its cost and expenses.

Provided further, that to the extent such access and use allowed by the Concessionaire affects the performance of any of its obligations hereunder, the Concessionaire shall not be deemed or construed to be in breach of its obligations nor shall it incur/ suffer any liability on account thereof.

- (g) The Concessionaire shall be at liberty to:
 - (i) demolish the existing structures within the Project Site subject to adherence to Project Requirements, Applicable Laws and Applicable Permits, and
 - (ii) use, sell or dispose in accordance with Applicable Laws and Applicable Permits, the material obtained as a result of demolition under clause(i) above.

3.3 Peaceful Possession

DOSE, as Concessioning Authority, hereby warrants that:

- (a) The Project Site together with the necessary right of way/ way-leaves
 - (i) has been acquired through the due process of law
 - (ii) belongs to and is vested in DOSE and that DOSE has full powers to hold, dispose of and deal with the same consistent, inter alia, 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, remain in peaceful possession and enjoyment of the Project Site or part thereof until expiry of the Concession Period/ completion of Handback Requirements. 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, distraint, 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, DOSE 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 in such sequence as is consistent with the requirements of the Project.

3.5 Restriction on Sub-Letting

The Concessionaire shall not sub-license or sub let the whole or any part of the Project Site, save and except as may be expressly set forth in this Agreement; provided that nothing contained herein shall be construed or interpreted as restricting the right of the Concessionaire to appoint Contractors for the performance of its obligations hereunder including for operation and maintenance of all or any part of the Project.

Project Engineer

ARTICLE 4

4.1 Procedure for Appointment

- (a) DOSE shall within 15 days hereof forward to the Concessionaire a list consisting of the names accompanied by their respective profiles in brief, of at least five firms who have the necessary expertise and are willing to act as Project Engineer for the Project. The scope of services for the Project Engineer is set out in Schedule 5.

- (b) Within 15 days of receipt of the list forwarded by DOSE, the Concessionaire shall submit to DOSE names of three firms from the list, together with its consent for appointment of any one of the three firms as the Project Engineer.
- (c) Within 30 days of receipt of the names forwarded by the Concessionaire, DOSE shall, in consultation with the Concessionaire, finalise the terms of appointment of the Project Engineer. DOSE shall, select one of the firms from the list sent by the Concessionaire and jointly along with the Concessionaire appoint the selected firm and enter into a tripartite agreement. The scope of work of the Project Engineer shall include that set out in Schedule 5.
- (d) The initial term of the Project Engineer shall extend upto 2 years after COD, after which, the Concessionaire and DOSE shall mutually agree to do any one of the following;
 - (i) renew / extend the services of the Project Engineer, the term of which shall not exceed a period of two years at a stretch; or
 - (ii) not renew the term or not engage a Project Engineer for the rest of the Concession Period.

4.2 Payments to Project Engineer

- (a) All fees, costs, charges and expenses payable to the Project Engineer in accordance with the terms of its appointment (collectively “the Remuneration”) shall be borne by the Concessionaire.
- (b) The Project Engineer shall, simultaneous to submission of its invoice to the Concessionaire for payment of the Remuneration (hereinafter referred to as “Project Engineer Invoice”), submit a copy of the same to DOSE for its approval. Within 7 days of receipt of the same, DOSE shall respond in writing to the Concessionaire and the Project Engineer communicating either,
 - (i) DOSE’s consent for payment of the Remuneration (“DOSE Consent”), or
 - (ii) DOSE’s non-approval of the Project Engineer Invoice, clearly stating the reason/s for such non-approval.
- (c) In case of non-approval, the Project Engineer shall revise such invoice to the extent necessary and resubmit the same to DOSE

and the Concessionaire. DOSE shall give its observations and comments, if any, within 15 days of receipt of such revised invoice, which shall be taken into account by the Concessionaire while finalising the payment to the Project Engineer.

- (d) The Concessionaire shall make payment to the Project Engineer within 10 working days of receipt of DOSE Consent. In case, DOSE does not respond, in the manner set out in Clause 4.2(b) & 4.2(c) above, then DOSE Consent shall be deemed to have been granted and the Concessionaire shall pay the Project Engineer as specified hereinabove.

4.3 Replacement of the Project Engineer

- (a) The Parties may replace the Project Engineer in any of the following circumstances by giving a 30 days written notice :
 - (i) If, DOSE or the Concessionaire has reason to believe that the Project Engineer has not discharged its duties in a fair, appropriate and diligent manner;
 - (ii) if, in accordance with the terms of its appointment the Project Engineer resigns or notifies its intention not to continue as the Project Engineer;
 - (iii) any other circumstance which in the opinion of the Parties warrants replacement of the Project Engineer.
 - (iv) if DOSE decides not to renew the term of the Project Engineer.
- (b) Subject to the attendant circumstances and unless the Parties otherwise agree, the procedure laid down in Clause 4.1 shall, as far as possible, be adhered to for replacement of the Project Engineer and the replacement shall be so effected as to maintain continuity in the supervision and monitoring of the Construction Requirements and O&M Requirements.

Concessionaire's Obligations

ARTICLE 5

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 DOSE, simultaneously with the execution of this Agreement, a bank guarantee from a scheduled bank acceptable to DOSE, in the form as set forth in Schedule 7, ("Performance Security") for a sum of Rs. 80,00,000.00 (Rupees Eighty Lakhs only).
- (b) The Performance Security shall be kept valid for throughout the Concession Period from the Appointed Date.

Provided that if the Agreement is terminated due to any event other than a Concessionaire Event of Default, the Performance Security if subsisting as of the Termination Date shall, subject to DOSE'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

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.

5.3 Drawings

(a) Preparation of Drawings

- (i) The Concessionaire shall, subject to the Construction Requirements, prepare its own Drawings with respect to the Project Facility. The Concessionaire shall in any event be solely responsible for the adequacy of the Drawings.
- (ii) All Drawings shall be subject to review by the Project Engineer/ DOSE as hereinafter provided in the succeeding sub-clause (b).

(b) Review of Drawings

- (i) The Concessionaire shall promptly and in such sequence as is consistent with the Construction Requirements, submit a copy of each of the Drawings to the Project Engineer and DOSE.
- (ii) By forwarding the Drawings to the Project Engineer and DOSE pursuant to the preceding sub-clause (i), the Concessionaire shall be deemed to have represented that it has verified and

determined that the Drawings forwarded are in conformity with the Construction Requirements.

- (iii) Within 15 days of receipt of the Drawings, the Project Engineer shall review the same taking into account, inter alia, comments of DOSE, if any, thereon, and convey its comments/ observations to the Concessionaire on the conformity of Drawings with Construction Requirements. If the comments/ observations of the Project 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 Project Engineer for further review. The Project Engineer shall give its observations and comments, if any, within 15 days of receipt of such revised Drawings, which shall be taken into account by the Concessionaire while finalising the Drawings.
- (iv) If, within the period stipulated in the preceding sub-clause (iii), the Project Engineer does not respond to the Drawings submitted to it by the Concessionaire, the Concessionaire shall be entitled to proceed with the construction of the Project Facility on the basis of such Drawings submitted by it to the Project Engineer.
- (v) Notwithstanding any review or failure to review by or the comments/ observations of the Project Engineer or DOSE, the Concessionaire shall be solely responsible for the adequacy of the Drawings and their conformity with the Construction Requirements, and shall not be relieved or absolved in any manner whatsoever of any of its obligations hereunder.
- (vi) The Concessionaire shall be responsible for delays in meeting the Construction Requirements caused by reason of any Drawings not being in conformity with the Construction Requirements, and shall not be entitled to seek any relief in that regard from DOSE.
- (vii) The Concessionaire shall in consultation with the Project Engineer finalise an implementation schedule for the Project in accordance with the Construction Requirements.
- (viii) Within 30 days of issue of the Completion Certificate or Provisional Completion Certificate, as the case may be, the Concessionaire shall furnish to DOSE three copies of "as built" Drawings of the Construction Works which have been completed as on COD, in a manner as set out in Construction Requirements.

5.4 Project Implementation

- (a) The Concessionaire shall, at its own costs and expenses, construct the Project Facility, subject to adherence to Applicable Law and obtaining Applicable Permits for such construction, alteration or modification.

Provided that, such construction, shall not at any time cause any damage or have a dangerous effect on either the stability of the Project Facility or otherwise affect the safety of the users of the Project Facility.

- (b) Unless otherwise permitted by DOSE, no Construction Works shall begin until the Project Engineer is in place and has assumed charge.
- (c) The Concessionaire shall within 10 days from the Appointed Date submit to the DOSE/ Project Engineer the programme for execution of the Construction Works and shall adhere to the same.
- (d) The Concessionaire shall submit such documents and reports as are reasonably required by the Project Engineer for issue of the Completion Certificate.
- (e) The Concessionaire shall make his own arrangements for adequate and timely supply of electricity, water, gas and other utilities required for execution of the Construction Works and DOSE shall be in no way responsible for the same.
- (f) During Construction Period, the Concessionaire shall be responsible for keeping unauthorized persons off Project Site, and authorized persons shall be limited to the employees of the Concessionaire, employees of his subcontractor and persons authorized by DOSE or Project Engineer.
- (g) The Concessionaire shall adhere to Construction Requirements; achieve COD on or before the SPCD.

Provided that, on the written request by the Concessionaire for extension of SPCD, DOSE may consider such a request, subject to the Concessionaire agreeing to pay an amount of Rs. 1.0 lakh per week of extension as liquidated damages. However, such extension shall in no case exceed six months from SPCD. In the event Concessionaire is not able to achieve COD within such extended period, it shall be deemed a Concessionaire Event of Default under Clause 15.1 (a).

- (h) 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.
- (i) The Concessionaire shall, before commencement of Construction Works;
 - (i) have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project, to deal with the Project Engineer/ DOSE and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - (ii) provide and maintain a reasonably furnished site office accommodation for the Project Engineer, at the Project Site.
- (j) For the purposes of determining that Construction Works are being undertaken in accordance with the Construction Requirements, the Concessionaire shall with due diligence carry out all necessary and periodical Tests in accordance with and as per the instructions of the Project Engineer and such Tests shall be carried out under the supervision of the Project 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.
- (k) If the Tests are successful and the Project Facility can be safely and reliably opened for operation, the Project Engineer shall issue the Completion Certificate within 7 days of the completion of such Tests.

Provided that, notwithstanding that certain works or things forming part of Construction Works are not complete, if following Tests the Project Engineer determines that the Project Facility can be safely and reliably opened for operations, the Project 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 Project 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 Project Engineer, but not exceeding 60 days from the date of issue of the Provisional Completion Certificate. Upon satisfactory completion of all Punch List items, the Project Engineer, shall promptly and in any case within 7 days thereof, issue the Completion Certificate.

- (l) If the Concessionaire fails to complete the Punch List items within the said period of 60 days, DOSE may, without prejudice to any other rights or remedy available to it under this Agreement, have such items completed at the risk and costs of the Concessionaire. In such an event, the Concessionaire shall reimburse to DOSE, one and half times of the cost incurred by DOSE in completing the Punch List items, (as certified by the Project Engineer), within 7 days from the date of receipt of a claim in respect thereof from DOSE. The Project Engineer may issue Project Facility Completion Certificate only upon such reimbursement being made by the Concessionaire to DOSE.
- (m) The Project Engineer, may, by written notice, 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.
- (n) 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 Project Engineer in accordance with the provisions hereof.

Provided if COD is delayed beyond 90 days of the SPCD, DOSE shall, subject to the provisions of Article 8, be entitled to terminate this Agreement and to appropriate the Performance Security.

5.5 Expansion of the Project Facility

- 5.5.1 The Concessionaire shall, at all times, confirm to the provisions of this Agreement, the Construction Standards, and Good Industry Practice, and shall undertake capacity addition and expansion of the School Building and associated Project Facilities from time to time, in conformity herewith.
- 5.5.2 The provision of this Agreement, insofar as they relate to Construction Works, shall apply, mutatis mutandis, to the expansion of the School Building, save and except where express provisions to the contrary have been made in respect thereof.
- 5.5.3 The Concessionaire may undertake all the Construction Works in a phase wise manner. The Project Engineer shall issue Provisional Completion Certificate in accordance with the Provision of Clause 5.4 above for each block of school building or any other Project Facility

completed by the Concessionaire and in which day to day school operation activities can be started by the Concessionaire.

5.6 Suspension of unsafe Construction Works

- 5.6.1 Upon recommendation of the Project Engineer to this effect, the DoSE may by notice require the Concessionaire to suspend forthwith the whole or any part of the Construction Works if, in the reasonable opinion of the Authority, such work threatens the safety of the Students/Users.
- 5.6.2 The Concessionaire shall, pursuant to the notice under clause 5.5.1 above, suspend the Construction Works or any part thereof for such time and in such manner as may be specified by the DoSE and thereupon carry out remedial measures to secure the safety of suspended works and the Users. The Concessionaire may by notice require the Project Engineer to inspect such remedial measures forthwith and make a report to the DoSE recommending whether or not the suspension hereunder may be revoked. Upon receiving the recommendations of the Project Engineer, the DoSE shall either revoke such suspension or instruct the Concessionaire to carry out such other and further remedial measures as may be necessary in the reasonable opinion of the DoSE, and the procedure set forth in this Clause 5.6 shall be repeated until the suspension hereunder is revoked.
- 5.6.3 Subject to the Force Majeure Clause, all reasonable costs incurred for maintaining and protecting the Construction Works or part thereof during the period of suspension (the “Preservation Cost”), shall be borne by the Concessionaire; provided that if the suspension has occurred as a result of any breach of this Agreement by the DoSE, the Preservation Costs shall be borne by the DoSE.
- 5.6.4 If suspension of Construction Works is for reasons not attributable to the Concessionaire, the Project Engineer shall determine any extension of the Dates set forth in the SPCD to which the Concessionaire is reasonably entitled, and shall notify the DoSE accordingly whereupon the DoSE shall extend such Project Completion Schedule Dates in accordance with the recommendations of the Project Engineer. In the event that the Scheduled Completion Date is extended pursuant hereto, the Concession Period shall be deemed to be extended by a period equal in length to the period of extension of the Scheduled Completion Date.

5.7 Operation and Maintenance

- (a) The Concessionaire shall operate and maintain the Project Facility in accordance with the O&M Requirements in terms of Schedule 6.
- (b) The Concessionaire may undertake operations and maintenance of the Project Facility 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.
- (c) The Concessionaire shall, during the Operations Period :
 - (i) shall have requisite organization and designate and appoint suitable officers/ representatives as it may deem appropriate to supervise the Project Facility, to deal with the Project Engineer/ DOSE and to be responsible for all necessary exchange of information required pursuant to this Agreement;
 - (ii) shall, for the purposes of determining that the Project Facility is 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 the Project Engineer and such Tests shall be carried out under the supervision of the Project 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.
- (d) In the event the Concessionaire has failed to operate and maintain the Project Facility in accordance with the O&M Requirements, and such failure has not been remedied despite a notice to that effect issued by the Project Engineer/DOSE (“Notice to Remedy”), DOSE may, without prejudice to any of its other rights/remedies under this Agreement, be entitled to cause the repair and maintenance of the Project Facility at the risk and cost of the Concessionaire. The Concessionaire shall reimburse one and half times the costs incurred by DOSE on account of such repair and maintenance within fifteen (15) days of receipt of DOSE’s claim therefor.
- (e) The Concessionaire shall be deemed to be in material breach of O&M Requirements, if DOSE, 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 Facility 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 Facility or any part thereof is not safe for operations;

For avoidance of doubt, persistent breach shall mean :

- (i) 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 DOSE;
- (ii) recurrence of a breach by the Concessionaire, during the pendency of Notice to Remedy by the DOSE requiring the Concessionaire to remedy a breach, and
- (iii) repeated occurrence of a breach notwithstanding that earlier breaches have been remedied pursuant to Notice to Remedy or otherwise.

Upon occurrence of Material Breach of O&M Requirements, DOSE shall, without prejudice to and notwithstanding any other consequences provided therefor under this Agreement, be entitled to terminate this Agreement.

- (f) No demolition shall be allowed during the last five (5) years of the Concession Period, unless specifically approved by DOSE.

5.8 CBSE Affiliation

- 5.8.1 The Concessionaire shall at its own cost and expense obtain affiliation of the school from the Central Board of Secondary Education, New Delhi (CBSE) within 3 years from the date of commencement of COD. The DoSE shall, on a best endeavor basis, provide necessary support to the Concessionaire for obtaining CBSE affiliation.
- 5.8.2 The Concessionaire shall maintain CBSE affiliation throughout the Concession Period and apply for its renewal at appropriate time period.
- 5.8.3 The Concessionaire shall follow Affiliation Bye Laws issued by Central Board of Secondary Education, New Delhi from time to time, throughout the Concession Period.

5.9 Admission of Students

- 5.9.1 Admission in the school shall be made without any distinction of religion, race, caste, creed, and place of birth or any of them.
- 5.9.2 Admission to the Government Sponsored Students would be in accordance with provisions of Clause 5.10.5

5.10 Government Sponsored Students

- 5.10.1 The Concessionaire shall reserve at least 50% (fifty percent) seats in each class and any section thereof for Government Sponsored Students. For avoidance of doubt, in case where a class level consists of more than one section then the Concessionaire shall reserve 50% (fifty percent) seats for each section. The Concessionaire shall not charge any fees of whatsoever nature from the Government Sponsored Students.
- 5.10.2 The Concessionaire shall provide all the facilities available at the School including but not limited to the list attached as Annexure 1 to the Government Sponsored Students.
- 5.10.3 At least 4 months prior to the start of each Academic Session the Concessionaire shall provide to DOSE the following details to enable DoSE to calculate the total number of seats available for Government Sponsored Student :
 - a. the total number of classrooms alongwith sections
 - b. the total number of students enrolled in each class level with separate break up for Government Sponsored students
 - c. the total number of students enrolled in each class level with separate break up for Government Sponsored students
 - d. the total number of students progressed to next class level with separate break up for Government Sponsored students
 - e. total number of students failed in each class level with separate break up for Government Sponsored students
 - f. total number of Government Sponsored students failed in each class level for 2 consecutive years
- 5.10.4 The DoSE shall provide to the Concessionaire list of Government Sponsored Students to be admitted in the School at least 1 month prior to the start of each Academic Session.
- 5.10.5 In case where a Government Sponsored Student fails in the same class level for 2 consecutive years, DoSE may at its sole discretion

withdraw the students from the list of Government Sponsored Students.

5.11 Board Examinations

5.11.1 The Concessionaire shall conduct CBSE Board's Examination for atleast 1 batch of Class X students within 5 years from the COD.

5.11.2 The Concessionaire shall conduct CBSE Board's Examination for atleast 1 batch of Class XII students within 7 years from the COD.

5.11.3 The Concessionaire shall undertake Board Examination in accordance with the provisions of CBSE affiliation By-Laws. The Concessionaire shall not endeavor to present the candidates who are not on its roll nor shall it present the candidates of its unaffiliated branch/ school to any of the Board's Examination.

5.12 Teaching Staff

5.12.1 The Concessionaire shall at its own cost and expense employ the requisite number of teaching staff from time to time throughout the Operations Period. The terms and conditions including qualification for employment of teaching staff shall be in accordance with the provisions of Affiliation Bye-Laws issued by CBSE as amended from time to time.

5.12.2 DoSE will not interfere in the appointment of Teaching or Non Teaching Staff during the Operations Period.

5.13 Course Curriculum

5.13.1 The Concessionaire shall adopt the syllabus as approved by the Central Board of Secondary Education for all the class level throughout the Operations Period.

5.14 Residential Facility

5.14.1 The Concessionaire shall provide Residential Facility for the staff members, principal and vice principals in accordance with Good Industry Practices.

5.15 Students Performance Evaluation

5.15.1 The Concessionaire shall undertake quarterly performance evaluation of all students studying in Class IX, X, XI and XII. The results of each student shall be shared with DoSE.

5.15.2 The Concessionaire shall design classroom tests for different class levels to undertake performance evaluation of all the students mentioned in Clause 5.16.1 above. Tests format may be subjective or objective (depending on specific requirement), followed by assessments which are carried out manually or on Optical Mark Recognition (OMR) sheets. The results can be accumulated in the form of Report Card. For each test the student should be provided with a comparative school performance report to evaluate the performance of the student.

5.16 Branding of the Schools

Save and except as may be in the normal course of business, the Concessionaire undertakes that it shall not, in any, manner, use the name or identity of the School to advertise or display its own identity, brand equity or business interest, including those of its shareholders. For the avoidance of doubt, it is agreed that the Concessionaire may display its own name at a spot where other public notices are displayed for the Users. It is further agreed that the School shall be known, promoted, displayed and advertised by the name of “**Rajiv Gandhi Navodaya Vidyalaya**”.

5.17 Management Information System

The Concessionaire shall establish a Management Information System (MIS) and install appropriate software to maintain records of the Project operations. MIS shall include details of all the information as specified in Schedule 14.

5.18 Insurance

(a) Construction Period

The Concessionaire shall, in accordance to Good Industry Practice, at its cost and expense, purchase and maintain by due re-instatement or otherwise, during the Construction Period, such insurance as are necessary including but not limited to the following:

- (i) builders' all risk insurance;
- (ii) comprehensive third party liability insurance including injury or death to personnel / representatives of Persons who may enter the Project Site ;
- (iii) workmen's compensation insurance;

- (iv) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

(b) Operations Period

The Concessionaire shall at its cost and expense, purchase and maintain by re-instatement or otherwise, for the Operations Period, insurance against :

- (i) loss, damage or destruction of the Project Facility, at replacement value;
- (ii) the Concessionaire's general liability arising out of the Concession;
- (iii) liability to third parties;
- (iv) any other insurance that may be necessary to protect the Concessionaire, its employees and its assets against loss, damage, destruction, business interruption or loss of profit including insurance against all Force Majeure Events that are insurable.

(c) Evidence of Insurance

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

(d) Validity of Insurance

The Concessionaire shall, from time to time, promptly pay insurance premium, keep the insurance policies in force and valid throughout the Concession Period. The insurance policy shall not be cancelled or terminated unless 60 days' clear notice of cancellation is provided to DOSE in writing.

If at any time the Concessionaire fails to obtain or maintain in full force and effect any and all of the insurance required under this Agreement, DOSE may at its option (but not being obliged to do so) obtain and maintain such insurance and all sums incurred by DOSE thereof shall be reimbursed by the Concessionaire to DOSE together with interest thereon at 5% (five) percent over SBI PLR from the date the respective sums were incurred by DOSE, within 7 (seven) days from the receipt of claim in respect thereof made by DOSE.

(e) 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 Facility 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 Facility 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.

(f) 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.

5.19 Environmental Compliance

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

5.20 Waste Collection and Disposal

5.20.1 The Concessionaire shall at its own cost and expense make provision for collection, management and disposal of the Waste from the Project Facility, in efficiently and timely manner that minimises the impact on the environment.

5.20.2 The Concessionaire shall, manage the collection and removal from the Project Facility of all Waste to centralised collection locations at appropriate frequencies to prevent it causing a nuisance through odour, pest infestation or poor levels of hygiene. The Concessionaire shall also make provision for all waste collection and disposal equipment, waste containers, bins and disposal units.

5.21 Indemnity by Concessionaire

The Concessionaire shall indemnify and hold harmless DOSE, the Project Engineer and their employees from and against all claims, damages, losses and expenses arising out of or resulting from Concessionaire's negligence or breach in execution of the Construction Works and any activity incidental thereto.

5.22 General Obligations

The Concessionaire shall at its own cost and expense:

- (a) investigate, study, design, construct, operate and maintain the Project Facility in accordance with the provisions hereof;
- (b) obtain all Applicable Permits as required by or under the Applicable Law and be in compliance thereof at all times during the Concession Period;
- (c) comply with Applicable Law governing the operations of the Project Facility, as the case may be, at all times during the Concession Period;
- (d) ensure and procure that each Project Agreement contains provisions that would entitle DOSE or a nominee of DOSE to step into the same at DOSE'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 ;
- (f) appoint, supervise, monitor and control as necessary, the activities of Contractors under the respective Project Agreements;
- (g) give written notice to the Concessioneing Authority within 7 (seven) Days of any material modification or change to any of the Financing Documents and/or any Equity Documents and shall simultaneously therewith also furnish copies of such modified/ amended documents to the Concessioneing Authority. Provided no such modification/amendment will be made if it in any manner whatsoever has the effect of imposing an additional financial obligation or increasing the financial obligation of the Concessioneing Authority in addition to that contemplated under the Financing Documents provided on Financial Close, without the prior written consent of the Concessioneing Authority. For avoidance of doubt any such modifications/amendments made without the prior written consent of the Concessioneing Authority will not be enforceable against the Concessioneing Authority;

- (h) 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 and hereby indemnifies DOSE against any claims, damages, expenses or losses in this regard and that in no case and shall for no purpose shall DOSE be treated as employer in this regard;
- (i) make its own arrangements for construction materials and observe and fulfill the environmental and other requirements under the Applicable Law and Applicable Permits;
- (j) be responsible for all the health, security, environment and safety aspects of the Project Site/ Project Facility, as the case may be, at all times during the Concession Period;
- (k) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
- (l) upon receipt of a request thereof, afford access to the Project Facility to the authorised representatives of DOSE 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 Facility 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.
- (m) pay all taxes, duties and outgoings, including utility charges relating to the Project Facility, as applicable throughout the Concession Period.
- (n) make its own arrangements for the engagement of the employees and labour engaged for execution of the Construction Work.
- (o) keep on the Project Site two complete sets of this Agreement, Construction Documents, approvals given by the DOSE/ Project Engineer and any other communication given or issued under provisions hereof for inspection, verification and use by the DOSE/ Project Engineer or any authority authorised by law to inspect the same or any of them.
- (p) provide and maintain all necessary accommodation and welfare facilities for its staff and labour. The Concessionaire shall not permit any of its employees to maintain any temporary or permanent living quarters within the structure forming a part of the Construction Works.

- (q) take precautions to ensure the health and safety of its staff and labour.
- (r) employ adequate number of appropriately qualified, skilled and experienced persons in order to execute the Construction Works. The Project Engineer may require the Concessionaire to remove any person employed on the Project Site or Construction Works, who in the opinion of the Project Engineer:
 - i. persists in any misconduct,
 - ii. is incompetent or negligent in the performance of his duties,
 - iii. fails to conform with any provisions of the Agreement, or
 - iv. persists in any conduct which is prejudicial to safety, health, or the protection of the environment

The Concessionaire shall in such cases appoint suitable replacement/s.

- (s) take reasonable precautions to prevent any unlawful, riotous or disorderly conduct by or amongst its staff and labour and to preserve peace and protection of persons and property in the neighbourhood of the Construction Works against such conduct.

5.23 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 Clause 14.3;
- (ii) DOSE Event of Default;
- (iii) Compliance with the instructions of the Project Engineer/ DOSE or the directions of any Government Agency other than instructions issued as a consequence of a breach by the Concessionaire of any of its obligations hereunder;
- (iv) Closure of the Project Facility or part thereof with the approval of DOSE.

5.24 Access and Assured Availability of the Project Facilities

The Concessionaire shall, at all times during the Concession Period, allow access to and usage of Project Facilities to DOSE / Person nominated by DOSE.

5.25 Expenses Towards Statutory Deposits and Charges

The Concessionaire shall reimburse to DOSE, service charges towards connection of utilities to the Project Facility in the Project Site, other taxes such as property tax, water tax and sewerage charges for the Project Site.

5.26 Erection of Sign Board

- (a) The Concessionaire shall erect a signboard, of a size not less than 2 ft. by 4 ft, adjacent to the main entrance to the Project Site in a manner such that it is ordinarily visible to any person using such entrance. The signboard shall prominently display the following text in black upper case letters on a white/yellow background:

“This property belongs to the Department of School Education, Government of Uttarakhand and has been handed over to _____ (*name of the Concessionaire*) for Development, Operation and Maintenance of Rajiv Gandhi Navodaya Vidyalaya from _____ (*Insert the in Appointed Date*) to _____ (*Insert the Expiry Date*)”.

- (b) The Concessionaire shall ensure that the signboard is maintained in good condition throughout the Concession Period.

DOSE's Obligations

ARTICLE 6

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

6.1 Specific Obligations

- (a) DOSE shall handover the possession of the Project Site to the Concessionaire in accordance with the Agreement;
- (b) Prior to handover of the Project Site to the Concessionaire, DOSE shall remove all encroachments from the Project Site;
- (c) DOSE shall grant in a timely manner all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek from DOSE under this Agreement, in connection with implementation of the Project and the performance of its obligations.

Provided where authorisation for availment of utilities such as power, water, sewerage, telecommunications or any other incidental services/ utilities is required, the same shall be provided by DOSE in the form as set out in Schedule 8, within 15 days from receipt of request from the Concessionaire to make available such authorisation.

- (d) DoSE shall assist the Concessionaire in obtaining CBSE affiliation from time to time.
- (e) DoSE shall provide to the Concessionaire list of Government Sponsored Students to be admitted in the School at least 1 month prior to the start of each Academic Session.

6.2 General Obligations

DOSE shall :

- (a) upon written request from the Concessionaire, assist 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 favorable to the Concessionaire than those generally available to commercial customers receiving substantially equivalent facilities/utilities;
- (b) assist the Concessionaire in obtaining police assistance, upon payment of prescribed costs and charges, if any, for traffic regulation, patrolling and provision of security on the Project Site/ Project Facility and implementing this Agreement in accordance with the provisions hereof;
- (c) observe and comply with all its obligations set forth in this Agreement.
- (d) DoSE shall subscribe to the Substitution Agreement within 30 days of the intimation regarding Financial Close given by the Concessionaire.

6.3 District Level Monitoring Committee

- (a) Each School covered under the respective Districts shall set up a Project monitoring mechanism through a District Level Monitoring Committee comprising of different stakeholders from Government, Schools, public to periodically monitor the project deliverables.
- (b) The **District Level Monitoring Committee** would be chaired by a representative, not below the rank of District Magistrate of that particular District
- (c) The other members of the **District Level Monitoring Committee** would be as under:
 - a. Principal of respective school

- b. Atleast 2 Teachers of respective school
 - c. Atleast 2 representative from Students of Class XI and or XII
 - d. Concessionaire
- (d) The aforesaid members of **District Level Monitoring Committee** shall hold their position for a period of atleast 6 months.
- (e) The Committee shall establish monthly monitoring reports to be filled by all the members of the District Level Monitoring Committee and shall submit to the Directorate of School Education, Dehradun within 10 days after each month is over
- (f) The daily reporting formats should be uniform across all the schools. The daily reporting formats should consist of quality of teaching, course curriculum being taught, availability of trained teachers, extra circular activities, success ratio of the students clearing exams and study material being taught.
- (g) In the monitoring report the committee members will report the outcome reflecting short comings, achievement as well as suggestions for improvement. DOSE will suggest monitoring formats covering points mentioned above.

6.4 Monitoring and Assessment by DoSE

- (a) DOSE, in consultation with Government of Uttarakhand, shall set up a Project monitoring mechanism including an Expert Committee comprising of domain experts from government, Schools, colleges, public to periodically monitor the project deliverables.
- (b) The expert committee would be chaired by a representative, not below the rank of Additional Secretary, from the department of School Education, Government of Uttarakhand
- (c) The other members of the expert committee would be as under:
- i. Representative of DOSE not below the rank of Additional Director
 - ii. Principal from the Schools in which the Project is being undertaken
 - iii. Representative from teacher group - any one or two teacher from the Schools in which the Project is being undertaken
 - iv. Representative of Concessionaire

- (d) Since the outputs in terms of quality of teaching, course curriculum being taught, availability of trained teachers, extra circular activities, success ratio of the students clearing exams and study material are the prime deliverables of the entire project, the expert committee would evaluate the efforts and outputs of these activities by the Concessionaire.
- (e) The expert committee shall submit its report to the government regarding the achievement of projects deliverables - low, moderate, satisfactory, excellent etc with specific recommendation(s) on continuance/discontinuance/restructuring of the project. The findings of the expert committee would be considered to be final and binding.
- (f) If the project deliverables are found to be moderate or low, the expert committee would direct DOSE to plan corrective action(s) with the concessionaire and implement the same to achieve desired outputs within sixty (60) days.
- (g) The expert committee shall evaluate project deliverables on a three monthly basis based on visit to the facility, review of auditors' reports, reports provided by concessionaire, information received from general public including project stakeholders etc.

DOSE shall facilitate the expert committee in information gathering, conducting facility visit, meetings, interviews etc.

Asset Ownership and Permitted Charge

ARTICLE 7

7.1. Land

7.1.1. The ownership of the Project Site and Project Assets shall always remain vested with the DoSE. The Concessionaire shall neither assign, transfer, sublet, create any charge or Encumbrance, nor shall the Concessionaire create or permit creation of any third party rights whatsoever, on whole or any part of the Project Site. Further, any such rights of the Concessionaire shall always be subject to existing rights of way. It is expressly agreed that the Concessionaire's rights in the Project Site and/or the Project Assets shall cease without the need for any action to be taken by the DoSE upon the termination of this Agreement for any reason whatsoever.

7.2. Assets created or provided by the Concessionaire

The ownership of all infrastructure assets, buildings, structures, equipment and other immovable and movable assets constructed, installed, located, created or provided by the Concessionaire at the Project Site and/or in the Project Assets pursuant to this Agreement shall, until expiry of this Agreement or transfer to the DoSE on Termination in accordance with this Agreement, be with the Concessionaire. However, such ownership of buildings etc. erected by the Concessionaire at the Project Site shall not be construed as and shall not confer any rights in the Project Site or other Project Assets upon the Concessionaire, except as provided for in this Agreement.

7.3. Permitted Charge on Assets

7.3.1. The Concessionaire shall be entitled to create a charge on its rights, title, and interest in the assets referred to in the Clause 7.2 in favour of Lenders for securing the Financial Assistance provided or agreed to be provided by them under the Financing Documents. Provided, any such charge shall not be effective before Financial Close and shall not continue for a period exceeding the Concession Period.

7.3.2. Provided further, that such charge shall not be for the Project Site nor encumber the Project Site. Provided further, in the event of termination of this Agreement, the said charge shall stand extinguished upon payment of compensation by the DoSE to the Lenders, to the extent they are entitled to receive the same in accordance with the provisions of this Agreement.

Special Purpose Vehicle

ARTICLE 8

8.1. Ownership Structure

The Sole Bidder/Consortium has caused the Concessionaire to be incorporated as a section 25 company under Companies act 1956 herein referred to as Special Purpose Vehicle (SPV) to implement, operate and maintain the Project/Project Facilities and Services in accordance with this Agreement. The shareholding pattern of Concessionaire/each member of the Consortium in the SPV is as per Clause 8.2 below.

8.2. Shareholding¹

¹ Only where the Concessionaire forms a Special Purpose Vehicle for the implementation of the Project as per the joint bidding agreement.

- 8.2.1. The Consortium agree that the proportion of shareholding among the Parties in the SPV shall be as follows:
- First Party:
 - Second Party:
 - Third Party:
 - Fourth Party:
- 8.2.2. The Consortium undertake that a minimum of 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the date of commercial operation of the Project, be held by the Parties of the First, {Second and Third} Part whose experience and net worth have been reckoned for the purposes of qualification and short-listing of Bidders for the Project in terms of the RFP
- 8.2.3. The Consortium undertake that each of the Parties specified in Clause 8.2.1 above shall, at all times between the commercial operation date of the Project and the second anniversary thereof, hold subscribed and paid up equity share capital of SPV equivalent to at least 5% (five per cent) of the Total Project Cost.
- 8.2.4. The Consortium / Single Bidder undertake that they shall collectively/individually in case of single Bidder hold at least 51% (fifty one per cent) of the subscribed and paid up equity share capital of the SPV at all times until two (2) years of the commercial operation date of the Project.
- 8.2.5. The Consortium / Single Bidder undertake that they shall comply with all equity lock-in requirements set forth in this Concession Agreement.
- 8.2.6. The Consortium undertake that the O&M Member shall subscribe and hold at least 10% (ten per cent) of the subscribed and paid up equity shares in the SPV in terms of the Concession Agreement.

8.3. Change in Ownership

- 8.3.1. The Concessionaire shall not undertake or permit any Change in Ownership, except with the prior written approval of the DoSE.
- 8.3.2. Notwithstanding anything to the contrary contained in this Agreement, the Concessionaire agrees and acknowledges that:
- i. all acquisitions of Equity by an acquirer, either by himself or with any person acting in concert, directly or indirectly, including by transfer of the direct or indirect legal or beneficial

ownership or control of any Equity, in aggregate of not less than 15% (fifteen per cent) of the total Equity of the Concessionaire;
or

- ii. acquisition of any control directly or indirectly of the Board of Directors of the Concessionaire by any person either by himself or together with any person or persons acting in concert with the Concessionaire,

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

8.3.3. For the purposes of this Clause 8.3.3:

- a. the expression "acquirer", "control" and "person acting in concert" shall have the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeover) Regulations, 1997 or any statutory re-enactment thereof as in force as on the date of acquisition of Equity, or the control of the Board of Directors, as the case may be, of the Concessionaire;
- b. the indirect transfer or control of legal or beneficial ownership of Equity shall mean transfer of the direct or indirect beneficial ownership or control of any company or companies whether in India or abroad which results in the acquirer acquiring control over the shares or voting rights of shares of the Concessionaire; and
- c. power to appoint, whether by contract or by virtue of control or acquisition of shares of any company holding directly or through one or more companies (whether situate in India or abroad) the Equity of the Concessionaire, not less than half of the directors on the Board of Directors of the Concessionaire or of any company, directly or indirectly whether situate in India or abroad, having ultimate control of not less than 15% (fifteen per cent) of the Equity of the Concessionaire shall constitute acquisition of control, directly or indirectly, of the Board of Directors of the Concessionaire.

8.4. Obligations relating to Golden Share

8.4.1. The Concessionaire and the {selected bidder/ Consortium Members} shall execute an agreement with the DoSE, substantially in the form specified at Schedule 12 (the "**Shareholders'** Agreement"), providing for the issue and allotment of one non-transferable equity share of the Company (the "**Golden Share**") in favour of the DoSE, and shall provide for the following:

- a) appointment of a nominee of the DoSE on the Board of Directors of the Concessionaire;
- b) an irrevocable undertaking that the rights vested in the DoSE shall not be abridged, abrogated or in any manner affected by any act done or purported to be done by the Concessionaire or any of its Associates or Affiliates;
- c) an irrevocable undertaking that any divestment of equity in the Concessionaire shall not in any manner affect the rights of the DoSE herein and that the successors, assigns and substitutes of the Concessionaire shall be bound by such undertaking; and
- d) any other matter mutually agreed upon between the Parties.

8.4.2. The Parties expressly agree that the Shareholders' Agreement shall further provide that so long as the DoSE holds the Golden Share, an affirmative vote of the DoSE or the Director appointed by the DoSE shall be necessary and required for the passing of, by the Board of Directors of the Company or the General Meeting thereof, as the case may be, any resolution providing for all or any of the following or any matter incidental or consequential thereto:

- a. to alter or add to the provisions of the memorandum;
- b. to alter or add to the articles of association;
- c. to change the name of the Company;
- d. to purchase the Company's own shares or specified securities;
- e. to issue sweat equity shares;
- f. to issue further shares without pre-emptive rights to non-members or to convert loans or debentures into shares;
- g. to reduce the share capital;
- h. to remove the registered office of the Company outside the limits of the State;
- i. to commence any new lines of business;
- j. to keep registers and returns at any other place than within city, town or village in which the registered office is situated;
- k. to consent to a director or his relative or partner or firm or private company holding an office or place of profit, except that

of managing director, manager, banker, or trustee for debenture-holders of the Company;

- l. to make inter-corporate-loans and investments or guarantee/security to be given, etc., if the aggregate amount thereof, exceeds the limit of 10% (ten per cent) of the Company's paid-up share capital;
- m. to apply to a Court to wind-up the Company;
- n. to wind-up the Company voluntarily; and
- o. for various other matters pertaining to the winding up of the Company.

- 8.4.3. The Parties agree that the Shareholders Agreement shall provide that till the time the DoSE holds the Golden Share, it shall be entitled to nominate a person of its choice for appointment as a non retiring Director on the Board of the Concessionaire, and upon such nomination, the Concessionaire shall appoint such person as Director in accordance with the Applicable Laws.

Financial Close

ARTICLE 9

9.1. Financial Close

9.1.1. The Concessionaire hereby agrees and undertakes that it shall achieve Financial Close within 180 (one hundred and eighty) days from the date of this Agreement and in the event of delay, it shall be entitled to a further period not exceeding [120 (one hundred and twenty)] days, subject to payment of Damages to the DoSE in a sum calculated at the rate of 0.1% (zero point one per cent) of the Performance Security for each day of delay, or for a further period not exceeding 200 (two hundred) days, provided that the Damages specified herein shall be payable every week in advance and the period beyond the said 180 (one hundred and eighty) days shall be granted only to the extent of Damages so paid; provided further that no Damages shall be payable if such delay in Financial Close has occurred solely as a result of any default or delay by the DoSE or due to Force Majeure. For the avoidance of doubt, the Damages payable hereunder by the Concessionaire shall be in addition to the Damages, if any, due and payable under the provisions of this Agreement.

9.1.2. The Concessionaire shall, upon occurrence of Financial Close, notify the DoSE forthwith, and shall have provided to the Government, at least 2 (two) days prior to the Financial Close, 3 (three) true copies of the Financial Package and the Financial Model, duly attested by a Director of the Concessionaire, along with 3 (three) soft copies of the Financial Model in MS Excel version or any substitute thereof, which is acceptable to the Senior Lenders.

9.2. Termination due to failure to achieve Financial Close

9.2.1. Notwithstanding anything to the contrary contained in this Agreement, but subject to Clause 14.6, in the event that Financial Close does not occur, for any reason whatsoever, within the period set forth in Clause 9.1.1 or the extended period provided thereunder, all rights, privileges, claims and entitlements of the Concessionaire under or arising out of this Agreement shall be deemed to have been waived by, and to have ceased with the concurrence of the Concessionaire, and the Concession Agreement shall be deemed to have been terminated by mutual agreement of the Parties. For the avoidance of doubt, it is agreed that in the event the Parties hereto

have, by mutual consent, determined the Appointed Date to precede the Financial Close, the provisions of this Clause 9.2.1 shall not apply.

9.2.2. Upon Termination under Clause 9.2.1, the Government shall be entitled to encash the Performance Security and appropriate the proceeds thereof as Damages; provided, however, if Financial Close has not occurred solely as a result of the DoSE being in default of any of its obligations under Clause 6, it shall, upon Termination, return the Performance Security.

Escrow Account

ARTICLE 10

10.1. Escrow Account

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

10.1.2. The nature and scope of the Escrow Account are fully described in the agreement (the "Escrow Agreement") to be entered into amongst the Concessionaire, the Government, the Escrow Bank and the Senior Lenders through the Lenders' Representative, which shall be substantially in the form set forth in Schedule 10.

10.2. Deposits into Escrow Account

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

- a. all funds constituting the Financial Package;
- b. all School Fees and any other revenues from or in respect of the Project / Project Assets, including the proceeds of deposits, capital receipts or insurance claims; and
- c. all payments by the Government, after deduction of any outstanding amount. Provided that the Senior Lenders may make direct disbursements to the EPC Contractor in accordance with the express provisions contained in this behalf in the Financing Agreements.

10.3. Withdrawals during Concession Period

10.3.1. The Concessionaire shall, at the time of opening the Escrow Account, give irrevocable instructions, by way of an Escrow Agreement, to the Escrow Bank instructing, inter alia, that deposits in the Escrow Account shall be appropriated in the following order every month, or

at shorter intervals as necessary, and if not due in a month then appropriated proportionately in such month and retained in the Escrow Account and paid out therefrom in the month when due:

- a. all taxes due and payable by the Concessionaire for and in respect of the School;
- b. all payments relating to construction of the School, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- c. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- d. O&M Expenses and other costs and expenses incurred by the Government in accordance with the provisions of this Agreement, and certified by the Government as due and payable to it;
- e. Concession Fee due and payable to the Government;
- f. monthly proportionate provision of Debt Service due In an Accounting Year;
- g. all payments and Damages certified by the Government as due and payable to it by the Concessionaire, including repayment of Revenue Shortfall Loan;
- h. monthly proportionate provision of debt service payments due 10 an Accounting Year in respect of Subordinated Debt;
- i. any reserve requirements set forth in the Financing Agreements; and
- j. balance, if any, in accordance with the instructions of the Concessionaire.

10.3.2. The Concessionaire shall not in any manner modify the order of payment specified in Clause 10.3.1, except with the prior written approval of the DoSE.

10.4. Withdrawals upon Termination

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

- a. all taxes due and payable by the Concessionaire for and in respect of the School;
- b. 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
- c. all payments and Damages certified by the Government as due and payable to it by the Concessionaire,
- d. retention and payments relating to the liability for defects and deficiencies set forth in this Agreement;
- e. outstanding Debt Service including the balance of Debt Due;
- f. outstanding Subordinated Debt;
- g. incurred or accrued O&M Expenses;

- h. any other payments required to be made under this Agreement; and
- i. balance, if any, in accordance with the instructions of the Concessionaire.

10.4.2. The provisions of this Article 10 and the instructions contained in the Escrow Agreement shall remain in full force and effect until the obligations set forth in Clause 10.4.1 have been discharged.

Suspension of Concessionaire's Right

ARTICLE 11

11.1. Suspension upon Concessionaire Default

Upon occurrence of a Concessionaire Default, the Government shall be entitled, without prejudice to its other rights and remedies under this Agreement including its rights of Termination hereunder, to (i) suspend all rights of the Concessionaire under this Agreement including the Concessionaire's right to collect School Fees, and other revenues pursuant hereto, and (ii) exercise such rights itself and perform the obligations hereunder or authorise any other person to exercise or perform the same on its behalf during such suspension (the "Suspension"). Suspension hereunder shall be effective forthwith upon issue of notice by the Government to the Concessionaire and may extend up to a period not exceeding 180 (one hundred and eighty) days from the date of issue of such notice; provided that upon written request from the Concessionaire and the Lenders' Representative, the Government shall extend the aforesaid period of 180 (one hundred and eighty) days by a further period not exceeding 90 (ninety) days.

11.2. DoSE to act on behalf of Concessionaire

11.2.1. During the period of Suspension, the Government shall, on behalf of the Concessionaire, collect all Fare and revenues under and in accordance with this Agreement and deposit the same in the Escrow Account. The DoSE shall be entitled to make withdrawals from the Escrow Account for meeting the costs incurred by it for remedying and rectifying the cause of Suspension, and thereafter for defraying the expenses specified in Clause 10.3.

11.2.2. During the period of Suspension hereunder, all rights and liabilities vested in the Concessionaire in accordance with the provisions of this Agreement shall continue to vest therein and all things done or actions taken, including expenditure incurred by the DoSE for discharging the obligations of the Concessionaire under and in

accordance with this Agreement and the Project Agreements, shall be deemed to have been done or taken for and on behalf of the Concessionaire and the Concessionaire undertakes to indemnify the DoSE for all costs incurred during such period. The Concessionaire hereby licences and sub-licences respectively, the DoSE or any other person authorised by it under Clause 11.1 to use during Suspension, all Intellectual Property belonging to or licensed to the Concessionaire with respect to the Project and its design, engineering, construction, operation and maintenance, and which is used or created by the Concessionaire in performing its obligations under the Agreement.

11.3. Revocation of Suspension

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

11.4. Substitution of Concessionaire

At any time during the period of Suspension, the Lenders' Representative, on behalf of Senior Lenders, shall be entitled to substitute the Concessionaire under and in accordance with the Substitution Agreement, and upon receipt of notice there under from the Lenders' Representative, the DoSE shall withhold Termination for a period not exceeding 180 (one hundred and eighty) days from the date of Suspension, and any extension thereof under Clause 11.1, for enabling the Lenders' Representative to exercise its rights of substitution on behalf of Senior Lenders.

11.5. Termination

- 11.5.1. At any time during the period of Suspension under this Article 11, the Concessionaire may by notice require the DoSE to revoke the Suspension and issue a Termination Notice. Subject to the rights of the Lenders' Representative to undertake substitution in accordance with the provisions of this Agreement and within the period specified in Clause 11.4, the DoSE shall, within 15 (fifteen) days of receipt of

such notice, terminate this Agreement under and in accordance with Article 37.

- 11.5.2. Notwithstanding anything to the contrary contained in this Agreement, in the event that Suspension is not revoked within 180 (one hundred and eighty) days from the date of Suspension hereunder or within the extended period, if any, set forth in Clause 11.1, the Concession Agreement shall, upon expiry of the aforesaid period, be deemed to have been terminated by mutual agreement of the Parties and all the provisions of this Agreement shall apply, mutatis mutandis, to such Termination as if a Termination Notice had been issued by the DoSE upon occurrence of a Concessionaire Default.

Payment of Grant

ARTICLE 12

- 12.1. Subject to the 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 covenants set forth in this Agreement, DoSE agrees and undertakes to pay to Concessionaire, the Grant quoted by the Concessionaire in the RFP Document. The payment of grant shall be subject to Key Performance Indicators mentioned in Schedule 6.

- 12.2. Amount of grant payable by DoSE to the Concessionaire per government student per annum is as under :

Year	Amount in figures as per Financial Bid	Amount in words as per Financial Bid
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		

18		
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21		
22		
23		
24		
25		
26		
27		
28		

12.3. The amount of grant per student per annum shall be increased by 10% every 2 years.

12.4. Payment by DoSE to Concessionaire shall be calculated as under :

12.5. Payment Reserve Account

The Payment by DoSE to Concessionaire shall be made through the Payment Reserve Account on monthly billing basis for better flow of funds. As Rajeev Gandhi Navodaya Vidyalayas are proposed to run through Uttarakhand Awasiys Vidyalaya Samiti, Payment Reserve Account will be formed and will be at the disposal of Chief Executive Officer, at present D.G. School Education. (As per GO 1095/XXIV-3/12/04 (02)(08) dated 18-09-2012 accounts of the society are operated through combined signature of Chief Executive Officer and Finance Officer)

Monthly Grant = (Number of Government Students studying in the School in the Academic Session x amount of grant per Government Student per month)

12.6. To calculate the amount of grant per Government Student per month, the amount quoted in Clause 12.2 per annum shall be divided by Twelve (12) to arrive at value of monthly Grant.

12.7. The Concessionaire shall within 7 days from the end of the month provide a Monthly Billing Statement to the DoSE. DoSE shall within 10 days from the date of receipt of Monthly Billing Statement verify the same and release payment to the Concessionaire.

12.8. In case of any discrepancies in the Monthly Billing Statement provided by the Concessionaire, the Concessioneing Authority shall, at its own cost, have the option to appoint a firm of chartered accountants duly licensed to practice in India (the “Auditor”) to conduct a special audit of the Monthly Billing Statements provided by the Concessionaire.

- 12.9. In the event that the Monthly Grant reported by the Concessionaire is higher than that reported by the Auditor, the auditors of both the Parties shall meet to resolve such differences.
- 12.10. Without prejudice to the aforesaid, if the difference between the Grant amount reported by the Auditor is higher than [5]% (five percent), the Concessioning Authority shall at its sole discretion have the right to require a Special Audit for the entire outstanding tenure of the Concession.
- 12.11. In case there are no discrepancies in the Monthly Billing Statement shall make adequate arrangement to make the payment to the concessionaire within prescribed time period.
- 12.12. In case of discrepancies as mentioned in clause 12.7, the authority shall make arrangements to pay 80% of the Monthly Billing Statement value within prescribed time period. The remaining 20% or the actual balance amount due shall be paid after resolving the discrepancies through process mentioned in 12.7, 12.8 & 12.9.
- 12.13. In case of resolution of discrepancies results in recovery of any sums from the concessionaire then the same shall be adjusted in the next monthly statement. If it is the last payment of the concession then the same shall be recovered from the Performance Guarantee.

12.14. Viability Gap Funding Payments

12.14.1. Procedure for disbursement of Grant

- a. The Government would provide Grant for an amount of Rs. *[please insert the amount of Grant sought by the Concessionaire in the Bid]*.
- b. Within two months from the Effective Date, the Concessionaire must make an application to the Government for disbursement of the Grant. Prior to making an application for disbursement of the Grant, the Concessionaire has to obtain an appraisal report from a financial institution or bank ("Lead Financial Institution") giving details of the project cost as estimated by the Concessionaire and the Grant sought by the Concessionaire. The appraisal report would be submitted by the Concessionaire to the Government of Uttarakhand for review and appraisal by the Government of Uttarakhand.

- c. Once the report has been approved by the Government, the DoSE on behalf of the Government of Uttarakhand, the Lead Financial Institution and the Concessionaire shall enter into a Tripartite Agreement for the purposes of Grant. The format of such Tripartite Agreement shall be prescribed by the Government of Uttarakhand.
- d. If the Concessionaire does not intend to take a loan in respect of the Project, the DoSE may require the Concessionaire to appoint the Lead Financial Institution solely for the purposes of disbursement of the Grant and monitoring the Project.
- e. The Grant will be in the form of a credit linked and back ended capital grant and would be released as per the procedure mentioned in Uttarakhand Infrastructure Viability Gap Funding Scheme 2008, by the DoSE through the Lead Financial Institution.
- f. The lead financial institution and the DoSE shall be jointly responsible for regular monitoring and periodic evaluation of the Project, compliance with agreed milestones and performance levels, particularly for the purpose of disbursement of instalments of the VGF Grant. The instalments of the Grant will be released after the DoSE and the lead financial institution (if any) jointly verify the required physical and financial progress of the Project particularly the fact that the Concessionaire has expended its share of the cost of the Project.
- g. In case of default in the implementation of the Project or misuse of funds, the released funds may be recovered with interest as arrears of land revenue under the Uttar Pradesh Public Moneys (Recovery of Dues) Act, 1972 as applicable in the State of Uttarakhand.

Levy and Collection of School Fees and Other Charges

ARTICLE 13

13.1. School Fees

- (a) Subject to the provisions of this Agreement and Applicable Law, 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 School Fees in accordance with the provisions of para (b) below.
- (b) The Concessionaire will raise separate bills towards tuition fees, non-refundable admission fees and fees collected towards the utilizations of sports, library, outdoor excursions and other allied activities from the Private Students. The Concessionaire shall deposit the School Fees raised from the private students in the Escrow Account.
- (c) Concessionaire shall, at its own cost, arrange the necessary infrastructure as may be required for levy and collection of School Fees mentioned above.

13.2. Advertisement / Hoarding Charges

The Concessionaire shall have the right to permit/ allow and charge for advertisement/ hoarding or other commercial activity in the Project Facility as per Applicable Laws, provided no such activity shall affect the safe and smooth flow of Project operations or cause any physical damage to the Project Facility.

13.3. Change of Scope

DOSE may, notwithstanding anything to the contrary contained in this Agreement, require provision of such addition/ deletion to the works and services in the Project Facility which are beyond the scope of the Project as contemplated by this Agreement (“Change of Scope”), provided such changes do not require expenditure exceeding Rs. 2,00,00,000/- (Rupees two crore only) and does not adversely affect the COD. All such changes shall be made by DOSE by an order (the “Change of Scope Order”) issued in accordance with the procedure set forth in this Clause.

13.3.1. Procedure for Change of Scope

- (a) DOSE shall whenever it desires provision of addition/ deletion of items of work and services referred to in Clause 13.3 above, issue to the Concessionaire a notice of change of scope (the “Change of Scope Notice”).

- (b) Upon receipt of such Change of Scope Notice, the Concessionaire shall within 15 days provide to DOSE and the Project Engineer such information as is necessary and reasonable together with preliminary documentation in support of the following :
 - i. the impact, if any, which the Change of Scope is likely to have on the SPCD if the work is required to be carried out before COD, and
 - ii. the cost to the Concessionaire of complying with such Change of Scope Notice (including, without limitation, material and labour cost information furnished in accordance with the current schedule of rates applicable to the works assigned by DOSE to its contractors, including the premium on such rates), the options suggested for implementing the proposed Change of Scope and the effect, if any, each such option would have on the costs and time for the implementation thereof including a detailed breakdown by work classifications.

Provided, however, that the cost of providing such information shall be reimbursed to the Concessionaire by DOSE to the extent such costs are certified to be reasonable by the Project Engineer.

13.3.2. If DOSE desires, after receipt of information set forth in sub-clause (b) to proceed with the Change of Scope, it shall convey the desired option (with or without modification) to the Concessionaire by issuing a Change of Scope Order within 30 days from the date of recommendation made by Project Engineer and thereupon the Parties shall make good faith efforts to mutually agree upon the costs and time for implementing of the same. Upon reaching an agreement relating to such costs and time, DOSE shall issue a written confirmation of the Change of Scope and thereupon the Concessionaire shall proceed with performance of such order. In the event, the Parties are unable to agree, DOSE may, by issuing a confirmation in writing of such Change of Scope Order, require the Concessionaire to proceed with the performance of the Change in Scope Order pending resolution of such dispute.

13.3.3. A Change of Scope Order will be effective and binding upon issuance of a confirmation of such Change of Scope Order by DOSE. Notwithstanding a dispute regarding cost and time for implementation of such Change of Scope Order, the Concessionaire

shall proceed with the performance of such Change of Scope Order promptly following DOSE's confirmation pursuant to Clause 13.3.1(c). Pending resolution of such dispute, DOSE shall pay to the Concessionaire, if the Change of Scope Order involves increase in bill of quantities an amount equal to the costs that are certified by the Project Engineer.

- 13.3.4. All claims by the Concessionaire pursuant to this Clause 13.3 shall be supported by such documentation as is reasonably sufficient for DOSE/ Project Engineer to determine the accuracy thereof, including invoices from Contractors and certification of such claims by the Statutory Auditors.

Force Majeure and Change In Law

ARTICLE 14

14.1. Force Majeure Event

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 prevents the Affected Party from performing or discharging its obligations under this Agreement, 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 appointed by the Concessionaire for purposes of the Project;
- (d) acts of terrorism;
- (e) strikes, labour disruptions or any other industrial disturbances not arising on account of the acts or omissions of the Concessionaire or the Contractor;
- (f) action of a Government Agency having Material Adverse Effect including but not limited to
 - (i) acts of expropriation, compulsory acquisition or takeover by any Government Agency of the Project Facility or any part thereof or of the Concessionaire's or the Contractor's rights in Contractor's rights under any of the Project Agreements.
 - (ii) any judgment or order of a court of competent jurisdiction or statutory authority in India made against the Concessionaire or

- the Contractor in any proceedings which is non-collusive and duly prosecuted by the Concessionaire, and
- (iii) any unlawful, unauthorised or without jurisdiction refusal to issue or to renew or the revocation of any Applicable Permits, in each case, for reasons other than Concessionaire's or the Contractor's breach or failure in complying with the Project Requirements, Applicable Laws, Applicable Permits, any judgment or order of a Governmental Agency or of any contract by which the Concessionaire or the Contractor as the case may be is bound.
- (g) early determination of this Agreement by DOSE for reasons of national emergency, national security or the national interest.
- (h) any failure or delay of a Contractor caused by any of the events mentioned in (f) and (g) above, for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.
- (i) war, hostilities (whether declared or not), invasion, act of foreign enemy, rebellion, riots, weapon conflict or military actions, civil war, ionising radiation, contamination by radioactivity from nuclear fuel, any nuclear waste, radioactive toxic explosion, volcanic eruptions, any failure or delay of a Contractor caused by the events mentioned in this sub-clause for which no offsetting compensation is payable to the Concessionaire by or on behalf of the Contractor.

14.2. Obligations of the Parties

- (a) As soon as practicable and in any case within seven (7) days of the date of occurrence of a Force Majeure Event or the date of knowledge thereof, the Affected Party shall notify the Project 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 duration of the Force Majeure Event;
 - (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;
 - (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; and

- (v) any other relevant information concerning the Force Majeure Event, and /or the rights and obligations of the Parties under this Agreement.
- (b) As soon as practicable and in any case within five (5) days of notification by the Affected Party in accordance with the preceding Clause 14.2 (a), the Parties along with the Project Engineer, shall meet and hold discussions in good faith and where necessary conduct physical inspection/survey of the Project Facility in order to:
 - (i) assess the impact of the underlying Force Majeure Event,
 - (ii) to determine the likely duration of Force Majeure Event and,
 - (iii) to formulate damage mitigation measures and steps to be undertaken by the Parties for resumption of obligations, the performance of which shall have been affected by the underlying Force Majeure Event.
- (c) The Affected Party shall during the duration of Force Majeure event provide to the other Party with regular (not less than fortnightly) reports concerning the matters set out in the preceding clause (b) as also any information, details or document, which the Parties may reasonably require.

14.3. 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 14.2;
- (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 Facility as a result of the Force Majeure Event and to restore the Project Facility, in accordance with the Good Industry Practice and its relative obligations under this Agreement;
- (d) when the Affected Party is able to resume performance of its obligations under this Agreement, it shall give to the other Party and the Project Engineer written notice to that effect and shall promptly resume performance of its obligations hereunder, the non issue of such notice being no excuse for any delay for resuming such performance;

- (e) 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;
- (f) any insurance proceeds received shall, subject to the provisions of Financing Documents, be entirely applied to repair, replace or re-instate the assets damaged on account of the Force Majeure Event, or in accordance with Good Industry Practice.

14.4. Termination due to Force Majeure Event

(a) Termination

- (i) If a Force Majeure Event, is an event described under Clauses 8.1(a) to 8.1(e) and 8.1(i), continues or is in the reasonable judgement of the Parties likely to continue beyond a period of 120 days, the Parties may mutually decide to terminate this Agreement or continue this Agreement on mutually agreed revised terms. If the Parties are unable to reach an agreement in this regard, the Affected Party shall after the expiry of the said period of 120 days, be entitled to terminate this Agreement.
- (ii) If the Force Majeure Event is an event described in 8.1 (f), 8.1 (g) or 8.1 (h) and the Concessionaire having exhausted the remedies available to him under the Applicable Laws, has been unable to secure the remedy, the Concessionaire shall be entitled to terminate this Agreement.

Provided that the Parties may by mutual agreement, decide to continue this Agreement on revised terms or to terminate this Agreement, if the event described in 8.1 (f), 8.1 (g) or 8.1 (h) subsists or is likely to subsist for a period exceeding 180 days, then either Party shall be entitled to terminate this Agreement.

Provided further, DOSE may at its sole discretion have the option to terminate this Agreement any time after the occurrence of any event described under Clauses 14.1(f), 14.1(g) or 14.1(h).

(b) Termination Notice

If either Party, having become entitled to do so, decides to terminate this Agreement pursuant to the preceding clause 14.4(a) (i) or (a) (ii), it shall issue Termination Notice setting out ;

- (i) in sufficient detail the underlying Force Majeure Event;
- (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.

(c) Obligation of Parties

Following issue of Termination Notice by either Party, the Parties shall promptly take all such steps as may be necessary or required to ensure that;

- (i) the Termination Payment, if any, payable by DOSE in accordance with the following clause is paid to the Concessionaire on the Termination Date and
- (ii) the Project Facility are handed back to DOSE by the Concessionaire on the Termination Date free from all Encumbrance.

(d) Termination Payment

Upon Termination of this Agreement due to a Force Majeure Event, Termination Payment shall be made to the Concessionaire by DOSE in accordance with the following:

- (i) If Termination is due to a Force Majeure Event, described under Clauses 14.1(a) to 14.1(e), no Termination Payment shall be made by DOSE to the Concessionaire but, the Concessionaire shall be entitled to receive and appropriate the proceeds of any amounts under insurance policies.
- (ii) If Termination is due to the occurrence of any event described under Clauses 14.1(f) or 14.1(g) or 14.1(h), DOSE shall pay to the Concessionaire Termination Payment equal to 100% of the Book Value of the assets constructed by the concessionaire.

Provided DOSE shall be entitled to deduct from the Termination Payment any amount due and recoverable by DOSE from the Concessionaire as on the Termination Date.

- (iii) If Termination is due to the occurrence of any event described under Clause 14.1(i), DOSE shall, pay to the Concessionaire, Termination payment equal to 70% of the Book Value assets constructed by the concessionaire.

Provided DOSE shall be entitled to deduct from the Termination Payment any amount due and recoverable by DOSE from the Concessionaire as on the Termination Date.

14.5. Liability for other losses, damages etc.

Save and except as expressly provided in this Article, 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.

14.6. Effects of Force Majeure Event on the Concession

14.6.1. Upon the occurrence of any Force Majeure Event prior to the Appointed Date, the period set forth in the Clause 9.1.1 for achieving the Financial Close shall be extended by a period equal in length to the duration of the Force Majeure Event.

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

- a. Before COD, the Concession Period and the dates set forth in the Project Completion Schedule shall be extended by a period equal in length to the duration of the Force Majeure Event subsists; or
- b. After COD, whereupon the Concessionaire is unable to collect School Fees despite making best efforts or it is directed by the DoSE to suspend the collection thereof during the subsistence of such Force Majeure Event, the Concession Period shall be extended by a period, equal in length to the period during which the Concessionaire was prevented from collection of School Fees on account thereof.

14.7. 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;
 - (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 new law or any change in the existing law under the active consideration of or in the contemplation of any government as of the Appointed Date which is a matter of public knowledge,
 - (iii) any change in the rates of the Central 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, DOSE shall not reimburse any such cost.
- (c) Upon occurrence of a Change in Law, the Concessionaire may, notify DOSE 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

Events of Default and Termination

ARTICLE 15

15.1. Events of Default

Event of Default shall mean either Concessionaire Event of Default or DOSE 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 Clause 5.24:

- (i) The Concessionaire has failed to adhere to the Construction Requirements and such failure, in the reasonable estimation of

- the Project Engineer, is likely to delay achievement of COD beyond 90 days of the SPCD;
- (ii) The Concessionaire has failed to achieve COD within 90 days of the SPCD for any reason whatsoever;
 - (iii) At any time during the Concession Period, the Concessionaire fails to adhere to the Construction Requirements or O&M Requirements and has failed to remedy the same within 60 days;
 - (iv) The Concessionaire has failed to make any payments due to DOSE and more than 120 days have elapsed since such payment became due;
 - (v) The Concessionaire is in Material Breach of any of its obligations under this Agreement and the same has not been remedied for more than 60 days ;
 - (vi) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false or misleading;
 - (vii) A resolution has been passed by the shareholders of the Concessionaire for voluntary winding up/ dissolution of the Concessionaire;
 - (viii) 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 DOSE, provided that, as part of such amalgamation or reconstruction and the amalgamated or reconstructed entity has unconditionally assumed all surviving obligations of the Concessionaire under this Agreement;
 - (ix) A default has occurred under any of the Financing Documents and any of the Lenders has recalled its financial assistance and demanded payment of the amounts outstanding under the Financing Documents or any of them as applicable;
 - (x) The Concessionaire has abandoned the Project Facility ;
 - (xi) The Concessionaire has repudiated this Agreement or has otherwise expressed an intention not to be bound by this Agreement;
 - (xii) The Concessionaire has suffered an attachment levied on any of its assets which has caused or is likely to cause a Material Adverse Affect on the Project and such attachment has continued for a period exceeding 90 days

- (xiii) The Concessionaire has failed to perform/ discharge its obligations under Clause 5.24 of this Agreement for a continuous period of 24 hours.
 - (xiv) The Consortium formed for the purpose of the Project is changed by the Concessionaire without the consent of DOSE.
- (b) **DOSE Event of Default**

Any of the following events shall constitute an event of default by DOSE ("DOSE Event of Default"), when not caused by a Concessionaire Event of Default or a Force Majeure Event:

- (i) DOSE is in Material Breach of any of its obligations under this Agreement and has failed to cure such breach within 60 days of receipt of notice thereof issued by the Concessionaire;
- (ii) DOSE having executed the same is in breach of any of its obligations thereunder and such breach has not been cured within 30 days from the date of written notice thereof given by the Concessionaire
- (iii) DOSE has repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- (iv) DOSE has unreasonably withheld or delayed grant of any approval or permission which the Concessionaire is obliged to seek under this Agreement, and thereby caused or likely to cause Material Adverse Effect;
- (v) DoSE has unreasonably withheld or delayed payment of any grant which the Concessionaire is entitled to receive under this Agreement, and thereby caused or likely to cause Material Adverse effect.
- (vi) Any governmental action not arising out of a breach, default or lapse on the part of the Concessionaire, whereby the Concession/ this Agreement becomes inoperable or takeover by any government agency of the Project/ Project Facilities or any part thereof, thereby causing Material Adverse Effect.
- (vii) Any representation made or warranties given by the DOSE under this Agreement has been found to be false or misleading.
- (viii) DoSE has failed to execute the Substitution Agreement in accordance with the provisions of this Agreement or having executed the same is in breach of any of its obligations thereunder and such breach has not been cured within 30 days from the date of written notice thereof given by the Concessionaire

15.2. Termination due to Event of Default

(a) Termination for Concessionaire Event of Default

- (i) Without prejudice to any other right or remedy which DOSE may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, DOSE shall subject to the provisions of the Lenders' Step-in Rights as per Clause 15.5, be entitled to terminate this Agreement in the manner as set out under Clause 15.2(a)(ii) and Clause 15.2(a)(iii).

Provided however that upon the occurrence of a Concessionaire Event of Default as specified under Clause 15.2(a)(xiv), DOSE may immediately terminate this Agreement by issue of Termination Notice in the manner set out under Clause 15.2(c).

- (ii) If DOSE decides to terminate this Agreement pursuant to preceding clause (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 DOSE 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 said period of 30 days, DOSE 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 ("Cure Period") to remedy/ cure the underlying Event of Default. If, however the Concessionaire fails to remedy/ cure the underlying Event of Default within such further period allowed, DOSE shall be entitled to terminate this Agreement, by issue of Termination Notice and to appropriate Performance Security, if subsisting.

(b) Termination for DOSE 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 DOSE Event of Default, the Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.

- (ii) If the Concessionaire decides to terminate this Agreement pursuant to preceding clause (i) it shall in the first instance issue Preliminary Notice to DOSE. Within 30 days of receipt of Preliminary Notice, DOSE shall forward to the Concessionaire its proposal to remedy/ cure the underlying Event of Default (the "DOSE Proposal to Rectify"). In case of non submission of DOSE Proposal to Rectify within the period stipulated therefor, Concessionaire shall be entitled to terminate this Agreement by issuing Termination Notice.
- (iii) If DOSE Proposal to Rectify is forwarded to the Concessionaire within the period stipulated therefor, DOSE shall have further period of 30 days to remedy/ cure the underlying Event of Default. If, however DOSE 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 sub clause (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 30 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 either Party, 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 continued operation of the Project Facility,
- (ii) the termination payment, if any, payable by DOSE in accordance with the following Clause (f) is paid to the Concessionaire on the Termination Date and
- (iii) the Project Facility is handed back to DOSE by the Concessionaire on the Termination Date free from any

Encumbrance along with any payment that may be due by the Concessionaire to DOSE.

(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 shall 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.

(f) Termination Payments on account of Concessionaire Event of Default

Upon Termination on account of a Concessionaire Default during the Operation Period, the Authority shall pay to the Concessionaire, by way of Termination Payment, an amount lesser of :

- (i) 50 % (fifty per cent) of the Depreciated Historic Cost (DHC), as determined by an Expert being a reputed valuer, of (a) tangible assets forming part of, fixed or attached to the ground created, installed or provided by the Concessionaire and comprised in the Project, which in the reasonable judgment of the said Expert are capable of being put to use/utilised by the Authority and (b) the movable assets which the Authority agrees to take over, less any amount due to the Authority from the Concessionaire under the provisions of this Agreement;
- (ii) the Debt Due subject to the maximum amount equivalent to the Total Project Cost as per the Financing Agreements.

For the avoidance of doubt, the Concessionaire hereby acknowledges that no Termination Payment shall be due or payable on account of a Concessionaire Default occurring prior to COD.

(g) Termination Payments on account of DoSE Event of Default

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

- (a) Debt Due; and
- (b) The fair market value of the aggregate Equity as determined by an Expert, being a reputed valuer less any amount, if any, due to the Authority from the Concessionaire under the provisions of this Agreement.

Upon Termination of this Agreement on account of DOSE Event of Default, the Concessionaire shall be entitled to revoke the Performance Security, if subsisting.

(h) Obligations of the Concessionaire

Upon Termination, the Concessionaire shall comply with and confirm to the following requirements :

- i. Notify to the DoSE forthwith the location and particulars of all Project Assets;
- ii. Deliver forthwith the actual or constructive possession of the Project, free and clear of all encumbrances, save and except to the extent set forth in the Substitution Agreement;
- iii. Cure all Project Assets of all defects and deficiencies so that the Project is compliant with the Maintenance Requirements; provided that in the event of Termination during the Construction Period, all Project Assets shall be handed over on 'as is where is' basis after bringing them to a safe condition;
- iv. Deliver and transfer relevant records, reports, intellectual property and other licenses pertaining to the Project and its design, engineering, construction, operation and maintenance, including all programmes and manuals pertaining thereto, and complete 'as built' Drawings on the Transfer Date
- v. transfer and/or deliver all Applicable Permits to the extent permissible under Applicable Laws;
- vi. execute such deeds of conveyance, documents and other writings as the DoSE may reasonably require for conveying, divesting and assigning all the rights, titles and interest of the Concessionaire in the Project including manufactures warranties in respect of any Project Assets and the right to receive outstanding insurance claims, to the extent due and payable to the DoSE, absolutely unto the DoSE or its nominee and
- vii. comply with all other requirements as may be prescribed or required under Applicable Laws for completing the divestment and assignment of all rights, title, and interest of the

Concessionaire in the Project, free from all Encumbrances, absolutely unto the Government or to its nominee.

15.3. Rights of DOSE on Termination

- (a) Upon Termination of this Agreement for any reason whatsoever, DOSE shall upon making the Termination Payment, if any, to the Concessionaire have the power and authority to:
 - (i) enter upon and take possession and control of the Project Site / Project Facility forthwith;
 - (ii) prohibit the Concessionaire and any person claiming through or under the Concessionaire from entering upon/ dealing with the Project Site /Project Facility;
- (b) Notwithstanding anything contained in this Agreement, DOSE 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 Facility by the Concessionaire to DOSE shall be free from any such obligation.

15.4. Accrued 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 the Termination Payment, shall survive the Termination but only to the extent such survival is necessary for giving effect to such rights and obligations.

15.5. Lenders' Step-in Rights

- (a) Notwithstanding anything to the contrary contained in this Agreement, the Parties hereby agree that :
 - i. upon the Lenders recalling and demanding the debt outstanding under the Financing Documents (following an event of default under the Financing Documents), or
 - ii. upon a Termination Notice being issued by DOSE,

the Lenders shall, without prejudice to any other remedy available to them, have the option to propose to DOSE the substitution of the Concessionaire by another suitable company ("Proposed Concessionaire"). Any such proposal shall contain in sufficient detail all the relevant information about the Proposed Concessionaire and the terms and conditions of the substitution.

- (b) Upon receipt of the Lenders' proposal pursuant to the preceding sub-clause (a), DOSE shall, at its discretion, have the right to accept substitution of the Concessionaire on such terms and conditions as it may deem fit.

Provided that any such substitution shall :

- (i) be on terms and conditions of the Concession which are not less favourable to DOSE than those prevailing at the time of substitution, and
 - (ii) be for the remaining period of Concession only.
- (c) In the event of substitution as aforesaid, all the rights, privileges and the benefits of the Concessionaire shall be deemed to have been transferred to and vested in the Proposed Concessionaire and DOSE and the Proposed Concessionaire shall take such steps and enter into such documents as may be necessary to give effect to the substitution.
- (d) Upon the substitution of the Concessionaire becoming effective as aforesaid, the Concessionaire shall hand back to DOSE or upon instruction of DOSE to the Proposed Concessionaire and for the purpose of giving effect to this provision, DOSE shall have all such rights as are provided in Clause 15.3.

15.6. Cooperation and assistance on transfer of Project

- 15.6.1. The Parties shall cooperate on a best effort basis and take all necessary measures, in good faith, to achieve a smooth transfer of the Project in accordance with the provisions of this Agreement so as to protect the safety of and avoid undue delay or inconvenience to the Users, other members of the public or the lawful occupiers of any part of the Site.
- 15.6.2. The Parties shall provide to each other, six months prior to the Transfer Date in the event of Termination by efflux of time and immediately in the event of either Party conveying to the other Party its intent to issue a Termination Notice, as the case may be, as much information and advice as is reasonably practicable regarding the

proposed arrangements for operation of the Project following the Transfer Date. The Concessionaire shall further provide such reasonable advice and assistance as the DoSE, its concessionaire or agent may reasonably require for operation of the Project until the expiry of six months after the Transfer Date.

Handback Requirements

ARTICLE 16

16.1. Ownership

Without prejudice and subject to the Concession, the ownership of the Project Site, and the Project Facility, including all improvements made therein by the Concessionaire, shall at all times remain that of DOSE.

16.2. 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 Project Facility to DOSE free of cost and in good operable condition.
- ii. At least 12 months before the expected expiry of the Concession Period a joint inspection of the Project Facility shall be undertaken by DOSE, Concessionaire and Project Engineer. DOSE and Project Engineer shall, within 45 days of such inspection prepare and furnish to the Concessionaire a list of works/ jobs ("Project 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 3 months prior to the expected expiry of the Concession Period and ensure that the Project Facility continues to meet such requirements until the same are handed back to DOSE.
- iii. DOSE/ Project Engineer shall, within 15 days of the joint inspection undertaken under preceding clause (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 DOSE along with the Project Facility.
- iv. The Concessionaire hereby acknowledges DOSE's rights specified in Clause 15.3 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 24 months prior to the expiry of the Concession Period, the Concessionaire shall, for due performance of its obligations relating to handback of the Project Facility, submit to DOSE a bank guarantee, in the form as set forth in Schedule 9 ("Handback Guarantee"), from a bank acceptable to DOSE. The Handback Guarantee shall be kept valid for a period of 30 months.
- vi. DoSE and the Project Engineer shall at least 24 months before the Expiry Date determine the amount of Handback Guarantee based on the existing conditions of the Project Assets, useful life of the Project Assets and Project Facility Handback Requirements. In case of any disagreement between the amount determined by the Project Engineer and DoSE, the value determined by DoSE shall be final and binding on the Concessionaire.

16.3. DOSE's Obligations

DOSE shall, subject to DOSE's right to deduct amounts towards:

- (i) carrying out works/jobs listed under Clause 16.2(a)(ii), which have not been carried out by the Concessionaire,
- (ii) purchase of items, which have not been handed back to DOSE along with the Project Facility in terms of Clause 16.2(a)(iii), and
- (iii) any outstanding dues, which may have accrued in respect of the Project Facility during the Concession Period

duly discharge and release to the Concessionaire the Hand back Guarantee within 3 months from the expiry of the Concession Period.

Dispute Resolution

ARTICLE 17

17.1. Amicable Resolution

- (a) Save where expressly stated to the contrary in this Agreement, any dispute, difference or controversy of whatever nature between the Parties, howsoever arising under, out of or in relation to this Agreement (the "Dispute") shall in the first instance be attempted to be resolved amicably in accordance with the procedure set forth in sub-clause (b) below.
- (b) Either Party may require such Dispute to be referred to the Director, DOSE and the Chief Executive Officer of the

Concessionaire for the time being, for amicable settlement. Upon such reference, the two shall meet at the earliest mutual convenience and in any event within 15 days of such reference to discuss and attempt to amicably resolve the Dispute. If the Dispute is not amicably settled within 15 days of such meeting between the two, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause 17.2 below.

17.2. Arbitration

(a) Procedure

Subject to the provisions of Clause 17.1, any dispute, which is not resolved amicably, shall be finally settled by binding arbitration under the Arbitration Act. The arbitration shall be by a panel of three arbitrators, one to be appointed by each Party and the third to be appointed by the two arbitrators appointed by the Parties. The Party requiring arbitration shall appoint an arbitrator in writing, inform the other Party about such appointment and call upon the other Party to appoint its arbitrator. If within 30 days of receipt of such intimation the other Party fails to appoint its arbitrator, the Party seeking appointment of arbitrator may take further steps in accordance with Arbitration Act.

(b) Place of Arbitration

The place of arbitration shall ordinarily be Dehradun but by agreement of the Parties, the arbitration hearings, if required, may be held elsewhere.

(c) English Language

The request for arbitration, the answer to the request, the terms of reference, any written submissions, any orders and awards shall be in English and, if oral hearings take place, English shall be the language to be used in the hearings.

(d) Enforcement of Award

The Parties agree that the decision or award resulting from arbitration shall be final and binding upon the Parties and shall be enforceable in accordance with the provisions of the Arbitration Act

subject to the rights of the aggrieved parties to secure relief from any higher forum.

(e) Performance during Arbitration

Pending the submission of and/or decision on a dispute and until the arbitral award is published, the Parties shall continue to perform their respective obligations under this Agreement, without prejudice to a final adjustment in accordance with such award.

Representations and Warranties, Disclaimer

ARTICLE 18

18.1. Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to DOSE that :

- (a) it is duly organized, 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 DOSE 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 Facility shall pass to and vest in DOSE on the Termination Date free and clear of all Encumbrances without any further act or deed on the part of the Concessionaire or DOSE;
- (k) no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to DOSE 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 DOSE, 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 DOSE shall not be liable for the same in any manner whatsoever to the Concessionaire.

18.2. Representations and Warranties of DOSE

DOSE represents and warrants to the Concessionaire that:

- (a) DOSE has full power and authority to grant the Concession;
- (b) DOSE has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- (c) This Agreement constitutes DOSE'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 in respect of the Project, Project Site or Project Facility.

18.3. 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.

Miscellaneous

ARTICLE 19

19.1. 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 DOSE.
- (b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Site/ Project Facility, except with prior consent in writing of DOSE, which consent DOSE shall be entitled to decline without assigning any reason whatsoever.
- (c) Restraint set forth in sub-articles (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;
 - (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.

19.2. 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 Clause shall neither be deemed or 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.

19.3. Governing Law and Jurisdiction

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

19.4. 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:
 - (i) 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;
 - (ii) shall not be effective unless it is in writing and executed by a duly authorized representative of such Party; and
 - (iii) 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.

19.5. Survival

Termination of this Agreement:

- (a) shall not relieve the Concessionaire or DOSE 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.

19.6. 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.

19.7. 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, recognized international courier, mail, telex or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below :

If to DOSE:

The Director
Department of School Education
Government of Uttarakhand
Nanoorkhera, Tapovan Road
Dehradun - 248 001

Fax No : 0135 2781903

If to the Concessionaire:

The Managing Director,

-----(*insert complete address with phone and fax details*)

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.

19.8. 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.

19.9. 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.

19.10. 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.

19.11. 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.

19.12. Counterparts

This Agreement may 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 DOSE by:

(Signature)

(Name)

(Designation)

In the presence of :

1)

For and on behalf of CONCESSIONAIRE by:

(Signature)

2)

1. PROJECT SITE

SCHEDULE 1

1. Details of Project Site Area

Distict	Location	Area in Hectare
Rudraprayag	Sumani, Bhardar	2.07
Bageshwar	Amsarkot	2.60
Udham Singh Nagar	Tumadiya Revins Jaspur	4.93

Bidder may collect more details on land from the Department of School Education separately.

2. PROJECT FACILITY

SCHEDULE 2

1. **“Project Facility”** shall mean collectively the School Building and Administrative Block which are required to be constructed, built, installed, erected or provided by the Concessionaire on the Project Site in accordance with the Construction Requirements.

2. School Building shall consist of following facilities :

- a. Class rooms for class VI to XII
- b. Laboratory
- c. Teachers' Room
- d. Activity Room
- e. Medical Room
- f. Principal Room
- g. Vice Principal Room
- h. Activity Room
- i. Medical Room
- j. Library
- k. Auditorium
- l. Canteen
- m. Play ground
- n. Sports field
- o. Indoor Sports Facilities

3. School Building shall consist of following facilities :

- a. Board Room
- b. Office space for administrative staff

3. CONSTRUCTION REQUIREMENTS

SCHEDULE 3

A. Construction Requirements for Project Facility

The construction norms for building shall be as per Building requirements for a full fledged Navodaya Vidyalaya issued by Navodaya Vidyalaya Samiti. A copy of existing norms is attached as Appendix 1.

1.0 General

2.0 General Construction Norms of Jahawar Novadya Vidhalaya

S No	Description	Min Plinth Area (Sq M)
1	School Building (two storey)	1,966
2	Dormitories (Boys 384 beds) Two Storeys	2,766
3	Dormitories (Girls 192 beds) Two Storeys	1,383
4	Kitchen & Dining - Single Storey	757
5	Principal's Residence - Single Storey	106
6	Type III Quarters - Two Storeys 16 Nos	60 (each)
7	Warden's Residence - Two Storeys 12 Nos	60 (each)
8	Type II Quarters - Two Storeys 06 Nos	50 (each)
9	Type I Quarters - Two Storeys 06 Nos	40 (each)
10	Guest House - Single Storey 01 Nos	60 (each)

- i. The above areas are indicative norms of Jahawar Novadya Vidhalaya. The actual areas shall be as per the number of students planned in the Project.
- ii. However the minimum norms of area **shall not be less** than the area indicated above.

3.0 Site Development related specifications:

- iii. The Selected Private Partner should provide site infrastructure including landscaping, internal road network, parking areas, air conditioning, water supply, rain water harvesting, sewage treatment, solid waste management, security and other facilities within the site.
- iv. The internal paving to be a combination of black top/concrete road, concrete paving blocks, interlocking paving blocks, landscaped garden and green areas

3.1 Civil and Structural Requirements:

- i. The buildings shall be designed in accordance with the latest Indian Standard Codes and shall be designed to resist wind and seismic forces.
- ii. RCC structures shall be designed as per IS 456: 2000
- iii. Steel structures shall be designed in accordance with the provisions of IS 800 - 1984. Structural steel shall conform to IS 2062. Tubular sections would conform to IS- 4923. Structural joints shall conform to IS 4000:1992.
- iv. Concessionaire is advised to carry out its own tests and investigations related to soil condition, strata, bearing capacity and other characteristics.

3.2 Footpaths

The footpaths of at least 2.0m width at the edge of the Project Site. The foot path shall be formed by 0.2m thick earth filling, and above this 50 mm thick paver blocks shall be laid.

3.3 Parking

- i. The Concessionaire shall make provision of Car parking (in covered/ open/basement), (Conventional /Mechanical) shall be made, as per Local Bye-Laws.
- ii. All parking spaces shall be paved to withstand vehicle loads and forces due to frequent acceleration and deceleration of vehicles. Parking bays/lots shall have proper cross slope and drainage. They shall be marked with paint as per Indian Standards to demarcate parking and circulation space.

3.4 Public Conveniences

- i. The Concessionaire shall provide separate public conveniences ("Public Convenience Facilities"/ "PCF") for men and women at suitable locations in the Project Facility.
- ii. The location of the PCF blocks should be such that it should be easily accessible for users of the Project Facility.
- iii. Additional toilets shall be provided in the commercial built up area as per NBC Norms and Applicable Laws.
- iv. The Concessionaire shall ensure that at least one toilet is functional within the Project Site at all times during the Construction Period.

3.5 Signage

- i. The Concessionaire shall provide illuminated signages so as to facilitate necessary information to the visitors regarding Project Facility, amenities and their location.
- ii. The scheme for signages shall be finalised in consultation with the Project Engineer/ DOSE.

3.6 Generator Back-up

The Concessionaire shall provide power back-up adequate for at least 80% of the designed power load of the Project Facility. 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 installed in a separate sound-proof enclosure.

3.7 Drainage

- i. The roof & rainwater shall be collected through main rainwater collection points and gratings and collected in soak pits to allow rain water harvesting. Surplus rainwater overflowing from the recharge soap pits would need to be disposed off the road drain.
- ii. The Concessionaire shall design and implement a storm water drainage system 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 Applicable Permits.

3.8 Worker Amenities

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

3.9 Fire Fighting System

The Concessionaire shall design and implement a comprehensive fire fighting system in accordance with CPWD and NBC norm.

3.10 Safety Barriers

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

- ii. The design and scheme for such safety barriers shall be finalised in consultation with the Project Engineer.

3.11 Boundary Wall/Fencing

The Concessionaire shall provide a boundary wall/fencing having a height of at least 5 feet so as to isolate, to the extent possible, the Project Site from the road/s.

3.12 Air Conditioning and Mechanical Ventilation

- i. Project Facility shall be provided with adequate mechanical/ natural ventilation as per applicable norms.
- ii. Air-conditioning system shall be designed to meet the requirements of the NBC,BIS as well as local authorities.

3.13 The Concessionaire would be at liberty to design the Project Facility, subject to review by the Project Engineer/ DOSE and compliance with Applicable Law. The Project Engineer/ DOSE shall review the designs/ drawings pertaining to the Project Facility to check for structural stability and conformance to the conditions specified in this Schedule.

3.14 At least two weeks prior to commencement of design work, the Concessionaire shall finalise a quality assurance plan for the design work ("Quality Assurance Plan").

4.0 Procedure

4.1 Before Commencement of Construction

4.1.1 Prior to commencement of any construction activity, the Concessionaire shall finalise an implementation plan for the Project ("Construction Plan") in consultation with the Project 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) 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;
- (iii) 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
- (iv) A broad method statement for key items setting out the methodology of construction, materials and construction equipment mobilization/ utilization plans, broad output calculations and details of the quality assurance and quality control procedures.
- (v) 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).

4.1.2 Prior to commencement of any construction activity, the Concessionaire shall also finalize in consultation with the DOSE/ Project Engineer an operations and maintenance plan for the Project during the Construction Period (“O&M Plan - Construction Period”) and which shall, inter alia, include the following :

- (i) Traffic Management Plan;
- (ii) Safety management programme including an Emergency Response Protocol; and
- (iii) Environmental Management Plan

4.2 The Concessionaire shall, in consultation with the Project Engineer workout an appropriate schedule for submission of documents set out in 5.1 above to the Project Engineer for review.

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

- (i) Obtained all such Applicable Permits as are necessary to commence construction of such Project Facilities;
- (ii) Finalized Construction Drawings as are necessary and the Construction Schedule in consultation with the Project Engineer;
- (iii) Mobilized the requisite resources, personnel and organization 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 Project Engineer and the Government Agency;

- (iv) Finalized in consultation with the Project 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) Finalized in consultation with the Project Engineer quality assurance and quality control procedures to cover all aspects of the work so as to ensure the desired quality.

4.4 During Construction

4.4.1 The Concessionaire shall:

- (i) Strictly follow the guidelines on quality as set out in BIS/NBC/IRC/MORTH specifications.
- (ii) Ensure that the construction/rehabilitation of the Project Facilities is undertaken with minimal inconvenience to the traffic using the roads surrounding the Project Site.
- (iii) Take the necessary precautions to minimise accidents and respond to Emergency as quickly as possible;
- (iv) Take precautions to avoid inconvenience to, damage to, destruction of or disturbance to any third party rights and properties;
- (v) Provide a safe, clear and informative system of road signs in connection with the Project, wherever required;
- (vi) 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 Project Engineer;
- (vii) Be in compliance with the Applicable Laws and Applicable Permits obtained for the Project including the clearances obtained by the Government Agency;
- (viii) Adhere to the Construction Plan and O&M Plan-Construction Period;
- (ix) Deploy adequate number of qualified and competent personnel having relevant experience and skills for implementation of the

Project and interaction with the Project Engineer/ the Government Agency.

4.4.2 Positions and Levels

- (i) The Concessionaire shall be responsible for :
 - (a) the accurate setting-out in relation to original survey control points, lines and levels of reference provided by DOSE;
 - (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.
- (ii) If, at any time during execution of the works, any error is noticed in the position, levels, dimensions or alignment of any part of the Construction Works, with respect to those provided by DOSE, the Concessionaire, on being asked to do so by the Project Engineer/DOSE, shall at his own cost, rectify such errors to the satisfaction of the Project Engineer.
- (iii) The checking of any setting-out or of any line or level by the Project Engineer shall not in any way relieve the Concessionaire of his responsibility for the accuracy thereof and the Concessionaire shall carefully protect and preserve all benchmarks, sight rails, pegs and other materials used in setting-out the works.

4.4.3 Tests

- (i) Various quality control tests would be undertaken for the Project as per the standards prescribed by Bureau of Indian Standards and MORT&H. 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 Project Engineer prior to construction;
- (ii) Where material properties vary from or comply only marginally with the specifications contained in the Construction Requirements, the Project Engineer shall increase the frequency of testing as appropriate at the cost of the Concessionaire.
- (iii) The tests would be carried out at a location (place of manufacture, fabrication or preparation, at site or any specialised testing laboratory) that the Project Engineer may

reasonably require, at the cost and expense of the Concessionaire.

- (iv) The Concessionaire shall provide such assistance, labour, electricity, fuels, stores, apparatus and instruments as are normally required for examining, measuring and testing any materials or plant and shall supply samples of materials, as required by the Project Engineer to undertake Tests.

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

4.4.5 The Project 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 Project 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.

4.4.6 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 Project Engineer.

4.4.7 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to the Project Engineer/DOSE the following, duly finalised in consultation with the Project 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.

- (ii) the Operations & Maintenance Plan (O&M Plan) for the first year of operations.

4.5 After Completion of Construction

Upon completion of construction (including road marking work) 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 Project Engineer.

4.6 Reporting Requirements and Documents to be provided

4.6.1 During the Construction Period, the Concessionaire shall submit to the Project Engineer/ DOSE, 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
- (ii) Comments of the Project Engineer, if any on the Concessionaire's Drawings submitted
- (iii) Concessionaire's response to the comments on the Concessionaire's Drawings
- (iv) Listing of the "As Built" drawings submitted
- (v) Progress of pre-construction activities - mobilization of plant and equipment, personnel, site office, utility relocation etc.
- (vi) Concessionaire's compliance inspection report, if any required
- (vii) Constraints in construction
- (viii) Progress data with "S" curves, if applicable
- (ix) Project data with contract detail and sectional completion details
- (x) Tests carried out, if any, and results thereof
- (xi) Remedial measures taken by the Concessionaire following such tests, where required
- (xii) Traffic management steps taken by the Concessionaire
- (xiii) Review of milestones and reasons for delay, if any
- (xiv) Suspension of construction, if any, its reasons, duration and the steps undertaken to resume construction
- (xv) Change of Scope Notice issued by the Government Agency, if any, and status thereof

- (xvi) All actual or potential deviations from the Construction Plan
- (xvii) Disagreements/ Disputes , if any and proposed measures to be taken
- (xviii) Maintenance activities carried out by the Concessionaire on the existing carriageway
- (xix) Injury to any construction personnel during construction, its severity, cause and remedial measure(s) taken to avoid recurrence
- (xx) Brief report of any accident/incident within the Project Site, injury/fatality, property damage, cause of accident and actions taken to avoid recurrence
- (xxi) Traffic detour/diversion for construction - time and duration
- (xxii) Notes of meetings between the Concessionaire, the Project 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.

4.6.2 Prior to making the request for the issue of Completion Certificate, the Concessionaire shall submit to DOSE the following documents, free of costs:

- (i) Three hardcopies and two copies in electronic form (two Compact Discs) of the "As Built" drawings of the Project - detailed, accurately scaled and sequentially numbered, covering all relevant engineering features, which in relation to structures shall also include cross sections in each drawing;
- (ii) copies of all geo-technical and borehole reports obtained by the Concessionaire, if any;
- (iii) Three hardcopies and two copies in electronic form (two Compact Discs) of the Operations and Maintenance Manual.

1.1. Fees from Private Students (50% of total students)

- (a) The Concessionaire will raise separate bills towards tuition fees, non-refundable admission fees and fees collected towards the utilizations of sports, library, outdoor excursions and other allied activities from the Private Students. The Concessionaire shall deposit the School Fees raised from the private students in the Escrow Account.
- (b) The DoSE shall not be responsible in any manner for payment of fees from Private Students.

1.2. Fees from Government Students

- (a) The Concessionaire shall not charge any School Fees from Government sponsored students.
- (b) The School Fees of Government Sponsored Students will be reimbursed by the DoSE as a monthly Grant amount in accordance with the provisions of Article 12.

1.0 Role of the Project Engineer

1.1 The Project 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 Project 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.

2.0 Scope of Services

The services to be provided by the Project 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 Implementation Period - Design and Planning

Review of the following submitted by the Concessionaire:

- (i) Quality Assurance Plan;
- (ii) Implementation/ Construction Plan;
- (iii) Drawings prepared by the Concessionaire
- (iv) O & M Plan - Construction Period;

2.2 Implementation Period - Construction

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

- (i) monitor the progress in implementation of the Project based on the Implementation/ Construction Plan submitted by the Concessionaire;
- (ii) review and approve the material testing and mix designs results and recommend special tests, where required, for materials and/or completed works, require removal/substitution of unsuitable materials and /or works and report deficiencies in respect of the same to DOSE;
- (iii) review and monitor the quality assurance and quality control procedures followed by the Concessionaire;
- (iv) review the manpower and equipment deployed by the Concessionaire;
- (v) monitor the Construction Works for conformity with the Project Requirements (including rehabilitation of the existing road);
- (vi) verify the 'As-Built' drawings for each component of the works prepared by the Concessionaire and require removal of deficiencies found therein;
- (vii) review the safety and traffic management measures implemented;
- (viii) review and ascertain the cost variation arising as a result of Change in Law and determine the Additional Cost;
- (ix) require, monitor and review the results of Tests to be carried out by the Concessionaire in accordance with the Construction Requirements and/or O&M Requirements;
- (x) 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;

- (xi) issue Provisional Certificate and/or Completion Certificate in accordance with the applicable provisions of the Agreement; and
- (xii) review and assist in finalisation of the O&M Manual and first annual O&M Plan prepared by the Concessionaire.

2.3 Operations Period

2.3.1 During this period the Project Engineer would monitor, in accordance with Good Industry Practice, the operations and maintenance activities undertaken by the Concessionaire so as to ensure compliance with the O&M Requirements. The specific activities to be undertaken would include the following :

- (i) review the O&M Plans submitted by the Concessionaire from time to time and assist the Concessionaire in finalising the same;
- (ii) monitor O&M activities (including maintenance of equipment, standards of service, traffic management, safety and environmental issues) and the overall quality of O&M activities so as to ensure compliance by the Concessionaire with the O&M Requirements, O&M Plan and O&M Manual;
- (iii) periodically review the O&M Manual for adequacy;
- (iv) inspect the Project Facilities at least once a month and as and when exigencies require to ascertain conformity with Project Requirements;
- (v) review and ascertain the cost variation arising as a result of Change in Law and determine the Additional Cost;
- (vi) undertake a quarterly review of the various records and registers to be maintained by the Concessionaire (including the records relating to complaints and accidents) and suggest suitable remedial measures/ procedures, where necessary.

2.3.2 In the event of Emergency, the Project Engineer shall assist the Concessionaire in dealing with the same and if necessary require or permit, as the case may be, the Concessionaire to take such appropriate steps or measures including where necessary decommissioning of any Project Facilities.

2.4 Hand back of Project Facilities to DOSE

2.4.1 At the time of handing back the Project Facilities to DOSE at the end of Concession Period, the Project Engineer shall :

- (i) monitor and certify compliance with Project Facility Hand back Requirements and
- (ii) issue a Certificate of Compliance with Project Facility Hand back Requirements to the Concessionaire.

2.5 Breach of Obligations

If during the course or upon review / inspection undertaken by the Project Engineer or otherwise, it transpires that either of the Parties is in breach/ default of any of its obligations under the Agreement, the Project Engineer 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 Project Engineer may deem fit and in each case the same shall be recorded.

2.6 Meetings, Records and Reporting

- (a) The Project Engineer 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 extraordinary meetings of the Parties held to deal with any Emergency, Force Majeure Event or other exigencies.
- (b) The Project Engineer shall, in the ordinary course, maintain record of the activities undertaken by it in discharge of its functions and responsibilities. This would include records in respect of the following:
 - (i) Manpower deployed and other organisational arrangements of the Project Engineer;
 - (ii) Reviews of documents submitted to it by the Concessionaire to meet Project Requirements, such as manuals, Drawings, As-Built drawings, schedules, plans and reports;
 - (iii) Inspections undertaken and notices/instructions issued to the Concessionaire;
 - (iv) Review of compliance with Project Requirements;

- (v) Tests;
 - (vi) Change in Law;
 - (vii) Emergency (including accidents);
 - (viii) Force Majeure Events;
 - (ix) Breaches and defaults by the Parties;
 - (x) Project Facility Handback Requirements; and
- (c) The Project Engineer would be required to submit the following reports to the Parties during the Concession Period :
- (i) Implementation / 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 Project Engineer (including Emergency, Force Majeure, and breach of obligations).
 - Any other report as may be reasonably required by DOSE or as may be necessary to give effect to the provisions of the Agreement.
 - (ii) Operations Period
 - Monthly O&M Report (including Lane Availability, details of slippages and remedial measures)
 - Report on Tests and report on notices Issued
 - Any supplemental or special report that may be considered necessary by the Project Engineer (including Emergency, Force Majeure, and breach of obligations)
 - Annual Review of O&M Manual
 - Any other report as may be reasonably required by DOSE or as may be necessary to give effect to the provisions of the Agreement.
 - (iii) Report on Project Facility Handback Requirements.
 - (iv) Any other report as may be reasonably required by DOSE or as may be necessary to give effect to the provisions of the Agreement.

1. General

- 1.1 The specifications broadly cover the design, manufacture, inspection, testing, delivery to Project Site, storing and handling at Project Site, erecting, commissioning and carrying out acceptance test of the Project Facility.
- 1.2 It is not the intent to specify completely herein, all the details of design and construction of the equipment/ Project Facility. However the Project Facility shall confirm, in all respects, to high standards of engineering, design and workmanship and capable of performing in continuous operations.
- 1.3 The Concessionaire shall comply with the O&M Requirements set out in this Schedule. In doing so, the Concessionaire shall ensure that the Project Facilities are maintained to the standards and specifications as set out in the Construction Requirements also meet the other requirements, if any, set out in the Agreement.
- 1.4 The Concessionaire shall take appropriate measures to minimise traffic disruption on the roads adjoining the Project Site.
- 1.5 In the design, 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, if any, agents and employees) in such manner, as will :
 - (i) keep the Project Facilities from undue deterioration and wear;
 - (ii) ensure the safety of personnel deployed for operation & maintenance of facilities like lifts, street lighting, common area lighting etc.
 - (iii) permit unimpaired performance of statutory duties and functions of any party in relation to the Project.
- 1.6 During the Concession Period, the Concessionaire shall ensure that :
 - (i) Project Facility is kept free from undue deterioration and undue wear;
 - (ii) applicable and adequate safety measures are taken;

- (iii) adverse effects on the environment and to the owners and occupiers of property and/or land in the vicinity of the Project Facility, due to any of its actions, is minimised;
- (iv) 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;
- (v) disturbance or damage or destruction to property of third party by operations of the Project Facility is controlled/minimised;
- (vi) members of the public are treated with due courtesy and consideration by its employees/ agents;
- (vii) users are provided with adequate information and forewarned of any event or any other matter affecting the Project Facility to enable them to control/minimise any adverse consequences by such event or matter;
- (viii) a complaint register to record grievances of any member of the public in relation to the operations and maintenance of the Project Facility is duly maintained;
- (ix) all materials used in the maintenance, repair and replacement of any of the Project Facility shall meet the Construction Requirements.
- (x) 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 Manual and O& M Plans

- 2.1 Prior to the commencement of any construction activity, the Concessionaire, in consultation with the Project Engineer, shall finalise the O&M Plan - Construction Period.
- 2.2 As provided in Schedule 3, prior to making application for the Completion Certificate for the Project the Concessionaire shall finalise in consultation with the DOSE/ Project Engineer:
 - (i) the O&M Manual for Project Site
 - (ii) the O&M Plan for the first year of operations
- 2.3 Six weeks prior to the anniversary of COD each year, the Concessionaire shall submit an annual O&M Plan for the next year of operations.

3. Maintenance Requirements

3.1 Maintenance Standards

3.1.1 During Operations Period, the Project Facility shall be maintained in accordance with the standards ("Maintenance Standards") set out below :

3.2 Routine Maintenance Activities

3.2.1 In order to ensure smooth and uninterrupted use of the Project Facility during normal operating conditions for all 24 hours of a day, routine maintenance of the Project Facility 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 Project Facilities 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/ DOSE 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.
- (x) Maintenance water supply scheme, running pump set, treating water and storing water in UG tanks/OH tanks etc.

The Concessionaire shall ensure that water shall be free from harmful bacteria/organisms & get the water tested from a

reputed laboratory atleast once a year to determine dosage of bleaching powder to eliminate all harmful bacteria/organism. Normally the dosage of bleaching powder varies from 150 grams to 400 grams per 1,00,000 ltrs. of water. In case the water is not potable, it should be got tested and recommendations of district health officer should be obtained regarding type of treatment required.

- (xi) Attending to leakages in pipelines, taps and other fittings on immediate basis
- (xii) Cleaning of choked sewer lines, bathrooms, toilets etc. on immediate basis
- (xiii) Replacement of damaged water supply, sanitary and electricity fittings such as taps, tube lights, bulbs, fuse wire, switches, chocks/starters etc. on immediate basis
- (xiv) Running/maintenance of generator set (As per manufacturer's manual/specification)
- (xv) Any other item, if found essential.
- (xvi) The Concessionaire shall ensure that day today maintenance is carried out most efficiently and immediately to avoid any inconvenience to occupants & damage to the property and to keep the Project Site neat and clean.

3.2.2 For routine maintenance works of the Project Facility, the Concessionaire shall generally follow the operational and performance criteria specified in the respective Guidelines provided by Jahawar Navodaya Vidhalaya Samiti, Government of India (GoI) or any other guidelines, notifications issued by State Government or Central Government applicable to Schools operating in India. Where such criteria are not specified in the standards, the Concessionaire, for the purpose of routine maintenance shall set forth such criteria as to conform to good international standards and Good Industry Practice for sound pavement maintenance practices in consultation with the Project Engineer.

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

3.2.4 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.

3.3 Emergency Maintenance Activities

3.3.1 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 Project Engineer. This shall be a part of the O&M Manual developed by the Concessionaire.

3.3.2 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 involving personal injuries or fatalities, property damage and Force Majeure:

3.3.3 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 Project 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.

3.4 Preventive Maintenance

The purpose of preventive maintenance is to increase the life of buildings, reduce day to-day repairs and complaints.

This includes such works, which are to be carried out compulsorily either annually or periodically. The petty repairs are also covered in the preventive maintenance. It generally consists of following items:-

- a. Annual white washing and painting of buildings
- b. Painting of steel doors and windows
- c. Cleaning of water storage tanks on roofs
- d. Cleaning of storm water drains, septic tank manhole, gully chamber etc.
- e. Cleaning of bushes around the building after rainy season
- f. Inspection of roofs before rainy season and removing blockage of drain pipes if any to avoid seepage from roof
- g. Repair of frames & shutters of doors & Windows.
- h. Annual inspection of all buildings for cracks, seepage, settlement of floors etc.
- i. Repair of floors, plaster, roof-tiles/routing etc.

- j. Attending roof leakages/seepage.
- k. Maintenance of electrical fittings & fixtures.

3.5 Special repair works

As the building ages there would be deteriorations of the various parts of the buildings & services. Therefore major repairs, renovations, & replacement of various items become inevitable. Major maintenance or special repair generally include following type of works in buildings.

- a) Replacement of flooring.
- b) Recarpeting of internal roads.
- c) Replacement of water distribution/Sewage lines.
- d) Replacement of water proofing.
- e) Replacement of electrical wiring.
- f) Partial replacement of roofing.
- g) Replacement of plaster to walls.

4. Grounds and Gardens Maintenance

4.1 The Concessionaire shall undertake grounds and gardens maintenance that is responsive to seasonal weather and growing conditions in order to:

- a. maintain an aesthetically pleasing landscape that is both functional and complementary to each Facility, the grounds of each Facility and the local environment throughout the year;
- b. maintain the Grounds and Gardens at each Facility to facilitate the smooth running of School Services including ensuring unobstructed access to each Facility at all times;
- c. maintain the Grounds and Gardens in such a way as to promote a positive image of the Facilities to all Users and members of the public;
- d. provide and maintain safe, logical and clear circulation routes across each Facility that are accessible to all Users;
- e. support an environmentally sustainable development philosophy for the Facility utilising water saving strategies and provision of low water demand plants, shrubs and vegetation;
- f. maintain sports pitches, inclusive of surfaces, line markings and fixed sports equipment (i.e. goal posts/nets etc) such that they are in a condition that is suitable for the purpose for which they are intended and in accordance with any sporting association requirements; and
- g. maintain all external spaces to be free of standing or pooled water.

4.2 The Concessionaire shall provide a Grounds and Gardens Maintenance plan which shall include the following components :

- a. roads and pathways;
- b. signage;
- c. lighting;
- d. courtyards and paved areas;
- e. internal and rooftop gardens and courtyards;
- f. boundary walls and fences;
- g. carparks;
- h. external Equipment including street furniture, including replacement of light fittings and elements;
- i. lawns and open areas;
- j. paved areas and hard standings;
- k. windows and facades; and
- l. external staircases / fire escapes; and
- m. external sports pitches and associated facilities (i.e. goal posts/nets etc), at a Facility.

4.3 Minimum Services Specifications

- 1.1.1. The Concessionaire shall ensure all external areas of the Facility are sound, safe and tidy at all times and in accordance with the following Grounds and Garden Maintenance Standards.
- 1.1.2. provide, erect, replace, maintain and clean all external Equipment at the Facility including signage and lights.
- 1.1.3. take steps to mitigate the number of potential sites for vermin habitation;
- 1.1.4. remove all dead animals, trees, shrubs, grasses or garden refuse from the Facility and dispose of them in a way that abides by health and safety regulations;
- 1.1.5. regularly inspect non-cultivated areas for damage and carry out remedial work as required to ensure that the areas are free from, amongst other issues, potholes, cracks and debris;
- 1.1.6. clear roads, paths and paved areas, maintain them in a clean and safe condition and ensure walking paths are not obstructed by overhanging tree limbs or branches and are free from any trip hazards;
- 1.1.7. provide a window and façade cleaning service at appropriate frequencies to optimise design life and aesthetic performance;
- 1.1.8. maintain all external areas to be free of standing or pooled water and ensure external carparks, roads, paths and paved areas are clearly identifiable and free from potholes, cracks, debris and litter.

4.4 Landscaped, sports and recreation areas

- 4.4.1 At all times the Concessionaire must water and generally maintain grass and planted areas, including but not limited to sports pitches, in accordance with Best Operational Practice having regard to any restrictions on water use that may apply from time to time.

4.4.2 The Concessionaire must maintain all landscaped sports and recreation areas (including sports pitches and multi use games areas) so that at all times that they are:

- i. free of weeds, moss or other extraneous growth;
- ii. in healthy growth with no bare patches allowing for fair wear and tear, relative to season, usage and water restrictions. Seasonal repair and re-growth will be managed to maintain the appearance and functionality of the sports ovals;
- iii. neatly cut to the edge of any borders;
- iv. free of ruts or other disruption to the normal contour of the surface;
- v. adequately drained and free of standing water;
- vi. lined in accordance with use;
- vii. free of litter and foreign matter, such as stones, bricks and glass; and
- viii. provided with relevant sporting equipment (i.e. goal posts, netball hoops etc).

5. School Playground and Safety Management

5.1 The following factors should be considered while designing, planning, operating and maintain playground :

5.1.1 Location

Play areas should be positioned where they:

- a. can be supervised by staff on duty
 - b. are reasonably accessible from the school's entry/exit doors
 - c. do not obstruct pedestrian access across the school grounds
 - d. are away from vehicle traffic and other hazards
 - e. are out of range of active ball-play areas and other potential conflicts
 - f. are reasonably protected from direct entry by unauthorised persons
- are well lit, eg for evening or night use and to protect from vandalism.

5.1.2 Disabled access

A wide range of activities should be made accessible to disabled students so that they can play alongside their peers. The school grounds should be assessed for barriers that prevent this.

5.1.3 Drainage, slopes and mounds

The Concessionaire shall ensure that all the playground areas have proper drainage facility. Poorly drained playground areas are ineffective as they can only be used during dry weather. Sloping sites pose design problems and loose impact-absorbing material is difficult to retain. Mound surfaces commonly become compacted and difficult

to maintain. Check that students slipping or running down slopes are not likely to collide with equipment.

5.2 Safety Management

5.2.1 The Concessionaire shall ensure that all the playground areas are maintained properly and are safe for students. The Concessionaire shall assess the main risks of injury which are associated with the following conditions :

- a. fall-height—including measurement and places from which children fall
- b. fall-zones—the measure of where children fall and the adequacy of impact absorbing
- c. surfaces in these areas
- d. guarding—its adequacy in preventing or inhibiting falls and other injury events
- e. entrapment—spaces and pinch points, particularly those posing risk of entrapment of head, hands and feet
- f. failure to decommission and prevent students gaining access to defective equipment
- g. damaged, broken, bent or missing components of equipment in play area
- h. loose or poorly fitted components of equipment in play area
- i. excessive wear of components
- j. damage to protective coating of components
- k. chipped or damaged paint
- l. exposed rail or accessory ends that should be protected with caps
- m. worn or deformed 'S' hooks
- n. lack of lubrication on moving parts
- o. loose fasteners, nuts or bolts
- p. sharp or dangerous edges or protruding bolt ends
- q. worn, squeaky or 'stiff motion' bearings
- r. perished or damaged rubber components
- s. worn swing bearings, swing chains, swing chain mounts, fasteners, or pins
- t. remnants of old equipment
- u. rust, rot and general deterioration.

Systematic, structured ongoing assessment of the condition and safe function of play areas and equipment is the critical basis of a safety management approach that ensures that risks are eliminated or minimised.

5.2.2 During the Operations Period the Concessionaire shall pay particular attention to the following areas in the playground:

- a. exposed cracked or loose concrete footings
- b. worn, scattered or compressed surface material
- c. exposed roots, rocks or other environmental obstacles that create potential
- d. trip hazards
- e. broken glass, refuse or foreign objects around and on play equipment
- f. poor drainage areas
- g. sloping surfaces
- h. trees
- i. sandpits

6. Safety

- 6.1 The Concessionaire shall make provision for round-the-clock security of the Project Facilities.
- 6.2 The Concessionaire shall implement a Safety Management Programme in line with relevant guidelines and shall form a part of the O&M Manual.

7. Inspections & Frequency

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

7.1 Visual Inspection

Visual Inspections are broad general inspections carried out frequently by maintenance engineers having adequate knowledge of building and pavement structures. The purpose of visual inspection is to report fairly obvious deficiencies at the Project Site, 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.

7.2 Close Inspection

Close inspections may be visual and/or by standard instrumental aids for assessment of defects/ deficiencies of the Project Facility with careful observation of specific element/s. The close inspection would require detailed examination of the specific element of the Project Facility 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.

7.3 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. on the Project Site. 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.

7.4 Frequency of Inspections

The type of inspection and related frequency of various items of Project Facility have been indicated in the table set out below. The frequency of inspection can be suitably revised in consultation with the Project Engineer if the situation so warrants.

Asset	Daily	Monthly	Quarterly	Before and after Rainy Season
Project Facility	V	C	T	T
Parking Area	V	C	T	T
Floors & walls	V	C	T	T
Chairs/seats	V	C	T	-
Drinking Water Facilities	V	C	T	-
Toilets	V	C	T	-
Information Boards/ Signages	V	C	T	-
Staircases	V	C	T	T
Lifts	V	C	T	-
Doors and Windows	V	C	T	-
Safety Barriers	V	-	T	-
Fire Fighting System	V	C	T	T
Lights and Fans	V	C	T	-
Other Electrical Installations	V	C	T	T
Back-up power facility	-	C	T	-
Drainage and Sewerage	-	C	T	T
Landscaping	-	V	C	-
Boundary Wall	-	V	C	-
Footpath	V	C	T	T
Painting	V	-	T	T
General Cleanliness	V	C	-	-

Legend :

V : Visual inspection

C : Close inspection

T : Thorough inspection

8. Reporting Requirements

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. The format of such reports, recording requirements, software standards and number of copies required would be finalised in consultation with the Project Engineer. All reports and records shall be in the English language.

8.1 Inspection Reports and Remedial Measures

The periodicity of inspections for maintenance activities by the Concessionaire shall be set out in the O&M Manual and regular reports on the same shall be sent to the Project Engineer. Where required, the Concessionaire shall carry out any maintenance, repair or rehabilitation works found necessary as a result of such inspections.

8.2 Monthly O & M Report

During the Operation Period, within 5 days of the end of each calendar month or part thereof, the Concessionaire shall provide to the Project Engineer/ DOSE a monthly report (Monthly O&M Report) which shall contain the following minimum information:

- (i) Details of major maintenance undertaken
- (ii) Inspections undertaken by the Concessionaire during the month and action taken/ proposed thereafter;
- (iii) Details of all reports submitted to the Project Engineer during the month
- (iv) O & M inspection compliance report
- (v) Maintenance activities undertaken during the month ended,
- (vi) Details of any Emergency and action taken

9. O & M Manual

9.1 The O&M Manual prepared by the Concessionaire in consultation with the Project Engineer shall set out the operations and maintenance standards and details of the operations and maintenance activities to be undertaken during the Operations Period, so that the Project Facilities shall at all times conform to the Project Requirements.

9.2 The O&M Manual shall have separate sections for operations and maintenance.

9.3 The O&M Manual shall include without limitation the following aspects:

- (i) Organisation structure with responsibilities of key personnel;

- (ii) Project Facility Management;
- (iii) Safety Management Programme including the Emergency Response Protocol;
- (iv) Inspection Procedures;
- (v) Maintenance Standards (including Maintenance Intervention Levels);
- (vi) Maintenance Programme;
- (vii) Management information system;
- (viii) Report Formats.

10. Miscellaneous

- 10.1 The Concessionaire shall maintain an inventory of all items comprised in the Project Facilities (the "Inventory"), in a format to be developed in consultation with the Project Engineer.
- 10.2 Throughout the Concession Period the Concessionaire shall keep the Inventory updated to take account of works carried out on and other changes made to the Project Facilities.
- 10.3 A copy of the Inventory shall be submitted by the Concessionaire to the Project Engineer within thirty (30) days of receipt of a request for the same.

11. Food served to the students

- 11.1 The Concessionaire shall ensure that the food served to the students adhere to the norms of National institute of Food Nutrition.

S. No.	Food groups	Daily Quantity in gram					
		10-12 Years		13-15 Years		16-18 Years	
		Girls	Boys	Girls	Boys	Girls	Boys
1	Net Energy Calorie/day	2,010	2,190	2,330	2,750	2,440	3,020
2	Cereals and millets	240	300	330	420	320	450
3	Pluses	60	60	60	75	75	90
4	Milk and milk products	50	500	500	500	500	500

5	Roots and tuber (salad)	100	100	100	150	200	200
6	Green leafy vegetables	100	100	100	100	100	100
7	Other vegetables	200	200	200	200	200	200
8	Fruits	100	100	100	100	100	100
9	Sugar	30	30	25	20	25	60
10	Fat/oil	35	35	40	45	35	50

12. Key Performance Indicators

12.1 The Concessionaire shall provide operate and manage the project with following key performance indicators :

12.2 Implementation Time Schedule

Project Implementation	Performance level	Measurement Metrics	Penalty
Partial project implementation	Atleast 50% of the student residential facilities, classrooms, sports ground, teacher's/principal residences should be completed within 30 months of the appointed date	Completion of construction as mentioned and Atleast 50% students of the design capacity should be attending classes.	For every week of delay in submission, a Rs. 100000/- would be imposed as penalty. Maximum Allowed delay would be for 10 weeks after which Department may terminate the contract. The PPP Partner will not be accountable for any delays on part of DOSE.
Complete Project Implementation	All the project construction activities should be completed within 60 months of Appointed Date	All project constructions should be complete and minimum 90% of the design capacity students should be attending school	For every week of delay in submission, a Rs. 100000/- per week, would be imposed as penalty. Maximum Allowed delay would be for 13 weeks after which Department may terminate the contract. The PPP Partner will not be accountable for

			any delays on part of DOSE.
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12.3 Operations Related Indicators

12.3.1 Performance of key aspects for operation related services shall be measured for every month and the penalties shall be deducted from payment due for the month or quarter.

Parameter	Performance level	Measurement Metrics	Penalty
Availability of requisite qualified and trained staff	<p>100% availability of qualified & trained teaching staff. Teaching staff shall include Experienced Principal & all teachers.</p> <p>The teacher requirement shall be based on the Teacher-Student ration of 1:30 and also ensuring that the each subject requirement of teachers' is complied with.</p>	Permanent Full Time Employment & attendance details.	<p>If any of the teaching staff is not available during the academic year for the reasons beyond the permissible leaves and authorized absence then following deductions from the payment due to PPP partner shall be made :</p> <p>$\text{Deduction} = \text{No. Of Days Absence} \times \text{Pro Rata daily salary} \times 1.20$</p> <p>A sum of all these deductions would be made for the month for all such absences.</p> <p>The PPP Partner will be allowed to provide equally competent substitute teacher for the shortfall period to avoid penalties.</p> <p>In case the situation persists for more than 30% of the staff for 3 consecutive months in any academic year or 12 cumulative months in any block of 5 years during the concession</p>

			period, it shall be considered an event of default by the concessionaire.
Deficiencies of quality for food, text books, uniform and other provisions.	<p>PPP partner shall ensure that the food is provided keeping in mind quality, nutrition and hygiene.</p> <p>The text books, uniform and other provisions are provided with certain minimum quality standards benchmarked with other Navodaya Vidyalays or better.</p>	<p>Regular quality check or based on complaints received.</p>	<p>DOSE will conduct regular quality checks of its own or through third party to ascertain service levels. DOSE shall also conduct investigation on its own or through third party for genuine complaints received.</p> <p>If the complaint is found to be true or regular quality checks indicate violations of service levels then each incident would attract minimum penalty of Rs. 100000/- or value of infringement, whichever is higher.</p> <p>If it is established that the concessionaire is engaging in such practice on regular basis which is leading to continued deficiency of quality, it shall be considered an event of default by the concessionaire and may lead to termination.</p>
Discrimination of Government Students	<p>PPP partner shall ensure that the government students are given all the facilities and opportunities with equal quality of</p>	<p>Regular quality check or based on complaints received.</p> <p>Or</p> <p>Measurement</p>	<p>DOSE will conduct regular quality checks of its own or through third party to ascertain service levels. DOSE shall also conduct investigation on its own or through third party for genuine</p>

	<p>service.</p> <p>This may however not be applicable to some excursion or extracurricular activities which are not essential for all the students.</p>	<p>metrics mutually agreed between authority and the concessionaire</p>	<p>complaints received.</p> <p>If the complaint is found to be true or regular quality checks indicate violations of service levels then each incident would attract minimum penalty of Rs. 100000/- or value of infringement, whichever is higher.</p> <p>If it is established that the concessionaire is engaging in such practice on regular basis which is leading to continued deficiency of quality, it shall be considered an event of default by the concessionaire and may lead to termination.</p>
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12.4 Academic Performance Indicator (API)

- 12.4.1 Key objective is to improve the academic quality of schools and this shall be measured as per following KPIs. Most of these KPIs are annual in nature and hence the penalty/incentive shall be decided at the end of the academic year.
- 12.4.2 **KPI₁ & KPI₂** shall be measured in API from the year when the first batch of class XII board exams take place in the school or in the 6th year from the appointed date, whichever is earlier.
- 12.4.3 **KPI₃ & KPI₄** shall be measured in API from the year when the first batch starts in the school or in the 30 months from the appointed date, whichever is earlier.

KPI	Performance level	Measurement Metrics
To measure the education imparted to all students (KPI ₁)	KPI ₁ will be measured annually during through CBSE Class XII Board examination results	<p>Proportion of students in the school securing threshold pass percentage /CGPA</p> <p>(No. of government quota and non-government quota students in the school who secured threshold marks in the Examinations / No. of government quota and non-government quota students in the school who appeared for the Examinations)</p> <p>divided by</p> <p>(No. of students who secured threshold marks in CBSE Class XII Examinations / No. of students who appeared for the CBSE Class XII Examinations)</p> <ul style="list-style-type: none"> Threshold marks is the minimum acceptable % marks that the student is supposed to achieve. The threshold passing marks in examination as mentioned in KPI₁ and KPI₂ should be 50% during first five years of operation of the school and after that threshold passing marks will be raised to 60% for KPI₁ and KPI₂. <p>Benchmark: KPI₁ ≥ 0.89</p>
To measure the education imparted to government quota students (KPI ₂)	KPI ₂ will be measured annually during through CBSE Class XII Board examination results	<p>Proportion of government quota students in the school securing threshold percentage vis-à-vis proportion of non-government quota students in the school securing threshold pass percentage/CGPA</p> <p>(No. of government quota students in the school who secured threshold marks in the Examinations / No. of government quota students in the school who appeared for the Examinations)</p> <p>divided by</p> <p>((No. of non-government quota students in the school who secured threshold marks in the Examination / No. of non-government quota students in the school who appeared for the Examinations)</p> <p>Benchmark: KPI₂ ≥ 1</p>
To measure dropout rate of government	Drop-out rate has been defined as the number of	Proportion of government quota students who dropout vis-à-vis total government quota students in the school

<p>quota students (KPI₃)</p>	<p>students who appear for the final examination from among those who enroll at the beginning of the year. The developer will conduct internal exams to judge the performance of its students for all classes except class XII which will be the board exam.</p>	<p>(No. of government quota students in the school who appeared for Examinations in an academic year 'Y') divided by ((No. of government quota students who enrolled in the school at the start of the same academic year in each Class from VI to XII)/0.95)</p> <p>Benchmark: KPI₃ ≥ 0.95.</p> <p>The Developer will also submit an affidavit stating the number of students that appeared in the exam and the number of students that enrolled at the start of an academic year, based on which the Authority will assess the dropout rate</p> <p><u>Additional Requirement: Attendance Records</u> For every student that appears for the Ability Examination or Board Examination, the school will need to provide a self certification stating that the student has not been absent for more than 45 days in the academic year. Each student will be considered a drop-out unless otherwise specified by such self certification.</p>
<p>To measure English reading and comprehension skills, Mathematics, Computers & Knowledge of Science of government quota students (KPI₄)</p>	<p>KPI₄ will be measured through the Ability exam for 4 subject categories mentioned, conducted by the Authority for any of the two classes in between 6th to 10th chosen randomly in a year</p>	<p><i>Sum of Proportion of average marks scored by government quota students in 4 subject categories in a school with respect to average marks scored by Government quota Students in across select operational Navodaya/Adarsh Schools</i></p> <p>S1 to S4 = (Sum of percentage of marks obtained by all government quota students in a school in the subject category in the Ability Exam conducted by the Authority / No. of government quota students who appeared for the Examination in the school) divided by Sum of percentage of marks obtained by all government quota students in select operational Navodaya/Adarsh school in the subject category in the Ability Exam conducted by the Authority/ No. of government quota students who appeared for the Examination in select operational Navodaya/Adarsh schools</p> <p>KPI₄ = (S1 + S2+ S3 +S4)/4</p> <p>Benchmark: KPI₄ ≥ 1.0</p>

12.4.4 The above KPI₁, KPI₂, KPI₃ & KPI₄ shall be summed as below :

- i. When first batch of class XII board exams take place in the school or in the 6th year from the appointed date, whichever is earlier

$$API = ((KPI_1) + (KPI_2/0.5) + (KPI_3 / 0.95) + KPI_4) / 4$$

For the calculation of Effective Operational Grant per Government Student for the year :

If API is $\geq .95$ then Effective Operating Grant per Government Student (EOGGS) for the year = Effective Operating Grant per Government student (EOGGS) X API

- ii. When first batch starts in the school or in the school or in the 30 months from the appointed date, whichever is earlier

$$API = ((KPI_3/0.95) + KPI_4) / 2$$

- If $.8 < API < .95$ then Effective Operating Grant per Government Student (EOGGS) for the year = Effective Operating Grant per Government Student (EOGGS) X API
- If API is $\leq .8$ for two consecutive years or 5 cumulative years during concession period, it shall be considered as event of default and leads to termination

12.4.5 Based on the outcome of API calculation and the effective rate of Per Student Operating Grant the total re-calculation of the payment due to concessionaire shall be made and final monthly instalment shall be calculated as below :

Total Operating Grant for the year (TOPG) = EOGGS X Number of government students in the academic session

Final Monthly Payment = TOPG - M1 Payment - M2 Payment - M3 Payment - M1 penalties- M2 penalties- M3 penalties- M4

13. School Quality Assessment and Accreditation (SQAA):

- 13.1 School should apply for .SQAA accreditation from CBSE and ensure that accreditation is kept valid till the end of concession period.

7. PERFORMANCE SECURITY

SCHEDULE 7

(Performance of Bank Guarantee)²

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

Department of School Education, Government of Uttarakhand, represented by Director and having its office at Director School Education, Uttarakhand Nanoorkhera, Tapovan Road, Dehradun - 248 001 hereinafter referred to as “DOSE”, which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns.

WHEREAS

- D. By the Concession Agreement entered into between DOSE and _____, a company incorporated under the provisions of the Companies Act, 1956, having its registered office/ permanent address at _____ (“the Concessionaire”), the Concessionaire has been granted the Concession to Build, Operate and Transfer Rajiv Gandhi Navodaya Vidyalaya at _____, Uttarakhand for a period of 30 years (hereinafter referred to as “the Project”).
- E. In terms of Clause 5.1 of the Concession Agreement, the Concessionaire is required to furnish to DOSE, an unconditional and irrevocable bank guarantee for an amount of Rs. 80,00,000.00 (Rupees Eighty Lakhs only) as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to Project by the Concessionaire.
- F. 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 :

8. Capitalised terms used herein but not defined shall have the meaning assigned to them respectively in the Concession Agreement.
9. 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 To be issued by a Scheduled Bank in India

10. The Guarantor shall, without demur, pay to DOSE sums not exceeding in aggregate 80,00,000.00 (Rupees Eighty Lakhs only), within _____ calender days of receipt of a written demand therefor from DOSE 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 DOSE 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.
11. In order to give effect to this Guarantee, DOSE 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 DOSE or any indulgence shown by DOSE 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 DOSE or any indulgence shown by DOSE , provided nothing contained herein shall enlarge the Guarantor's obligation hereunder.
12. This Guarantee shall be irrevocable and shall remain in full force and effect until _____³ unless discharged/ released earlier by DOSE in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of Rs. _____.
13. 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.
14. 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.

³ 18 months from the date of signing the Concession Agreement

8. FORMAT FOR LETTER OF AUTHORIZATION

SCHEDULE 8

(To be given on DOSE letterhead)

To Whomsoever It May Concern

This is to confirm that to pursuant to the Concession Agreement dated _____, entered into between the DOSE and _____ (“the Concessionaire”), the Concessionaire has been authorized to construct, operate and maintain the Rajiv Gandhi Navodaya Vidyalaya at (insert the name of the place) in Uttarakhand 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,

Director

9. HANDBACK GUARANTEE

SCHEDULE 9

(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

DOSE, represented by its _____, having its office at _____, hereinafter referred to as “DOSE”, 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 DOSE and _____⁴, a company incorporated under the provisions of the Companies Act, 1956 having its registered office at _____ (“the Concessionaire”) the Company had been granted the Concession to implement the Project, as defined under the Concession Agreement mentioned hereinabove.
- B. In terms of Clause 10.2 as the case may be, of the Concession Agreement, the Concessionaire is required to furnish to DOSE, an unconditional and irrevocable bank guarantee for an amount of _____ as security for due and punctual performance/discharge of its obligations under the Concession Agreement, relating to handback of the Project Facility.
- C. At the request of the Concessionaire, the Guarantor has agreed to provide guarantee, being these presents, guaranteeing the due and punctual performance/discharge by the Concessionaire of its obligations under the Concession Agreement relating to handback of the Project 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 Project Facility.

⁴ 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.

3. The Guarantor shall, without demur, pay to DOSE sums not exceeding in aggregate _____ within _____ calendar days of receipt of a written demand therefor from DOSE stating that the Concessionaire has failed to meet its performance obligations relating to handback of the Project 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 DOSE 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, DOSE 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 DOSE or any indulgence shown by DOSE 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 DOSE or any indulgence shown by DOSE, 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 _____⁵ unless discharged/released earlier by DOSE in accordance with the provisions of the Concession Agreement. The Guarantor's liability in aggregate be limited to a sum of _____.
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 authorized 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.

⁵ 30 months from the date of issue of the Handback Guarantee in accordance with Clause 10.2 of the Concession Agreement

10. ESCROW AGREEMENT

SCHEDULE 10

THIS ESCROW AGREEMENT is entered into on this the..... day of ,
20

AMONGST

1. _____ Limited, a company incorporated under the provisions of the Companies Act, 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, permitted assigns and substitutes);
2. _____ (name and particulars of Lenders' Representative) and having its registered office at _____ acting for and on behalf of the Senior Lenders as their duly authorised agent with regard to matters arising out of or in relation to this Agreement (hereinafter referred to as the "Lenders' Representative" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes);
3. _____ (name and particulars of the Escrow Bank) and having its registered office at _____ (hereinafter referred to as the "Escrow Bank" which expression shall, unless repugnant to the context or meaning thereof, include its successors and substitutes); and
4. Department of School Education, Government of Uttarakhand, represented by its Director and having its principal offices at _____ (hereinafter referred to as the "Government" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns).

WHEREAS:

- A. The Government has entered into a Concession Agreement dated _____ with the Concessionaire (the "Concession Agreement") for Project of setting up of Rajiv Gandhi Navodaya Vidyalaya at..... (insert the name of the place) on Build, Operate and Transfer (BOT) basis, and a copy of which is annexed hereto and marked as Annex-A to form part of this Agreement.
- B. Senior Lenders have agreed to finance the Project in accordance with the terms and conditions set forth in the Financing Agreements.

- C. The Concession Agreement requires the Concessionaire to establish an Escrow Account, *inter alia*, on the terms and conditions stated therein.

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

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

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

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

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

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

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

"Escrow Default" shall have the meaning ascribed thereto in Clause 6.1;

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

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

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

"Sub-Accounts" means the respective Sub-Accounts of the Escrow Account, into which the monies specified in Clause 4.1 would be

credited every month and paid out if due, and if not due in a month then appropriated proportionately in such month and retained in the respective Sub Accounts and paid out there from on the Payment Date(s).

1.2. Interpretation

- 1.2.1. References to Lenders' Representative shall, unless repugnant to the context or meaning thereof, mean references to the Lenders' Representative, acting for and on behalf of Senior Lenders.
- 1.2.2. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the Concession Agreement shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement.
- 1.2.3. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
- 1.2.4. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. ESCROW ACCOUNT

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

2.2. Acceptance of Escrow Bank

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

2.3. Establishment and operation of Escrow Account

- 2.3.1. Within 30 (thirty) days from the date of this Agreement, and in any case prior to the Appointed Date, the Concessionaire shall open and establish the Escrow Account with the (name of Branch) Branch of the Escrow Bank. The Escrow Account shall be denominated in Rupees.
- 2.3.2. The Escrow Bank shall maintain the Escrow Account in accordance with the terms of this Agreement and its usual practices and applicable regulations, and pay the maximum rate of interest payable to similar customers on the balance in the said account from time to time.
- 2.3.3. The Escrow Bank and the Concessionaire shall, after consultation with the Lenders' Representative, agree on the detailed mandates, terms and conditions, and operating procedures for the Escrow Account, but in the event of any conflict or inconsistency between this Agreement and such mandates, terms and conditions, or procedures, this Agreement shall prevail.

2.4. Escrow Bank's fee

The Escrow Bank shall be entitled to receive its fee and expenses in an amount, and at such times, as may be agreed between the Escrow Bank and the Concessionaire. For the avoidance of doubt, such fee and expenses shall form part of the O&M Expenses and shall be appropriated from the Escrow Account in accordance with Clause 4.1.

2.5. Rights of the parties

The rights of the Government, the Lenders' Representative and the Concessionaire in the monies held in the Escrow Account are set forth in their entirety in this Agreement and the Government, the Lenders'

Representative and the Concessionaire shall have no other rights against or to the monies in the Escrow Account.

2.6. Substitution of the Concessionaire

The Parties hereto acknowledge and agree that upon substitution of the Concessionaire with the Nominated Company, pursuant to the Substitution Agreement, it shall be deemed for the purposes of this Agreement that the Nominated Company is a Party hereto and the Nominated Company shall accordingly be deemed to have succeeded to the rights and obligations of the Concessionaire under this Agreement on and with effect from the date of substitution of the Concessionaire with the Nominated Company.

3. DEPOSITS INTO ESCROW ACCOUNT

3.1. Deposits by the Concessionaire

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

- a. all monies received in relation to the Project from any source, including the Senior Lenders, lenders of Subordinated Debt and the Government;
- b. all funds received by the Concessionaire from its share-holders, in any manner or form;
- c. all School Fees levied and collected by the Concessionaire;
- d. any other revenues, rentals, deposits or capital receipts, as the case may be, from or in respect of the Project; and
- e. all proceeds received pursuant to any insurance claims.

3.1.2 The Concessionaire may at any time make deposits of its other funds into the Escrow Account, provided that the provisions of this Agreement shall apply to such deposits.

3.2. Deposits by the Government

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

- a. Grant and any other monies disbursed by the Government to the Concessionaire;
- b. all School Fees collected by the Government in exercise of its rights under the Concession Agreement; and
- c. Termination Payments:

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

3.3. Deposits by Senior Lenders

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

3.4. Interest on deposits

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

4. WITHDRAWALS FROM ESCROW ACCOUNT

4.1. Withdrawals during Concession Period

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

- a. all taxes due and payable by the Concessionaire for and in respect of the Project;
- b. all payments relating to construction of the Project, subject to and in accordance with the conditions, if any, set forth in the Financing Agreements;
- c. O&M Expenses, subject to the ceiling, if any, set forth in the Financing Agreements;
- d. O&M Expenses incurred by the Government, provided it certifies to the Escrow Bank that it had incurred such expenses in accordance with the provisions of the Concession Agreement and that the amounts claimed are due to it from the Concessionaire;
- e. amount due and payable to the Government;
- f. monthly proportionate provision of Debt Service due in an Accounting Year;

- g. all payments and Damages certified by the Government as due and payable to it by the Concessionaire pursuant to the Concession Agreement;
 - h. monthly proportional provision of debt service payments due In an Accounting Year in respect of Subordinated Debt;
 - i. any reserve requirements set forth in the Financing Agreements; and balance, if any, in accordance with the instructions of the Concessionaire.
- 4.1.2. No later than 60 (sixty) days prior to the commencement of each Accounting Year, the Concessionaire shall provide to the Escrow Bank, with prior written approval of the Lenders' Representative, details of the amounts likely to be required for each of the payment obligations set forth in this Clause 4.1; provided that such amounts may be subsequently modified, with prior written approval of the Lenders' Representative, if fresh information received during the course of the year makes such modification necessary.

4.2. Withdrawals upon Termination

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

- a. all taxes due and payable by the Concessionaire for and in respect of the Project;
- b. 90% (ninety per cent) of Debt Due excluding Subordinated Debt;
- c. outstanding Concession Fee;
- d. all payments and Damages certified by the Government as due and payable to it by the Concessionaire pursuant to the Concession Agreement, repayment of Revenue Shortfall Loan and any claims in connection with or arising out of Termination;
- e. retention and payments arising out of, or in relation to, liability for defects and deficiencies set forth in the Concession Agreement;
- f. outstanding Debt Service including the balance of Debt Due;
- g. outstanding Subordinated Debt;
- h. incurred or accrued O&M Expenses;
- i. any other payments required to be made under the Concession Agreement; and
- j. balance, if any, in accordance with the instructions of the Concessionaire:

Provided that the disbursements specified in Sub-clause j of this Clause 4.2 shall be undertaken only after the Vesting Certificate has been issued by the Government.

4.3. Application of insufficient funds

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

4.4. Application of insurance proceeds

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

4.5. Withdrawals during Suspension

Notwithstanding anything to the contrary contained in this Agreement, the Government may exercise all or any of the rights of the Concessionaire during the period of Suspension under Article 36 of the Concession Agreement. Any instructions given by the Government to the Escrow Bank during such period shall be complied with as if such instructions were given by the Concessionaire under this Agreement and all actions of the Government hereunder shall be deemed to have been taken for and on behalf of the Concessionaire.

5. OBLIGATIONS OF THE ESCROW BANK

5.1. Segregation of funds

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

5.2. Notification of balances

7 (seven) business days prior to each Payment Date (and for this purpose the Escrow Bank shall be entitled to rely on an affirmation by the Concessionaire and/or the Lenders' Representative as to the relevant Payment Dates), the Escrow Bank shall notify the Lenders'

Representative of the balances in the Escrow Account and Sub-Accounts as at the close of business on the immediately preceding business day.

5.3. Communications and notices

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

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

5.4. No set off

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

5.5. Regulatory approvals

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

6. ESCROW DEFAULT

6.1. Escrow Default

6.1.1. Following events shall constitute an event of default by the Concessionaire (an "Escrow Default") unless such event of default has occurred as a result of Force Majeure or any act or omission of the Government or the Lenders' Representative:

- a. the Concessionaire commits breach of this Agreement by failing to deposit any receipts into the Escrow Account as provided herein and fails to cure such breach by depositing the same into the Escrow Account within a Cure Period of 5 (five) business days;
- b. the Concessionaire causes the Escrow Bank to transfer funds to any account of the Concessionaire in breach of the terms of this Agreement and fails to cure such breach by depositing the relevant funds into the Escrow Account or any Sub-Account in which such transfer should have been made, within a Cure Period of 5 (five) business days; or
- c. the Concessionaire commits or causes any other breach of the provisions of this Agreement and fails to cure the same within a Cure Period of 5 (five) business days.

6.1.2. 6.1.2 Upon occurrence of an Escrow Default, the consequences thereof shall be dealt with under and in accordance with the provisions of the Concession Agreement.

7. TERMINATION OF ESCROW AGREEMENT

7.1. Duration of the Escrow Agreement

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

7.2. Substitution of Escrow Bank

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

Escrow Account to a new Escrow Account established with the successor Escrow Bank.

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

7.3. Closure of Escrow Account

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

8. SUPPLEMENTARY ESCROW AGREEMENT

8.1. Supplementary escrow agreement

The Lenders' Representative and the Concessionaire shall be entitled to enter into a supplementary escrow agreement with the Escrow Bank providing, *inter alia*, for detailed procedures and documentation for withdrawals from Sub- Accounts pursuant to Clause 4.1.1 and for matters not covered under this Agreement such as the rights and obligations of Senior Lenders and lenders of Subordinated Debt, investment of surplus funds, restrictions on withdrawals by the Concessionaire in the event of breach of this Agreement or upon occurrence of an Escrow Default, procedures relating to operation of the Escrow Account and withdrawal therefrom, reporting requirements and any matters incidental thereto; provided that such supplementary escrow agreement shall not contain any provision which is inconsistent with this Agreement and in the event of any conflict or inconsistency between provisions of this Agreement and such supplementary escrow agreement, the provisions of this Agreement shall prevail.

9. INDEMNITY

9.1. General indemnity

- 9.1.1. The Concessionaire will indemnify, defend and hold the Government, Escrow Bank and the Senior Lenders, acting through the Lenders' Representative, harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of any breach by the Concessionaire of any of its obligations under this Agreement or on account of failure of the Concessionaire to comply with Applicable Laws and Applicable Permits.

- 9.1.2. The Government will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Government to fulfil any of its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement or this Agreement other than any loss, damage, cost and expense arising out of acts done in discharge of their lawful functions by the Government, its officers, servants and agents.
- 9.1.3. The Escrow Bank will indemnify, defend and hold the Concessionaire harmless against any and all proceedings, actions and third party claims for any loss, damage, cost and expense arising out of failure of the Escrow Bank to fulfil its obligations under this Agreement materially and adversely affecting the performance of the Concessionaire's obligations under the Concession Agreement other than any loss, damage, cost and expense, arising out of acts done in discharge of their lawful functions by the Escrow Bank, its officers, servants and agents.
- 9.2. Notice and contest of claims
In the event that any Party hereto receives a claim from a third party in respect of which it is entitled to the benefit of an indemnity under Clause 9.1 or in respect of which it is entitled to reimbursement (the "Indemnified Party"), it shall notify the other Party responsible for indemnifying such claim hereunder (the "Indemnifying Party") within 15 (fifteen) days of receipt of the claim and shall not settle or pay the claim without the prior approval of the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. In the event that the Indemnifying Party wishes to contest or dispute the claim, it may conduct the proceedings in the name of the Indemnified Party and shall bear all costs involved in contesting the same. The Indemnified Party shall provide all cooperation and assistance in contesting any claim and shall sign all such writings and documents as the Indemnifying Party may reasonably require.

10. DISPUTE RESOLUTION

- 10.1. Dispute resolution
- 10.1.1. Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to arbitration to a Board of Arbitrators comprising one nominee of each Party to the dispute, and where the number of such nominees is an even number, the nominees shall elect another person to such Board. Such arbitration shall be held

in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the "Rules") or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.

- 10.1.2. The Arbitrators shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Dehradun and the language of arbitration shall be English.

11. MISCELLANEOUS PROVISIONS

11.1. Governing law and jurisdiction

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

11.2. Waiver of sovereign immunity

The Government unconditionally and irrevocably:

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

11.3. Priority of agreements

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

11.4. Alteration of terms

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

11.5. Waiver

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

- a. shall not operate or be construed as a waiver of any other or subsequent default hereof or of other provisions of or obligations under this Agreement;
- b. shall not be effective unless it is in writing and executed by a duly authorised representative of the Party; and
- c. shall not affect the validity or enforceability of this Agreement In any manner.

11.5.2. Neither the failure by any Party to insist on any occasion upon the performance of the terms, conditions and provisions of this Agreement or any obligation thereunder nor time or other indulgence granted by any Party to another Party shall be treated or deemed as waiver of such breach or acceptance of any variation or the relinquishment of any such right hereunder.

11.6. No third party beneficiaries

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

11.7. Survival

11.7.1. Termination of this Agreement:

- a. shall not relieve the Parties of any obligations hereunder which expressly or by implication survive termination hereof; and
- b. except as otherwise provided in any provision of this Agreement expressly limiting the liability of either Party, shall not relieve either Party of any obligations or liabilities for loss or damage to the other Party arising out of, or caused by, acts or omissions of such Party prior to the effectiveness of such termination or arising out of such termination.

11.7.2. All obligations surviving the cancellation, expiration or termination of this Agreement shall only survive for a period of 3 (three) years following the date of such termination or expiry of this Agreement.

11.8. Severability

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

11.9. Successors and assigns

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

11.10. Notices

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

11.11. Language

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

11.12. Authorised representatives

Each of the Parties shall, by notice in writing, designate their respective authorised representatives through whom only all

communications shall be made. A Party hereto shall be entitled to remove and/or substitute or make fresh appointment of such authorised representative by similar notice.

11.13. Original Document

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

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the day of , 20..... hereunto affixed in the presence of, Director, who has signed these presents in token thereof and , Company Secretary / Authorised Officer who has countersigned the same in token thereof :

SIGNED, SEALED AND DELIVERED
For and on behalf of ESCROW BANK by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

In the presence of:
1.

SIGNED, SEALED AND DELIVERED
For and on behalf of SENIOR LENDERS by the Lenders' Representative:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

SIGNED, SEALED AND DELIVERED
For and on behalf of [DoSE] by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

11. SHAREHOLDER'S AGREEMENT

SCHEDULE 11

SHAREHOLDERS' AGREEMENT

THIS SHAREHOLDERS' AGREEMENT (the "Agreement") is made on this day of

AMONGST

1. Department of School Education (DoSE) represented by *** and having its principal offices at *** (hereinafter referred to as the "Government" which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) of One Part;
and
2. The Parties listed in Annex I hereto (hereinafter individually referred to as "Private Participant" and collectively referred to as "Private Participants") (which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include their respective legal representatives and successors) of the Second Part;
and
3. { LIMITED} a company incorporated under the provisions of the Companies Act, 1956 having its registered office at (hereinafter referred to as the "Company" or the "Concessionaire", which expression shall, unless it be repugnant or contrary to the subject or context thereof, be deemed to mean and include its legal representatives, successors and permitted assign) of the Third Part.
The Private Participants, the Government and the Concessionaire are hereinafter collectively referred to as the "Parties" and individually as "Party". The Private Participants and the Government are collectively referred to as the "Shareholders" and individually as "Shareholder".

WHEREAS:

- A. DOSE with an objective to provide educational facilities to the students, decided to set up Rajiv Gandhi Navodaya Vidyalaya at..... (insert the name of the place) on Build, Operate and Transfer (BOT) basis.
- B. Pursuant thereto, after evaluating the aforesaid proposals, DOSE accepted the proposal submitted by the Concessionaire and issued Letter of Acceptance No. _____ (insert Letter No.) dated _____ to the Concessionaire requesting the Concessionaire to execute the Concession Agreement, which the Concessionaire has acknowledged by its Letter No. _____ dated_____.

- C. The Private Participants include the [Members of the] Selected Bidder, which had bid, and was/ were thereafter short listed and eventually selected by Government, pursuant to which the Government issued the Letter of Award No. dated to incorporate the special purpose vehicle which would execute the Concession Agreement for undertaking the Project (the "Concessionaire") .
- D. The Selected Bidder has since promoted and incorporated the Concessionaire as a section 25 company under the Companies Act, 1956, and has requested the Government to accept the Concessionaire as the entity which shall undertake and perform the obligations and exercise the rights of the concessionaire under the Concession Agreement and the Government has agreed to this request.
- E. As part of the Request for Proposal it was contemplated that the Government would hold one non-transferable Golden Share (as defined hereinafter), on terms and conditions as set out in this Shareholders' Agreement.
- F. The Government and the Private Participants are therefore desirous of setting forth in this Agreement, the terms and conditions to govern the relationships in their mutual capacity as the Shareholders of the Concessionaire and to record their respective rights and obligations in relation to the management and functioning of the Concessionaire and other matters incidental thereto.

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

1. DEFINITIONS AND INTERPRETATIONS

1.1. Definitions

In this Agreement, (including any recitals, annexure, schedules or exhibit attached thereto), except where the context otherwise requires, the following words and expressions shall have the following meaning:

"Affected Party" shall have the meaning ascribed to the term in Clause 11.3 hereunder;

"Alternate Director" shall have the meaning ascribed to the term in Clause 5.7.1 hereunder;

"Board of Director(s)" or "Board" means the board of director(s) of the Concessionaire;

"Chairman" means chairman of the Board of the Company;

"Charter Documents" means the memorandum of association and articles of association of the Concessionaire, incorporating as appropriate, and consistent with, to the extent permitted by law, the terms and conditions of this Agreement.

"Companies Act" means the Companies Act, 1956, as amended from time to time, or any enactment substituting the said Companies Act;

"Concession Agreement" shall mean the Concession Agreement entered into between the Government and the Concessionaire with respect to the Project;

"Consequential Loss" shall have the meaning ascribed to the term in Clause 11.14 hereunder;

"Defaulting Party" shall have the meaning ascribed to the term in Clause 8.2.1 hereunder;

"Director" means a director on the Board of Directors of the Concessionaire;

"Equity Shares" means the fully paid up equity share of a par value of Rs. ***** each of the Concessionaire;

"Golden Share" means the fully paid up equity share of a par value of Rs. *** of the Concessionaire issued to be issued to the Government;

"Managing Director" means the whole time managing director of the Concessionaire;

"Private Participants" shall have the meaning ascribed to it in the preamble of this Agreement;

"Private Participants Agreement" shall have the meaning ascribed to the term in Clause 4.2.4 hereunder;

"Project" shall have the meaning ascribed to it in Recital A.

"Proprietary Information" shall have the meaning ascribed to the term under Clause 9.1 hereunder;

"Reserved Matters" means the matters listed under Annex II hereto;

"Shareholder" or "Shareholders" shall have the meaning ascribed to the term in the preamble of this Agreement;

"Shareholders' Agreement" or **"Agreement"** means this shareholders' agreement;

"Third Party" means any entity not a Party to this Agreement;

"Transfer" shall include (i) any transfer or other disposition of such securities or voting interests or any interest therein, including, without limitation, by operation of Applicable Laws, by court order, by judicial process, or by foreclosure, levy or attachment; (ii) any sale, assignment gift, donation, redemption, conversion or other disposition of such securities or any interest therein, pursuant to an agreement, arrangement, instrument or understanding by which legal title to or beneficial ownership of such securities or any interest therein passes from one entity to another entity or to the same entity in a different legal capacity, whether or not for value; (iii) the granting of any encumbrance (whether by way of mortgage, pledge, lien, hypothecation or otherwise) or charge in or extending or attaching to such securities or any interest therein or any privilege or priority of any kind having the effect of security.

1.2. Interpretations

- 1.2.1. The words and expressions beginning with capital letters and defined in this Agreement shall have the meaning ascribed thereto herein, and the words and expressions used in this Agreement and not defined herein but defined in the RFQ, the RFP, the Concession Agreement or the Companies Act, as the case may be, shall, unless repugnant to the context, have the meaning ascribed thereto in the Concession Agreement or the Companies Act.
- 1.2.2. References to Clauses are, unless stated otherwise, references to Clauses of this Agreement.
- 1.2.3. The rules of interpretation stated in Clauses 1.2, 1.3 and 1.4 of the Concession Agreement shall apply, mutatis mutandis, to this Agreement.

2. EFFECTIVE DATE

Except for the provisions of Clauses 2, 3, 7, 9 and 10 which shall become effective immediately upon the execution hereof, the provisions of this Agreement shall become effective upon the completion, to the satisfaction of the Government, of the following actions (such date being the effective date **"Effective Date"**):

- i. The Concessionaire shall have resolved by way of special resolution, in an extra ordinary General Meeting of the Shareholders of the Concessionaire, alteration of the Charter

- Documents of the Concessionaire, as necessary, to reflect the terms of this Agreement;
- ii. The Concessionaire shall have filed with the concerned Registrar of Companies, amended Charter Documents as above, as necessary, and provided the Government with the receipt issued by the said Registrar of Companies evidencing filing of the Chartered Documents amended as above;
 - iii. The Concessionaire shall have delivered and the Private Participants shall have caused the Concessionaire to deliver to the Government a certified true copy of all such resolutions and/or any other document(s) evidencing performance of the actions contemplated in this Clause.

3. CAPITAL STRUCTURE AND ISSUANCE OF THE GOLDEN SHARE

3.1. Issuance of the Golden Share to the Government

- 3.1.1. The Concessionaire hereby undertakes to issue and allot, and the Private Participants hereby agree to cause the Concessionaire to issue and allot to the Government, simultaneously with the execution of the Concession Agreement, the Golden Share, for a consideration equal to the par value of such Golden Share, and deliver the share certificate representing the Golden Share to the Government.
- 3.1.2. The Concessionaire shall make all filings as may be required under the provisions of the Companies Act and comply with all other requirements of Applicable Laws, in connection with the issuance of the Golden Share.
- 3.1.3. The Parties agree that the nominee Director of the Government shall have a right of affirmative vote in the meetings of the Board of Directors of the Company, and the Government shall have a right of affirmative vote in the General Meeting of Shareholders, in respect of the Reserved Matters. For the avoidance of doubt, the rights of the Government under this Agreement shall be in addition to any other rights that the Government may have under the Concession Agreement or any other Project Agreement.
- 3.1.4. The Parties expressly agree that the Golden Share shall, unless otherwise provided for under this Agreement, have identical rights and privileges of Equity Shares, with respect to dividend and all other matters.

3.2. Transfer restrictions

- 3.2.1. Any Shareholder (other than the Government) may, subject to the provisions of this Agreement, and in compliance with the Applicable Laws, Transfer, whether directly or indirectly, all or any of its/their Equity Shares or their rights under this Agreement to a Third Party provided that (i) such Transfer shall not cause the Concessionaire to be in breach of the Concession Agreement; and (ii) such Third Party purchaser shall agree and undertake to be bound by the terms and conditions of this Agreement and executes a deed of adherence in the form and manner attached in Annex III ("Deed of Adherence").
- 3.2.2. It is hereby expressly clarified that where Private Participant is a special purpose vehicle established primarily for the purposes of holding Equity Shares in the Concessionaire (such Private Participant being an "SPV PP"), a Transfer of any shareholding in such SPV PP shall constitute an indirect Transfer of Equity Shares by the SPV PP for the purposes of this Agreement and be subject to the restrictions on Transfer of shares as set forth in this Agreement, including (i) the requirement of the execution of a Deed of Adherence by a third party transferee.
- 3.2.3. The Parties expressly agree that the Government shall not be entitled to Transfer the Golden Share at any time, save and except when a successor entity of the Government assumes the rights and obligations of the Government under the Concession Agreement.

4. SCOPE AND OBJECTIVE OF THE CONCESSIONAIRE

4.1. Purpose of the Concessionaire and scope of this Agreement

The purpose of the Concessionaire is to undertake and perform the obligations and exercise the rights of the Concessionaire in accordance with and subject to the provisions contained in the Concession Agreement.

4.2. Shareholder commitments

- 4.2.1. Each Shareholder hereby agrees to cooperate with each other Shareholder and with the Concessionaire and to use its reasonable efforts to the extent that it has the authority and ability to do so to promote the success of the Concessionaire:

Provided, however, the Parties hereby expressly acknowledge and agree that the responsibilities and obligations of the Government shall be restricted and limited to the matters expressly set forth in the Concession Agreement: Provided further that, nothing contained in this Article 4.2.1 shall be construed as creating any obligation on the Government other than as expressly set forth in the Concession Agreement, nor will it imply any joint and several liability of the Government.

4.2.2. Each Shareholder hereby undertakes towards the other Shareholders and to the benefit of the Concessionaire:

- (a) To perform and observe all of the provisions of this Agreement and the Charter Documents; and
- (b) Subject to Government's right of affirmative vote (which may be exercised through a nominee of the Government) in relation to the Reserved Matters, and without prejudice to the foregoing, to procure that (i) every person for the time being representing it in its capacity as Shareholder, and (ii) every person appointed as a Director in terms of this Agreement will exercise any power of vote or cause the power to vote to be exercised, at any meeting of the Shareholders or the Board of the Concessionaire, as the case may be, so as to ensure the approval of any and every resolution necessary or desirable to procure that the affairs of the Concessionaire are conducted in accordance with the Concession Agreement and otherwise to give full effect to this Agreement, and likewise so as to ensure that no resolution is passed which is not in accordance with the Concession Agreement and/or the provisions of this Agreement; provided, however, that except as expressly directed or as otherwise contemplated by any provisions in this Agreement, each Shareholder shall have full discretion on how to vote the Equity Shares which such Shareholder owns or on how to cause any person appointed by such Shareholder to act in operating the Concessionaire, subject only to Applicable Laws.

4.2.3. If any Director nominated by a Shareholder pursuant to Clause 5, for any reason refuses to exercise his discretion in accordance with the provisions of this Agreement, such Shareholder shall forthwith take all action within its power or control to substitute such Director.

4.2.4. The Parties agree that the Charter Documents shall, to the extent permissible under Applicable Laws, incorporate the provisions of this Agreement including without limitation Government's right of affirmative vote and to the extent that the Charter Documents are inconsistent with the Agreement, the Shareholders shall exercise their power as shareholders of the Concessionaire to ensure that the Charter Documents are amended to the extent permissible under Applicable Law to remove any such inconsistencies. Further, the

Parties also agree that the Private Participants may enter into any agreement amongst themselves to regulate their inter-se relationship as shareholders of the Concessionaire ("Private Participants Agreement"), provided that the provisions of such Private Participants Agreement shall not be contrary to or inconsistent with the provisions of this Agreement, or detrimental, in any way, to the interest of the Government under this Agreement and/or the Concession Agreement and shall be permissible under Applicable Laws. For the avoidance of doubt, it is hereby expressly agreed between the Parties that in the event of a conflict or inconsistency between the Private Participants Agreement and this Agreement, the provisions of this Agreement shall take precedence.

- 4.2.5. The Private Participants hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project, till such time as the Financial Close for the Project is achieved in accordance with the Concession Agreement.

5. MANAGEMENT AND THE BOARD OF DIRECTORS

5.1. Management

The Concessionaire shall be managed and governed under the overall superintendence, direction and control of the Board. The Board shall have overall authority with respect to development and management of the Concessionaire and the Project. The officers of the Concessionaire shall have the authority and responsibilities specified by the Board of Directors, consistent with the Charter Documents and this Agreement.

5.2. Composition of the Board

- 5.2.1. The Board composition shall be determined as under:

- a. The Government shall at all times be entitled to nominate a person of its choice for appointment as a Director on the Board of the Concessionaire, and upon such nomination, the Concessionaire shall appoint such person as a non-retiring Director in accordance with the Applicable Laws.
- b. Private Participants and Shareholders other than the Government shall have the right to nominate the remaining Directors.

- 5.2.2. The Shareholders hereby acknowledge and agree to vote their respective shareholding in the Concessionaire in such manner so as to ensure appointment of the nominee of Government and the Private Participants, as Directors from time to time.

5.3. Chairman

The Parties hereby undertake and agree that the Private Participants shall have the right to nominate the Chairman of the Concessionaire, who shall be appointed by the Board.

5.4. Managing Director

5.4.1. The Private Participants shall also nominate the Managing Director of the Concessionaire, who shall, following a Board resolution, be appointed by the Board.

5.4.2. The Managing Director shall be responsible for day-to-day management of the Concessionaire and for implementing the Project. The Managing Director will exercise his powers subject to the overall superintendence, direction and control of the Board.

5.5. Qualification

The Directors need not hold any qualification shares in the Concessionaire.

5.6. Resignation and removal

Except where a Director is required under Applicable Law or the Charter Documents to vacate office, no Director shall be removed during the term for which he was elected without the consent of the Shareholder that recommended his appointment on the Board. Notwithstanding the foregoing, a Shareholder may ask for removal, substitution or recall for any reason, of any of the Directors nominated by such Shareholder and such Director shall be bound by the direction of removal, substitution or recall. Each Shareholder agrees to co-operate with the other Shareholders in convening a meeting of the Shareholders of the Concessionaire to effect such removal and to vote in favour thereof, if so required.

5.7. Alternate Director

5.7.1. A Director, other than the Managing Director, (the "**Original Director**") shall be entitled at any time and from time to time, to appoint any person to act as the Original Director's alternate ("**Alternate Director**") (and the Shareholders shall procure that the Board appoints such person as his alternate) and to direct the termination of the appointment of such Alternate Director (and the Shareholders shall procure that the Board terminates the appointment of such Alternate Director).

5.7.2. The Alternate Director shall be entitled, while holding office as such, to receive notices of meetings of the Board or any committee thereof

to which the Original Director has been appointed, and to attend and vote as a Director at any such meetings at which the Original Director is not present and generally to exercise all the powers, rights (other than the right to appoint an Alternate Director as provided in Clause 5.7.1), duties and authorities and to perform all the functions of the Original Director. Further, such Alternate Director shall be entitled to be counted for the purpose of constituting quorum, exercise the vote and sign a written resolution on behalf of the Original Director at any meeting of the Board or any committee thereof and to the extent permitted by Applicable Laws, his signature, vote, presence and consent shall be deemed to be that of himself (as if he is a Director in his own right) and the Original Director for whom he is an Alternate Director.

5.8. Vacancy

If a vacancy in any such office should occur for whatever reason, or a Director is absent for a continuous period of 1 (one) month from the place where meetings of the Board are regularly held and no Alternate Director has been appointed in his place, then the Shareholder that nominated such Director shall be entitled to nominate a replacement Director, and the Shareholders agree to vote their Shares unanimously for the removal of such Director and election of such replacement Director.

5.9. Mode of conduct of Board meeting

Board meetings shall be held at least once every quarter at such places in India as the Board may determine and failing any such determination at the Concessionaire's registered office located at If and when permitted under Applicable Laws, a Director may participate in a Board meeting or a committee/sub-committee meeting of the Board by means of telephone, audio and/or video conferencing or other communication facilities, and a Director participating in such a meeting by such means shall be deemed for the purposes of this Agreement, to be present at that meeting.

5.10. Notice and Agenda for meeting

- 5.10.1. Unless the requirement of notice is waived by all Directors, a minimum of 14 (fourteen) days written notice (or such shorter period as all the Directors may agree) of the Board meetings shall be given to all Directors and their Alternate Directors. Each notice of a meeting of the Board shall contain, *inter alia*, an agenda specifying in reasonable detail, the matters to be discussed at the relevant meeting and shall be accompanied by all necessary written information.

5.10.2. The Board shall only transact the business set out in the agenda accompanying the notice to the Directors. Provided however that with the unanimous consent of all the Directors with Director nominated by Government in attendance and voting in favour, the Board may transact business that is not set out in the agenda.

5.11. Quorum for Board meetings

5.11.1. The quorum for the meetings of the Board or any adjournment thereof shall necessarily include the Director nominated by Government if any Reserved Matter is to be considered in such meeting; and no Reserved Matter shall be taken into consideration at such meeting if the Director nominated by the Government is not present at such meeting.

5.11.2. All items of business transacted or decisions taken at meetings where the quorum is not so constituted shall be null and void.

5.12. Committees of the Board

If the Board finds it necessary to constitute a committee or sub-committee, the Board shall determine the powers (including scope, termination, amendment of and withdrawal thereof) of such committee or sub-committee. The committee or sub-committee shall be subject to and be under the supervision of the Board. Notwithstanding anything to the contrary contained herein, the Government shall have the right to nominate its nominee to each and every committee and sub-committee constituted by the Board: Provided, however, that no Reserved Matters shall be delegated to such committee and/or sub-committee.

5.13. Decisions

5.13.1. Subject to the provisions of the Companies Act, a resolution of the Board of Directors shall be adopted by the affirmative vote of the simple majority of the Directors present at a meeting at which a quorum of the Board of Directors is present. Provided, however, that all resolutions on the Reserved Matters to be passed in the meeting of Board of Directors of Concessionaire shall be subject to the affirmative vote of the Director nominated by the Government and no such resolution shall be passed if no such Director nominated by the Government is present and voting in favour of such resolution.

5.13.2. The Concessionaire or any of its Directors, officers, agents or representatives shall not undertake any Reserved Matter without the prior approval by the Board in the manner provided in Clause 5.13.1 above and any act done by the Concessionaire or any of its Directors, officers, agents or representatives without such prior approval shall be null and void.

5.14. Resolution by circulation

Subject to Applicable Laws and for matters other than Reserved Matters, resolutions of the Board may be passed by circulation, if the resolution has been circulated in draft, together with necessary papers, if any, to all the Directors, then in India or outside India, and has been signed by a majority of the Directors. Such resolutions may be signed by the Directors as single document or in counterparts.

5.15. Authority

Unless otherwise authorised by the Board, none of the Directors shall be empowered to bind the Concessionaire individually.

5.16. Disqualification of Directors

Subject to Applicable Laws, a Director shall not be deemed disqualified to serve by reason of his being officer, director or shareholder of any other body corporate.

5.17. Inspection and information

5.17.1. It is hereby agreed between the Parties that the Government shall have the right to examine the books, records and accounts to be kept by the Concessionaire and shall be entitled to receive all information, including monthly management accounts and operating statistics and other trading and financial information.

5.17.2. Without prejudice to the generality of Clause 5.17.1, the Concessionaire shall supply the Government with copies of:

- (a) audited accounts of the Concessionaire (complying with all relevant legal requirements); and
- (b) monthly/quarterly management accounts of each principal division of the Concessionaire; these shall include a consolidated profit and loss account, balance sheet and cash flow statement broken down according to the principal divisions of the Concessionaire including a statement of progress against the relevant business plan, a statement of any variation from the quarterly revenue budget and up-to-date forecasts for the balance of the relevant Accounting Year and itemising all

expenditure in relation to the Concessionaire's capital programme entered into by each principal division of the Concessionaire during that period.

6. SHAREHOLDERS' RIGHTS AND OBLIGATIONS

6.1. General Meeting and matters requiring the approval of Shareholders

- 6.1.1. The Board may whenever it thinks fit convene a General Meeting of the Concessionaire. The Board shall also proceed to convene a General Meeting if so requisitioned by the Shareholders of the Concessionaire in accordance with the provisions of the Companies Act and the Charter Documents.
- 6.1.2. Notwithstanding anything to the contrary contained in this Agreement and the Charter Documents, no decision shall be made and no action shall be taken by or with respect to a Reserved Matter, which is subject to the affirmative vote rights of the Government as provided in Clause 3.1.3 above, unless approved by an affirmative vote of authorized representative of the Government. The Parties specifically agree that a resolution relating to the Reserved Matters shall be passed in a meeting of Shareholders only and not by way of circulation.
- 6.1.3. The quorum for any Shareholders meetings or any adjournment thereof shall necessarily include a representative of the Government if any Reserved Matter is to be considered in such meeting; and no Reserved Matter shall be taken into consideration at such meeting, if a representative of the Government is not present at such meeting.
- 6.1.4. All items of business transacted or decisions taken at meetings where the quorum is not so constituted shall be null and void.

7. UNDERTAKINGS, REPRESENTATIONS AND WARRANTIES

- 7.1. Each of the Private Participants hereby warrant and represent to and for the benefit of Government, the Concessionaire and the other Private Participants that:
 - (a) It is duly organised and validly existing under law and has all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof;

- (b) the execution and delivery by the Private Participant of this Agreement has been duly authorised by all requisite corporate and other action and will not contravene any provisions of or constitute a default under, any other agreement or instrument to which it is a party or by which it may be bound;
- (c) this Agreement and all such other agreements and written obligations entered into and undertaken in connection with the transactions contemplated hereby to which it is a Party, constitute or will constitute following the execution and delivery thereof valid and legally binding obligations of such Private Participant, enforceable against it in accordance with its respective terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganisation and other laws affecting generally the enforcement of the rights of creditors and subject to a court's discretionary authority with respect to the granting of a decree ordering specific performance or other equitable remedies;
- (d) it is not insolvent and no insolvency proceedings have been instituted, nor threatened or pending by or against it;
- (e) it has complied with Applicable Laws in all material respects and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate has or may have a material adverse effect on its ability to perform its obligations under this Agreement; and
- (f) there are no actions, suits, claims, proceedings or investigations pending or, to the best of the Private Participant's knowledge, threatened in writing against it at law, in equity, or otherwise, whether civil or criminal in nature, before or by, any court, commission, arbitrator or governmental authority, and there are no outstanding judgments, decrees or orders of any such courts, commissions, arbitrators or governmental authorities, which materially and adversely affects its ability to perform its obligations under this Agreement.

7.2. Each of the Private Participants and the Concessionaire hereby irrevocably undertake, warrant and represent to and for the benefit of Government that:

- a. the rights vested in the Government under this Agreement and the Concession Agreement shall not be abridged, abrogated or in any manner affected by any act done or purported to be done by any of the Private Participants or the Concessionaire; and
- b. any divestment of equity in the Concessionaire shall not in any manner affect the rights of the Government herein and that the successors, assigns and substitutes of the Concessionaire shall be bound by such undertaking.

7.3. The Government hereby warrants and represents to and for the benefit of the Concessionaire and the Private Participants that it has

all requisite legal power and authority to execute this Agreement and carry out the terms, conditions and provisions hereof.

8. TERMINATION

8.1. Termination

The Parties agree that in the event any of the Shareholders cease to hold, directly or indirectly, any Equity Shares of the Concessionaire, this Agreement shall stand terminated automatically vis-a-vis such Shareholder. Provided however, the obligations of such Shareholder under this Agreement relating to confidentiality (Clause 9) and dispute resolution (Clause 10) and such other provisions of this Agreement that by their nature are intended to survive, shall survive any termination of this Agreement.

8.2. Right to Terminate for Cause

- 8.2.1. In the event of occurrence of a material breach of any of the terms and conditions of this Agreement or any covenant, representation, warranty or agreement set forth herein ("Material Breach") on the part of a Shareholder (the "Defaulting Party"), any other Shareholders ("Non-Defaulting Party") may give written notice of the alleged breach ("Breach Notice") to the Defaulting Party.
- 8.2.2. A termination event ("Termination Event") shall be deemed to have occurred if such Material Breach, if reasonably capable of being cured, is not cured by the Defaulting Party within 30 (thirty) days of receipt of the Breach Notice ("Cure Period"), or if such Material Breach is not reasonably capable of being cured, forthwith upon issue of the Breach Notice.
- 8.2.3. On the occurrence of a Termination Event on the part of any of the Private Participants, the Government may, in its discretion, require such Private Participant to transfer all, but not less than all, of the Equity Shares held by it to the Government at the lower of the market value of Equity Shares or 25% (twenty five per cent) of the par value thereof; and the transfer of such shares shall take place at the registered office of the Concessionaire within 30 (thirty) days from the date of notice by the Government in this behalf.

9. CONFIDENTIALITY

- 9.1. The Parties hereby acknowledge and agree that each of them possess and will continue to possess information that has been created, discovered, developed, or otherwise known and owned by them,

which information has commercial value in the business in which they are or may become engaged (the aforementioned information is hereinafter called "Proprietary Information"). The Parties, on behalf of themselves, agree that during the terms of this Agreement and after the termination or expiration hereof, each of them will keep in confidence and trust all Proprietary Information received from the other Party, and they will not use or disclose any such Proprietary Information or anything directly relating to it without the written consent of the other Party(s).

- 9.2. In the event of the expiration or termination of this Agreement for any reason, the Parties shall promptly, at the direction of the owner of such Proprietary Information, cease to use, destroy or return to the owner all documents and data of any nature pertaining to the Proprietary Information owned by such Party, and will not keep or deliver to anyone else any documents or data of any description or any reproduction of any description containing or pertaining to any Proprietary Information.
- 9.3. This Clause shall not, however, apply to information which:
- a. is or becomes publicly available without the fault of any Party;
 - b. was known to any Party on a non-confidential basis prior to disclosure;
 - c. is independently developed by any Party without use of the Proprietary Information;
 - d. is disclosed by the owner of such information to a Third Party without restrictions similar to those contained herein;
 - e. is disclosed in order to enable the sell-down! draw-down of debt or to proposed Third Party transferees, provided that the recipient executes a confidentiality undertaking to use the information solely for that purpose;
 - f. is disclosed in order to comply with the requirements of Applicable Laws including any requirements for the stock exchange listing of the Concessionaire or any entity, which directly or indirectly, holds Equity Shares;
 - g. (g) is disclosed to any of the consultants (legal, financial, technical or otherwise) of the Parties, provided that the recipient executes a confidentiality undertaking to use the information solely for the purpose disclosed.
- 9.4. The Shareholders agree with each other and the Concessionaire to use their, and to cause the Concessionaire to use its, best efforts to assure that all information disclosed in connection with the business

of the Concessionaire and not otherwise generally available shall be kept confidential and shall not be revealed.

10. GOVERNING LAW AND CONSENT TO JURISDICTION; ARBITRATION

- 10.1. This Agreement and all questions of its interpretation shall be construed in accordance with the laws of India. Subject to Clause 10.3, the courts at [Dehradun] shall have exclusive jurisdiction over this Agreement.
- 10.2. The Parties agree that they shall attempt to resolve through good faith consultation, all and any issue, dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party ("Disputes"), and such consultation shall begin promptly after a Party has delivered to the other Party a written request for such consultation: Provided that if such good faith consultations have not resulted in a resolution of the dispute within 60 (sixty) days of such consultations having commenced, the provisions of Clause 10.3 shall apply.

10.3. Arbitration

- 10.3.1. Any dispute, difference or claim arising out of or in connection with this Agreement, which is not resolved amicably, shall be decided finally by reference to a sole arbitrator to be appointed by the Chief Justice of the [Nainital] High Court. Such arbitration shall be subject to the provisions of the Arbitration and Conciliation Act, 1996.
- 10.3.2. The arbitrator shall issue a reasoned award and such award shall be final and binding on the Parties. The venue of arbitration shall be Dehradun and the language of arbitration shall be English.
- 10.3.3. This Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the award in any arbitration proceedings hereunder.

11. MISCELLANEOUS

11.1. Notices

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

11.2. Force Majeure

Notwithstanding anything to the contrary contained in this Agreement, it IS hereby expressly agreed between the Parties that no relief shall be granted to any Party under this Agreement for, or on account of, Force Majeure.

11.3. Specific performance of obligations

The Parties to this Agreement agree that, to the extent permitted under Applicable Laws, the rights and obligations of the Parties under this Agreement shall be subject to the right of specific performance and may be specifically enforced against a defaulting Party. The Parties acknowledge that any breach of the provisions of this Agreement will cause immediate irreparable harm to the adversely affected Party ("Affected Party") for which any compensation payable in damages shall not be an adequate remedy. Accordingly, the Parties agree that the Affected Party shall be entitled to immediate and permanent injunctive relief, specific performance or any other equitable relief from a court of competent jurisdiction in the event of any such breach or threatened breach by any other Party. The Parties agree and stipulate that the Affected Party shall be entitled to such injunctive relief, specific performance or other equitable relief without (i) the necessity of proving actual damages; or (ii) posting a bond or other security. Nothing contained herein shall limit the Affected Party's right to any remedies at law or in equity, including without limitation the recovery of damages from the defaulting Party.

11.4. Entire Agreement

11.4.1. Subject to the provisions of the Clause 11.4.2, this Agreement, together with all Annexures, Schedules, Exhibits and attachments hereto, represents the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement and supersedes any prior agreement or understanding, written or oral, that the Parties may have had.

11.4.2. Nothing contained herein shall:

- (a) affect the provisions of the Concession Agreement;
- (b) prevent the Private Participants from having any other inter-se arrangements regarding their shareholding in the Concessionaire, provided that no such arrangements shall in any way affect the rights of the Government under this Agreement or under the Concession Agreement.

For the avoidance of doubt, it is clarified that in the event of a conflict between the provisions of the Concession Agreement and this Agreement, the provisions of the Concession Agreement shall prevail.

11.5. Amendments

Any modification, amendment, or waiver of any provision of this Agreement shall be effective if, but only if, in writing and signed in person or by an authorised representative of each Party.

11.6. Severability

If any article, clause, section or paragraph, or part thereof, of this Agreement or any agreement or document appended hereto or made a part hereof is invalid, ruled illegal by any court of competent jurisdiction, or unenforceable under present or future Applicable Laws, then it is the intention of the Parties that the remainder of the Agreement, or any agreement or document appended hereto or made a part hereof, shall not be affected thereby unless the deletion of such provision shall cause this Agreement to become materially adverse to any Party in which case the Parties shall negotiate in good faith such changes to the Agreement as will best preserve for the Parties the benefits and obligations under such provision.

11.7. Counterparts

This Agreement may be executed in two or more counterparts, and by each Party on the same or different counterparts, but all of such counterparts shall together constitute one and the same instrument.

11.8. Waivers

No failure by a Party to take any action with respect to a breach of this Agreement or a default by any other Party shall constitute a waiver of the former Party's right to enforce any provision of this Agreement or to take action with respect to such breach or default or any subsequent breach or default. Waiver by any Party of any breach or failure to comply with any provision of this Agreement by a Party

shall not be construed as, or constitute, a continuing waiver of such provision, or a waiver of any other breach of or failure to comply with any other provision of this Agreement.

11.9. No agency

This Agreement shall not constitute any Party as the legal representative or agent of another Party, nor shall any Party have the right or authority, to assume, create or incur any liability or obligation, express or implied, against, in the name of, or on behalf of another Party.

11.10. No Third Party beneficiaries

Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any entity other than the Parties hereto (and their respective successors and permitted assigns) any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained.

11.11. Independence of the Parties with respect of each other and of the Concessionaire

The Parties are and shall remain independent. None of the Parties shall be considered an agent of the other, nor shall they have authority to enter into any contract or any obligation for, or make any warranty or representation on behalf of the other, or the Concessionaire.

11.12. Arms length

All relationships between each Party of the one part, and the Concessionaire of the other part, shall be conducted at arms length and on competitive terms.

11.13. Encumbrance

The Parties agree that the Private Participants shall not be entitled to Encumber their shareholding in the Concessionaire other than in favour of or for the benefit of the Senior Lenders under the Financing Agreements and/or for working capital arrangements for the Project.

11.14. Consequential Loss

Notwithstanding anything to the contrary contained in this Agreement, in no event shall any Party, its officers, employees or agents be liable to any other Party (on the basis of contract, indemnity, warranty or tort including negligence and strict or absolute liability or breach of statutory duty or otherwise) for any matter arising out of, or in connection with, this Agreement in respect of any Consequential Loss suffered by such other Party. For the purposes of this provision, "**Consequential Loss**" means any indirect or consequential loss (including loss of profit, loss of revenue, loss of contract, loss of goodwill, liability under other agreements, or liability to third parties) resulting from such breach

and whether or not the Party committing the breach ought to have known, that such indirect or consequential loss would be likely to be suffered as a result of such breach and includes the payment or repayment of any amounts (or any acceleration thereof) to lenders or creditors of the aggrieved Party from time to time, but excludes death or personal injury resulting from the negligence of the Party liable, its officers, employees or agents.

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

THE COMMON SEAL OF CONCESSIONAIRE has been affixed pursuant to the resolution passed by the Board of Directors of the Concessionaire at its meeting held on the day of , 20..... hereunto affixed in the presence of , Director, who has signed these presents in token thereof and , Company Secretary / Authorised Officer who has countersigned the same in token thereof \$:

SIGNED, SEALED AND DELIVERED

For and on behalf of
[Private Participant] by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)
In the presence of:
1.

SIGNED, SEALED AND DELIVERED

For and on behalf of
[THE GOVERNMENT OF ***] by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

For and on behalf of
[Private Participant] by:

(Signature)
(Name)
(Designation)
(Address)
(Fax No.)
(e-mail address)

2.

s To be affixed in accordance with the articles of association of the Concessionaire.

Reserved Matters

- (a) to alter or add to provisions of the memorandum;
- (b) to alter or add to the articles of association;
- (c) to change the name of the Concessionaire;
- (d) to purchase the Concessionaire's own shares or specified securities;
- (e) to issue sweat equity shares;
- (f) to issue further shares without pre-emptive rights to non-members or to convert loans or debentures into shares;
- (g) to reduce the share capital;
- (h) to remove the registered office of the Concessionaire outside the limits of the State where it is located;
- (i) to commence any new lines of business;
- U) to keep registers and returns at any other place than within city, town or village in which the registered office is situated;
- (k) to consent to a Director or his relative or partner or firm or private company holding an office or place of profit, except that of Managing Director, manager, banker, or trustee for debenture-holders of the Concessionaire;
- (l) to make inter-corporate-loans and investments or guarantee/security to be given, etc., if the aggregate amount thereof, exceeds the limit of 10% (ten per cent) of the Concessionaire's paid-up share capital;
- (m) to apply to a Court to wind-up the Concessionaire;
- (n) to wind-up the Concessionaire voluntarily;
- (o) for various other matters pertaining to the winding up of the Concessionaire; and
- (p) any other matter which is required by the Companies Act, 1956 to be passed by a special resolution of the shareholders of the company.

3. Governing law

This Deed shall be governed by and construed in accordance with the laws of the India. The terms and conditions of the Shareholders' Agreement in relation to the provisions regarding arbitration and other terms and conditions shall be deemed to have been incorporated in this Deed.

By

Name and Title:

In the presence of:

Witness

1.

2.

12. SUBSTITUTION AGREEMENT

SCHEDULE 12

SUBSTITUTION AGREEMENT

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

AMONGST,

Department of School Education, Government of Uttarakhand, represented by Director and having its office at Director School Education, Uttarakhand Nanoorkhera, Tapovan Road, Dehradun - 248 001 hereinafter referred to as "DOSE", which expression shall, unless repugnant to the context or meaning thereof include its administrators, successors or assigns OF THE ONE PART,

AND

M/s. XXXX 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

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

OR

ZZZZ (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,

- A. DOSE desires to Build, Operate and Transfer Rajiv Gandhi Navodaya Vidyalaya at _____, Uttarakhand for a period of 30 years;
- B. By the Concession Agreement dated _____ entered into between DOSE and the Concessionaire (hereinafter referred to as "the Concession

Agreement”) the Concessionaire has been granted the Concession to implement the Project on BOT basis;

- C. With a view to facilitate financing of the Project by the Concessionaire, DOSE and the Concessionaire have agreed to enter into a Substitution Agreement being these presents with the Lender(s)/Lenders’ Representative.
- D. 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 Concessioneing 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 Concession Period 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 DOSE 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 Facility, 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

DOSE 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

DOSE shall upon the occurrence of Concessionaire Event of Default issue Preliminary Notice of Termination to the Concessionaire in terms of Article 15.2(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 15.1(a)(xiii) DOSE shall issue Termination Notice to the Concessionaire in terms of Article 15.2(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 15.1(a)(ix) of the Concession Agreement, DOSE shall not be obliged to issue Preliminary Termination Notice until receipt by DOSE of the recall notice issued by the Lender(s) to the Concessionaire.

2.3 Suspension of Concession and Takeover of the Project Facility

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 DOSE being required, and that DOSE shall have the right to enter upon and takeover the Project Site/Project Facility and to take all such steps as are necessary for the continued operation and maintenance of the Project Facility, 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 Facility by DOSE forthwith upon suspension becoming effective.

2.4 Substitution Notice

DOSE 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 DOSE 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:

- (i) 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;
- (ii) 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 DOSE 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 DOSE 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 DOSE to decide as to the acceptability of the Selectee. The Lender/ Lender's Representative shall provide to DOSE such additional information and clarification in respect of any data, particulars or information contained in the Proposal, as DOSE 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 DOSE of the Proposal observe, comply with, perform and fulfill 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 DOSE and the Lender(s) as may be necessary or required to give effect to the substitution of the Concessionaire by the Selectee.

- (iii) DOSE 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 DOSE, 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 DOSE, whichever is later.
- (iv) At any time prior to the acceptance of the Selectee by DOSE pursuant to this Agreement, DOSE may require the Lender/Lenders' Representative to satisfy it as to the eligibility of the Selectee and the decision of DOSE 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 DOSE 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 (iii), DOSE shall be deemed to have accepted the Proposal/the Selectee.
- (v) The rejection of the Selectee if made by DOSE 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 (iii) and (iv) shall apply mutatis mutandis to such fresh Proposal.
- (vi) If DOSE accepts the Proposal/fresh Proposal, DOSE 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 DOSE 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 DOSE and upon the

delivery by DOSE of the Project Site/Project Facility 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 DOSE or any claim of DOSE 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 substitution and required or agreed to be cured.

- (viii) The decision of the Lenders and DOSE 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,
 - (iii) that DOSE has declined to accept the Selectee proposed by the Lender/Lenders' Representative,

DOSE shall proceed to terminate the Concession Agreement 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 DOSE and it is expressly agreed that DOSE 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

DOSE 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 DOSE 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 therefor by the Lender(s)/Lenders' Representative and advised to DOSE 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 DOSE 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 "DOSE", 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 DOSE and the successor in interest of the Lender or DOSE 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 Dehradun, 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 Dehradun 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 and 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
DEPARTMENT OF SCHOOL EDUCATION

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

13. MANAGEMENT INFORMATION SYSTEM

SCHEDULE 13

Management Information System shall contain the following information for each Financial Year:

1. Official Information of each student to be Collected and Updated from Time to Time

Displays various Official information about the Student such as his: Name, Existing and Computersied Admission No, Class, Section, Subject Group, Class Roll No., Gender, Date Of Birth (DOB), Blood Group, Admission Status (i.e. New, Old, Suspended, Left, etc.), Permanent and Correspondence Address.

2. Personal Information of each student to be Collected and Updated from Time to Time

Father's Name, Father's Qualification, Occupation, Income, Office Address; Mother's Name, Mother's Qualification, Occupation, Income, Office Address (if applicable); Guardian's Name, Relation and Address, Remarks (if any), Photograph, Signature.

3. Other Information of each student

Details of the real Brother(s) and Sister(s) studying in the school along with their Class and Section, Permanent address, Joining Date, Joining Year, Joining Class, Concession and Applicable Month and if Student is availing the staff concession then details of the Parent working in the School, Name of the USER who has last modified or accessed Students Information, along with the Date.

4. Competence Information of each student

Shows the details his Strengths and Areas of Improvement as recognized by various Subjects teachers along with their Comments. Details of his Activity House, House in-charge, House Flag Color and details of the various activities like Sports, Co-Curricular and Cultural event, he has participated in along with his Performance status and remarks in these activities.

5. Fees A/C of each student

Shows detailed A/C of Fees, with month wise details of Fees components, their amount, Receipt No., Date, Time and User Name, paid till date.

6. Results

Show the details of all the term, half yearly, final and annual exams conducted till date, with subject name, examwise max. & min. marks and marks obtained by the Student, subject grades and grace marks(if applicable), result status of Pass/ Fail. A separated column is available for VIIIth, Xth & XIIth students appeared in the Board Exams, showing their detailed Board result separately.

7. Attendance Sheet

Shows the details of different types Leaves taken, i.e. Absent, Sports Leave, Medical Leave, etc., by the Students on different dates during an academic session.

8. Library A/C

Showing the details for transaction done by the Students in School Library, e.g. Book No., Book name, their Issue Date, Return Date, Due Date, Fine and Remarks, etc.

9. Other Relevant Information

Concessionaire may add other relevant information to the system to improvement effectiveness of MIS.

ANNEXURE A

(List of Bedding items, Utensils, Books, Stationary, Uniform, Toiletries (Daily use items), Food, participation fee for schools sports / games and Board fees)

1- अनावर्ती व्यय :-

क्र० सं०	मद	विवरण	आवृत्ति / अधिकतम सीमा
आवासीय व्यवस्था			
01	चरपाई	प्रति छात्र एक चारपाई विद बुडन टॉप विद बुक रैक की व्यवस्था की जायेगी।	8 वर्ष
02	गद्दा	प्रति छात्र एक गद्दा न्यूनतम 4किग्रा रुई वाला अनुमन्य होगा। हिमपात वाले अतिशीत स्थलों में 5 किग्रा रुई की अनुमन्यता होगी।	5 वर्ष
03	तकिया	प्रति छात्र एक तकिया 1 किग्रा रुई वाला अनुमन्य होगा।	5 वर्ष
04	तकिया कवर	तकिया कवर सूती प्रतिछात्र एक उपलब्ध कराया जायेगा	2 वर्ष
05	बेडशीट	दो बेडशीट सूती प्रतिछात्र, उपलब्ध कराया जायेगा	2 वर्ष
06	कम्बल/रजाई	दो कम्बल प्रति छात्र, उपलब्ध कराया जायेगा। हिमपात वाले अतिशीत स्थलों 5 किग्रा रुई की रजाई की अनुमन्यता होगी।	7 वर्ष
07	कम्बल/रजाई कवर	एक कवर सूती प्रतिछात्र उपलब्ध कराया जायेगा।	2 वर्ष
बर्तन			
08	थाली स्टील खानेदार	प्रतिछात्र एक	7 वर्ष
09	थालास	प्रतिछात्र एक	7 वर्ष
10	हाफ प्लेट	प्रतिछात्र एक	7 वर्ष
11	चम्मच	प्रतिछात्र एक	7 वर्ष

2- आवर्ती व्यय :-

पाठ्य पुस्तकें/स्टेशनरी			
12	पाठ्य पुस्तकें	कक्षानुसार एक सेट प्रतिछात्र	01 वर्ष
13	अभ्यास पुस्तिकायें	02 अभ्यास पुस्तिकायें प्रतिविषय एक बार	01 वर्ष
14	रफ अभ्यास पुस्तिकायें	03 प्रतिछात्र (प्रत्येक तिमाही पर)	01 वर्ष
15	प्रयोगात्मक अभ्यास पुस्तिकायें	प्रयोगात्मक विषयों में एक-एक प्रतिविषय	01 वर्ष
16	कला अभ्यास पुस्तिका	एक प्रतिछात्र (आवश्यकतानुसार)	01 वर्ष
17	ज्यामिती बॉक्स	एक प्रति छात्र	03 वर्ष
18	ईक पेन	एक प्रतिछात्र	01 वर्ष
19	पेंसिल	पांच प्रतिछात्र	01 वर्ष
20	श्रबर	पांच प्रतिछात्र	01 वर्ष
21	वाटर कलर बॉक्स	एक प्रतिछात्र	01 वर्ष
22	स्कूल बैग	कक्षा-6 एवं 9 में मात्र दो बार दिया जायेगा। (300 रुपये प्रतिछात्र)	कक्षा-6 एवं 9 में

गणवेश			
23	पैट/सलवार कक्षा 9 से 12/स्कर्ट कक्षा 6 से 8 विद्यालयी	एक प्रतिछात्र	01 वर्ष
24	कमीज विद्यालयी	एक प्रतिछात्र	01 वर्ष
25	टाई एवं बैल्ट	एक प्रतिछात्र	01 वर्ष
26	स्रेटर	एक प्रति छात्र	02 वर्ष
27	पैट/स्कर्ट (सदन) सफेद	एक प्रतिछात्र	01 वर्ष
28	टीशर्ट (सदन)	एक प्रतिछात्र	01 वर्ष
29	ब्लेजर	एक प्रतिछात्र	03 वर्ष
30	दुपट्टा	एक प्रतिछात्र	01 वर्ष
31	जूता गणवेश	एक जोड़ा प्रतिछात्र	01 वर्ष
32	जूता पी0टी0	एक जोड़ा प्रतिछात्र	01 वर्ष
33	मोजा गणवेश	एक जोड़ा प्रतिछात्र	01 वर्ष
34	मोजा पी0टी0	एक जोड़ा प्रतिछात्र	01 वर्ष
टॉयलेटरीज :- दैनिक प्रयोग हेतु			
35	तौलिया	एक प्रतिछात्र	प्रतिवर्ष
36	साबुन नहाने का	75 ग्राम एक	प्रतिमाह
37	साबुन कपड़े धोने	500 ग्राम एक	प्रतिमाह
38	टूथपेस्ट	50 ग्राम एक	प्रतिमाह
39	टूथब्रश	छो	प्रतिवर्ष
40	हेयर ऑयल	50एमएल	प्रतिमाह
41	दवाईयां	प्रतिछात्र 9 माह हेतु	प्रतिवर्ष
भोजन			
42	भोजन व्यवस्था	1 प्रातःकालीन नास्ता 2 अल्पाहार 3 दोपहर का भोजन 4 सांयकालीन चाय 5 रात्रि भोजन	
43	सी0बी0एस0ई0 बोर्ड परीक्षा शुल्क, विद्यालय स्पोर्ट्स / गेम्स शुल्क	वास्तविक	प्रतिवर्ष

[Signature]
D.P.P. by