

## Part II

### Draft Concession Agreement

*between*

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

acting through

\_\_\_\_\_  
*(designation of authorised officer)*

*and*

\_\_\_\_\_  
(Concessionaire)

for

Setting up of Learning Centres in Operation & Maintenance mode (O&M)

at

Package .....

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 Nanoorkhera, Tapovan Road, Dehradun - 248 001, hereinafter referred to as “the Concessing Authority” or “DOSE” 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 Engineering and Medical entrance exams coaching to the students at remote locations of the State, decided to set up Learning Centres at 13 Districts across Uttarakhand on **Operation & Maintenance (O&M)** basis. The Learning Centers are divided into 4 Packages. The Concessionaire is awarded ..... (insert the name of the Package) consisting of the following Centers ..... herein referred to as the Project.
- 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:

**“Additional Cost”** shall mean the additional capital expenditure and/or the additional operating costs or O&M as the case may be, which the Concessionaire would be required to incur as a result of Change in Law.

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

**“Change in Law”** shall have the meaning ascribed thereto in Clause 8.2.

**“Coaching Fees”** shall mean the fees collected by the Concessionaire from students other than Government Students for various Coaching Programmes.

“**COD**” or “**Commercial Operations Date**” shall mean the date on which the Concessionaire has started the Coaching Programme which shall in any case not be later than expiry of Implementation Period.

“**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.

“**Coaching Programmes**” the Concessionaire will conduct atleast following 4 coaching programs throughout the Concession Period :

- a. 2 year course in engineering entrance exams for class XI students
- b. 2 year course in medical entrance exams for class XI students
- c. 1 year course in engineering entrance exams for class XII students
- d. 1 year course in medical entrance exams for class XII students

“**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.

“**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 8.

“**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.

**“Government Students”** the Concessionaire will provide free coaching including study material to atleast 30 Government students per batch for all the 4 Coaching Programmes. Out of total 30 seats atleast 15 seats each will be reserved for girl child.

The process of selection of students for free seats will be the responsibility of the Government.

**“Learning Centres”** or **“Project Facility”** shall mean all the Class Rooms handed over to the Concessionaire as described in Schedule 1 inclusive of all the infrastructure, furniture, and fixture located inside the School premises of the respective Package.

**“Learning Centre Working Hours”** shall mean the hours for which the Class Rooms shall be available to the Concessionaire for operation & maintenance of the coaching classes.

**“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 4.

**“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 5.1.

**“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.

**“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 financing, operation and maintenance of Project 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 Requirements”** shall mean O&M Requirements or any of them as the context may admit or require.

**“Project Site”** shall mean the built up space provided to the Concessionaire within the existing school buildings for operation & maintenance of the Coaching classes, more fully described in Schedule 1.

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

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

**“Termination”** shall mean early termination of the Concession, 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.

## 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 O&Mh 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 shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party 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 Concessing Authority hereby grants and authorizes the Concessionaire to finance, to operate and maintain the Learning Centre 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 six (6) years from the Appointed Date (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 six (6) years, the Government of Uttarakhand may extend the concession period by another six (6) years subject to the condition that the concessionaire, during the six (6) 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 six (6) years would be based on, among other sources, the reports of Project Monitoring 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 six (6) years would necessarily be extended after the sixth (6<sup>th</sup>) 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 and Concessionaire 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 Coaching 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/dischage 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 Class rooms alongwith available infrastructure in the schools covered under 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, 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.
- (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 Coaching Fees as set out in sub clause 7.1 (b) and (c).

- (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 use the Project Site after school hours. The regular school hours are defined in Schedule 3.
- (h) The Concessionaire shall not demolish any existing structure on the Project Site without written permission of the DOSE.

### **3.3 Peaceful Possession**

DOSE, as Concessions 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.

## **Implementation Period and Project Package**

## **ARTICLE 4**

### **Implementation Period**

- 4.1. Implementation Period shall start from the Appointed Date and would continue till one month from the Appointed Date.
- 4.2. During the Implementation Period the Concessionaire shall in consultation with DOSE finalise the time schedule for operating and managing Coaching Classes after school hours in all the Centres of the Package.
- 4.3. During the Implementation Period the DOSE shall undertake the following activities in consultation with the Concessionaire :
  - a. Prepare a list of Government Students to be provided free coaching
  - b. Handover the classrooms identified in each School of the Package
  - c. Prepare an inventory of furniture to be provided to the Concessionaire after school hours
- 4.4. The Concessionaire shall start the mandatory Coaching Programmes mentioned in Clause 5.3 on expiry of Implementation Period.

### **Packages**

- 4.5. The Project is divided into 4 Packages comprising of different centres. Each Package shall be treated as an individual Project. The Bidders can bid for any or all of the following Packages :

Package No.	Name of the School/ Centre	District
1	R.I.C. Nainital	Nainital
	R.B.I.C. Haldwani	Nainital
	R.I.C. Almora	Almora
	R.I.C. Bageshwar	Bageshwar
2	R.I.C. Pithoragarh	Pithoragarh
	R.I.C. Rudrapur Udham Singh Nagar	Udham Singh Nagar
	R.I.C. Champawat	Champawat
3	R.I.C. Pauri	Pauri
	R.B.I.C. Gopeshwar Chamoli	Chamoli
	R.I.C. Gopeshwar Chamoli	Chamoli
	B.S.M.I.C. Rorkee, Haridwar	Haridwar
4	Government Inter College Anjanisain, Tehri	Tehri
	Government Inter College Kirti Inter College Uttarkashi	Uttarakashi
	R.B.I.C. Rishikesh, Dehradun	Dehradun
	R.I.C. Rudraprayag	Rudraprayag

4.6. The terms and conditions stated in this RFP Document and draft Concession Agreement shall be applicable to all the Packages uniformly.

## 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 5, ("Performance Security") for a sum of Rs. 5,00,000/- (Rupees Five 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 Coaching Programs**

- 5.2.1 The Concessionaire shall provide coaching for both Engineering as well as in Medical entrance exams.
- 5.2.2 The Concessionaire shall integrate the coaching pattern with the prescribed syllabus of CBSE board examination. The selected coaching institute will be free to conduct its own qualifying written examination for need assessment study, gap analysis and selection of students (except for the students selected by the Government).
- 5.2.3 The Concessionaire shall finalise the timings of the Coaching Programs in consultation with DOSE for conducting Coaching Programs during regular school days and during the summer & winter vacations. The regular school timings are attached as Schedule 3.
- 5.2.4 A batch size for any Coaching Programm shall normally consist of maximum 60 students in which the number of Government Students shall be atleast 30 per batch. The student teacher ratio for each batch shall not exceed 1: 60 i.e. 1 teacher per 60 students.
- 5.2.5 The Concessionaire shall start the mandatory Coaching Programmes mentioned in Clause 5.3 on expiry of Implementation Period.

## **5.3 Mandatory Coaching Programs**

The Concessionaire will conduct atleast following 4 coaching programs throughout the Concession Period in all the Centers of the Package :

- a. 2 year course in engineering entrance exams for class XI students
- b. 2 year course in medical entrance exams for class XI students
- c. 1 year course in engineering entrance exams for class XII students
- d. 1 year course in medical entrance exams for class XII students

## **5.4 Crash Courses**

In additional to the aforesaid mandatory coaching programmes the Concessionaire may conduct short duration coaching programs like crash courses, test series etc. after school hours. The Concessionaire is not required to reserve minimum number of seats for Government students for Crash Courses.

Crash Courses will be short duration coaching programs and there duration shall not exceed two months.

## **5.5 Course curriculum**

5.5.1 The Syllabus as prescribed by examining bodies conducting the AIEEE, IIT, AICTE, AIPMT and AIIMS will be followed by the Concessionaire. Notes as per prescribed syllabus will be provided by the Concessionaire to each Government Student enrolled free of cost.

5.5.2 The Syllabus covered in the Coaching Classes should be broadly synchronized with the syllabus of CBSE (of that respective class) and it must be finished within the schedule prescribed.

## **5.6 Study Material**

5.6.1 The Concessionaire shall provide comprehensive printed study material free of cost to the Government students which shall include the following:

- a. Comprehensive course of classroom Instruction
- b. Question Bank with keys/ solutions
- c. Ready Reference Compendium giving formulae and data for each subject
- d. Progressive Test and Full Syllabus Model Test paper in each subject

5.6.2 The Concessionaire shall provide one set of study material per student. Study material should be comprehensive. It should cater to the need of all possible competitive examinations of Engineering and Medical along with the curriculum for the board exams.

5.6.3 The Concessionaire shall provide study material free of cost to the Government Students, only once. For any additional set the Concessionaire may charge a reasonable amount.

## **5.7 Teaching Staff**

5.7.1 The teaching staff should be well qualified and consistency should be strictly maintained. In case, any teacher is found unsuitable, the

Concessionaire shall make an alternative arrangement within 15 days. The decision, of DOSE in this regard will be final.

- 5.7.2 The educational qualifications and experience of the teaching staff should be of high order and they should be able to impart competitive edge professional coaching for engineering and medical entrance examinations. The minimum educational qualifications of the teaching staff should be as under :

1	Faculty for Medical Entrance exams coaching:
	<b>Qualification</b>
	Masters in Science/MBBS/ Phd/Doctor of Medicine MD
2	Faculty for Engineering Entrance exams coaching:
	<b>Qualification</b>
	B.Tech/ MSc/M.Tech/ PHD

- 5.7.3 The Bidder shall deploy following minimum teaching staff at all the Centres of each Package awarded :

Faculty (Numbers)		For 1 Centre
Physics	:	2
Chemistry	:	2
Maths	:	1
Biology	:	1
Zoology	:	1
Additional	:	1
Councillor	:	2
Support	:	3

- 5.7.4 In case it is found by DOSE that the qualification of the Teaching Staff is less than that prescribed in Clause 5.7.2, the Concessionaire shall immediately replace the Teaching Staff at its own cost and expense.

## 5.8 Operation & Maintenance of the Project Facility

- 5.8.1 The school premises shall be made available to the Concessionaire for conducting coaching classes after the school hours. The Concessionaire shall at its own cost and expense arrange for

necessary study material, stationery, computer, projector or any other equipment required for conducting the coaching classes.

5.8.2 No activity other than providing Coaching for medical and entrance exams shall be carried out by the Concessionaire in the Project Facility without prior written approval of the DOSE.

5.8.3 DOSE shall provide class rooms alongwith existing furniture for conducting coaching classes. All other infrastructure required for conducting the coaching classes has to be arranged by the Concessionaire.

5.8.4 The Concessionaire shall make necessary arrangement for power back up at all the locations to ensure continuous operation of the coaching classes.

5.8.5 The Concessionaire shall make necessary arrangement for security services at the Project Site to maintain the safety and security of the life and property after school hours.

5.8.6 The Concessionaire shall operate and maintain the Project Facility in accordance with the O&M Requirements in terms of Schedule 4.

5.8.7 The Concessionaire may undertake operations and maintenance of the Project Facility by itself.

5.8.8 The Concessionaire shall not sublet, transfer or assign the Project or any part thereof without prior written consent of DOSE. In the event of the Concessionaire contravening this condition, DOSE shall be entitled to terminate the Agreement at the risk and cost of the Concessionaire.

5.8.9 No demolition shall be allowed during the Concession Period, unless specifically approved by DOSE.

## **5.9 Repair and Maintenance of the Project Facility**

5.9.1 All major repairs and maintenance of the Project Facility or any part thereof shall be undertaken by the DOSE in consultation with the Concessionaire.

5.9.2 The Concessionaire shall during the Operations Period immediately bring to the notice of the DOSE any repair and maintenance which needs to be undertaken in case the Project Facility or any part thereof is not safe for operations.

5.9.3 The DOSE shall within 7 days undertake a joint inspection with the Concessionaire of the Project Facility and shall plan time schedule for



carrying out repairs and maintenance of the Project Facility in consultation with the Concessionaire.

- 5.9.4 In case where any major repairs and maintenance of the Project Facility or any part thereof is to be undertaken by the DOSE which would result in unavailability of the Project Site for a continuous period of more than 15 days, DOSE shall provide alternative space in other class rooms within the same Project Site to the Concessionaire.
- 5.9.5 Non availability of Project Site or any part thereof to the Concessionaire for a continuous period of more than 15 days would result in DOSE event of default.

#### **5.10 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.

#### **5.11 Students Records**

5.11.1 The Concessionaire shall keep all the Students Records both for Government Students and Private Students consisting of following details throughout the Concession Period :

- a. Number of students enrolled for each course
- b. Number of batches, students per batch per year for each course
- c. Number of students clearing medical and engineering entrance exams
- d. Number of rank holders in each batch

5.11.2 DOSE may at any time throughout the Concession Period inspect the records kept by the Concessionaire.

#### **5.12 Insurance**

The equipment and services supplied under the Agreement by the Concessionaire shall be fully insured by the Concessionaire against loss, theft or damage incidental to the manufacture or acquisition, transportation, storage, delivery and installation and operations. The period of insurance shall be for the entire Concession Period.

### 5.13 Shareholding<sup>1</sup>

The Concessionaire shall ensure that M/s \_\_\_\_\_<sup>2</sup> holds not less than 26% of the paid up share capital of the Special Purpose Vehicle for the first two (2) years of the Concession Period.

### 5.14 Concession Payment

- (a) The Concessionaire agrees to make to DOSE payment in accordance with Schedule 2 (“Concession Payment”) at the time of signing of Concession Agreement.
- (b) The Concession Payment shall be made by way of cheque/ demand draft in favour of “Director of School Education, Government of Uttarakhand” payable at Dehradun.

### 5.15 Indemnity by Concessionaire

The Concessionaire shall indemnify and hold harmless DOSE 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 O&M requirement and any activity incidental thereto.

### 5.16 General Obligations

The Concessionaire shall at its own cost and expense :

- (a) investigate, study, 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 ;
- (e) procure and maintain in full force and effect, as necessary, appropriate proprietary rights, licenses, agreements and permissions

---

<sup>1</sup> Only where the Concessionaire forms a Special Purpose Vehicle for the implementation of the Project.

<sup>2</sup> Name of the Lead Member (in case of Consortium) or the selected Bidder (in case the selected Bidder is a single entity)

- 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) make efforts to maintain harmony and good relations among the personnel employed in connection with the performance of its obligations under this Agreement 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;
  - (h) 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;
  - (i) ensure that the Project Site remains free from all encroachments and take all steps necessary to remove encroachments, if any;
  - (j) 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.
  - (k) pay all taxes, duties and outgoings, including utility charges relating to the Project Facility, as applicable throughout the Concession Period.
  - (l) provide and maintain all necessary accommodation and welfare facilities for its staff. The Concessionaire shall not permit any of its employees to maintain any temporary or permanent living quarters within the Project Site.
  - (m) take precautions to ensure the health and safety of its staff and labour.
  - (n) 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 Project Site against such conduct.

#### **5.17 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 8.1;

- (ii) DOSE Event of Default;
- (iii) Compliance with the instructions of the 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.

#### **5.18 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, on actual basis.

#### **5.19 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 Operation and Maintenance of **Learning Centres** after school hours 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 identify and earmark the space/ classrooms to be made available to the Concessionaire after school hours in accordance with the provisions of this Agreement;

- (b) Prior to handover of the Project Site to the Concessionaire, DOSE shall remove all encroachments from the Project Site;
- (c) DOSE shall handover a list of inventory consisting of details of infrastructure provided to the Concessionaire.
- (d) DOSE shall provide the list of Government Students to whom the Coaching shall be provided free of cost by the Concessionaire.
- (e) DOSE shall grant in a timely manner all such approvals, permissions and authorizations 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 authorization for availment of utilities such as power, water, sewerage, and telecommunications or any other incidental services/ utilities is required, the same shall be provided by DOSE in the form as set out in Schedule 6, within 15 days from receipt of request from the Concessionaire to make available such authorisation.

## **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.

## **6.3 Monitoring and Assessment**

- (a) DOSE, in consultation with Government of Uttarakhand, shall set up a program 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. Two Principals from the Schools in which the Project is being undertaken
  - iii. Representative from teacher group - any one or two Government employed 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, course duration, success ratio of the students clearing medical and engineering entrance 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.

## Levy and Collection of Coaching Fees

## ARTICLE 7

### 7.1 Coaching 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 Coaching Fees in accordance with sub clause 7.1 (b) and (c) below.

**(b) Coaching Fees from Government Students**

The Concessionaire shall not charge any amount of Coaching Fees from the Government Students for mandatory Coaching Programmes.

**(c) Coaching Fees from Private Students**

The Concessionaire is free to charge amount of Coaching Fees from the Private Students as per his business model.

(d) Concessionaire shall, at its own cost, arrange the necessary infrastructure as may be required for levy and collection of Coaching Fees mentioned above.

**Force Majeure and Change In Law**

**ARTICLE 8**

**8.1 Force Majeure Event**

Neither party shall be responsible to the other for any delay or failure in performance of its obligations due to any occurrence commonly known as Force Majeure which is beyond the control of any of the parties, including, but not limited to, fire, flood, explosion, acts of God or any Governmental body, public disorder, riots, embargo, or strikes, acts of military authority, epidemics, strikes, lockouts or other labour disputes, insurrections, civil commotion, war, enemy actions. If a Force Majeure arises, the Concessionaire shall promptly notify DOSE in writing of such condition and the cause thereof. Unless otherwise directed by DOSE, the Concessionaire shall continue to perform his obligations under the Agreement as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. The Concessionaire shall be excused from performance of his obligations in whole or part as long as such causes, circumstances or events shall continue to prevent or delay such performance.

**8.2 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 9

### 9.1 Events of Default

Event of Default shall mean either Concessionaire Event of Default or DOSE Event of Default 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 5.17:

- (i) The Concessionaire has failed to achieve COD within 30 days from the date of signing of the Agreement for any reason whatsoever;
- (ii) At any time during the Concession Period, the Concessionaire fails to adhere to the O&M Requirements and has failed to remedy the same within 60 days;
- (iii) The Concessionaire has failed to make the Concession Payment due to DOSE and more than 30 days have elapsed since such payment became due;
- (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 Consortium formed for the purpose of the Project is changed by the Concessionaire without the consent of DOSE.

- (xiv) The Concessionaire has failed to perform/ discharge its obligations under Article 5 of this Agreement for a continuous period of 7 days.

**(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) 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.
- (vi) Any representation made or warranties given by the DOSE under this Agreement has been found to be false or misleading.

**9.2 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 be entitled to terminate this Agreement in the manner as set out under Clause 9.2(a)(ii) and Clause 9.2(a)(iii).

Provided however that upon the occurrence of a Concessionaire Event of Default as specified under Clause 9.2(a)(xiv), DOSE may immediately terminate this Agreement by issue of Termination Notice in the manner set out under Clause 9.2(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 DOSE Event of Default**

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

**(g) Termination Payments on account of Concessionaire Event of Default**

Upon Termination of this Agreement on account of Concessionaire Event of Default, the DOSE shall be entitled to receive the following amount

- i. Amount of Performance Security and;

- ii. The Concessionaire shall also pay the fees for Government Students as penalty to be calculated as under :

$$[ \{(120) \times (M) \times F1\} \times 2 ] + [ \{(60) \times F2 \times 12 \} ]$$

**Where :**

**M :** is the number of months.

Number of months shall be counted from the month of February of the year in which the Termination Notice is submitted by the Parties.

*For example the Termination Notice is submitted on October 2011. In this case number of months shall be counted from February 2011 till October 2011.*

**F1 :** is the total fees charged by the Concessionaire from private students for 1 year course in medical or engineering entrance exams for class XI students whichever is higher.

**F2 :** is the total fees charged by the Concessionaire from private students for 2 year course in medical or engineering entrance exams for class XI students whichever is higher.

### 9.3 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.

## 9.4 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.

## Handback Requirements

## ARTICLE 10

### 10.1 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.

### 10.2 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 and the Concessionaire. DOSE 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 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 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 9.3 enforceable against it upon Termination and its

corresponding obligations arising therefrom. The Concessionaire undertakes to comply with and discharge promptly all such obligations.

### 10.3 DOSE's Obligations

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

- (i) carrying out works/jobs listed under Clause 10.2(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 10.2(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 Performance Security within 3 months from the expiry of the Concession Period.

## Dispute Resolution

## ARTICLE 11

### 11.1 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 11.2 below.

### 11.2 Arbitration

**(a) Procedure**

Subject to the provisions of Clause 11.1, 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.



### 12.1 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.

## **12.2 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.

## **12.3 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.

### 13.1 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.

### 13.2 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.

### **13.3 Governing Law and Jurisdiction**

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

### **13.4 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.

### **13.5 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.

### **13.6 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 O&Mh the Parties hereto and evidenced in writing.

### 13.7 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  
Director School Education  
Uttarakhand Nanoorkhera  
Tapovan Road  
Dehradun - 248 001

Fax No : \_\_\_\_\_

**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.

### 13.8 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.

**13.9 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.

**13.10 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.

**13.11 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.

**13.12 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:

For and on behalf of CONCESSIONAIRE by:

(Signature)

(Signature)

(Name)

(Designation)

In the presence of :

1)

2)

## Project Site

## SCHEDULE 1

Package No.	Name of the School	District	No. of Students in Class XI	No. of Students in Class XII	No. of Rooms	Total Furniture Available
1	R.I.C. Nainital	Nainital	53	48	7	250
	R.B.I.C. Haldwani	Nainital	90	144	12	200
	R.I.C. Almora	Almora	77	115	4	200
	R.I.C. Bageshwar	Bageshwar	65	109	20	200
2	R.I.C. Pithoragarh	Pithoragarh	43	80	35	150
	R.I.C. Rudrapur Udham Singh Nagar	Udham Singh Nagar	117	120	6	250
	R.I.C. Champawat	Champawat	33	42	11	150
3	R.I.C. Pauri	Pauri	76	57	13	200
	R.B.I.C. Gopeshwar Chamoli	Chamoli	50	103	4	350
	R.I.C. Gopeshwar Chamoli	Chamoli	116	107	16	300
	B.S.M.I.C. Rorkee, Haridwar	Haridwar	670	796	12	400
4	Government Inter College Anjanisain, Tehri	Tehri	77	48	15	200
	Government Inter College Kirti Inter College Uttarkashi	Uttarakashi	117	120	6	250
	R.B.I.C. Rishikesh, Dehradun	Dehradun	44	105	14	250
	R.I.C. Rudraprayag	Rudraprayag	53	48	8	250

**Concession Payment****SCHEDULE 2****PAYMENTS TO THE CONCESSIONING AUTHORITY****1. Upfront Payment**

- a. The Concessionaire shall pay the following amount as an upfront payment for the Project. The amount of upfront payment shall be payable by the Concessionaire for Package/s awarded on signing of the Concession Agreement. The amount of upfront payment shall be payable by way of bank draft drawn on any schedule Bank in favour of Director of School Education, Uttarakhand. The amount of minimum upfront payment payable for each Package is as under :

Package	Upfront Payment	
	(Rupees in Figures)	(Rupees in Words)
<b>Package 1 :</b>	5,00,000/	Five Lakhs Only
<b>Package 2 :</b>	5,00,000/	Five Lakhs Only
<b>Package 3 :</b>	3,00,000/	Three Lakhs Only
<b>Package 4 :</b>	5,00,000/	Five Lakhs Only

- b. In addition to the Upfront Payment the Concessionaire shall pay a sum of Rupees ..... (amount quoted by the Concessionaire in its Financial Proposal) at the time of signing of the Concession Agreement, payable by way of bank draft drawn on any schedule Bank in favour of Director of School Education, Uttarakhand.



## School Timings

## SCHEDULE 3

विद्यालयों में ग्रीष्मावकाश एवं शीतावकाश निम्न प्रकार हैं-

1. 5000 फीट अथवा उससे कम ऊँचाई वाले विद्यालयों में ग्रीष्मावकाश दीर्घ अवकाश तथा 5000 फीट से अधिक ऊँचाई वाले विद्यालयों में शीतकालीन दीर्घ अवकाश होगा।
2. (A) ग्रीष्मावकाश दीर्घ अवकाश वाले विद्यालयों में अवकाश निम्नवत् है-
 

ग्रीष्मकाल में-	दिनांक 25 मई से 30 जून तक-	37 दिन
शीतकाल में-	दिनांक 26 दिसम्बर से 05 जनवरी तक-	11 दिन
	योग	48 दिन
- (B) शीतकालीन दीर्घ अवकाश वाले विद्यालयों में अवकाश निम्नवत् है-
 

ग्रीष्मकाल में-	दिनांक 20 जून से 30 जून तक-	11 दिन
शीतकाल में	दिनांक 26 दिसम्बर, से 31 जनवरी तक	37 दिन
	योग	48 दिन

  
 (सी०एस० ग्याल)  
 निदेशक  
 विद्यालयी शिक्षा उत्तराखण्ड

शासनादेश संख्या-896/xxiv-2/09/25(36)/2009 दिनांक 04 नवम्बर, 2009 का संलग्नक

विद्यालयों का समय विभाजन

जूनियर हाईस्कूल/हाईस्कूल/इण्टरमीडिएट कालेज

शिक्षण अवधि-

दिन के विद्यालय- 5घण्टा 20 मिनट - 320 मिनट (40 मिनट प्रति वादन)

प्रातः के विद्यालय-4घण्टा 35 मिनट - 275 मिनट (35 मिनट प्रति वादन)

प्रार्थना सभा- 15 मिनट

मध्याह्न- 30 मिनट (मध्याह्न भोजन सहित)

### विद्यालय समय

विद्यालय समय	प्रातः कालीन विद्यालय	दिन के विद्यालय
प्रथम घण्टी	7:15	9:30
द्वितीय घण्टी	7:30-7:45 प्रार्थना सभा	9:45-10:00 प्रार्थना सभा
वादन I	7:45से 8:20	10:00 से 10:40
वादन I	8:20 से 8:55	10:40 से 11:20
वादन I	8:55 से 9:30	11:20 से 12:00
वादन IV	9:30 से 10:05	12:00 से 12:40
मध्याह्न	10:05 से 10:35	12:40 से 1:10
वादन V	10:35 से 11:10	1:10 से 1:50
वादन VI	11:10 से 11:45	1:50 से 2:30
वादन VII	11:45 से 12:20	2:30 से 3:10
वादन VIII	12:20 से 12:50	3:10 से 3:50

जहां फर्क्यूटर कक्षा के लिए एक शून्य वादन का प्रविधान है, वहां वादन-2 से 4 तक वादन 6 से 8 में 5 मिनट प्रति वादन कम करके 30 मिनट का शून्य वादन बनाया गया है।

(सी0एस0 ग्वाल)

निदेशक

विद्यालयी शिक्षा उत्तराखण्ड

---

**Operation and Maintenance Requirements**

**SCHEDULE 4**

**1. General**

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

1.2 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) 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 The Concessionaire shall finalise in consultation with the DOSE the O&M Plan for the first year of operations which shall include the following :

- a. Details of number of batches to be conducted by the Concessionaire
- b. Timings of each batch after school hours and during summer & winter vacations
- c. Organisation structure with responsibilities of key personnel;
- d. Project Facility Management;

- e. Safety Management Programme
- f. Inspection Procedures;
- g. Maintenance Programme;
- h. Management information system and Report Formats.

2.2 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.

**Performance Security**

**SCHEDULE 5**

(Performa of Bank Guarantee)<sup>3</sup>

**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 Operation & Maintenance Learning Centres at 13 Districts across Uttarakhand for a period of 6 years (hereinafter referred to as “the Project”).
- B. 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. 5,00,000.00 (Rupees Five 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. Capitalized 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 COD by the Concessionaire in accordance with the Concession Agreement.
- 3. The Guarantor shall, without demur, pay to DOSE sums not exceeding in aggregate Rs. 5,00,000.00 (Rupees Five Lakhs only ), within \_\_\_\_\_ calendar

<sup>3</sup> To be issued by a Scheduled Bank in India

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.

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 \_\_\_\_\_<sup>4</sup> 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. \_\_\_\_\_.
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.

---

<sup>4</sup> Throughout the Concession Period

**Format for Letter of Authorization**

**SCHEDULE 6**

*(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 operate and maintain the **Learning Centres** at following locations ..... across 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**