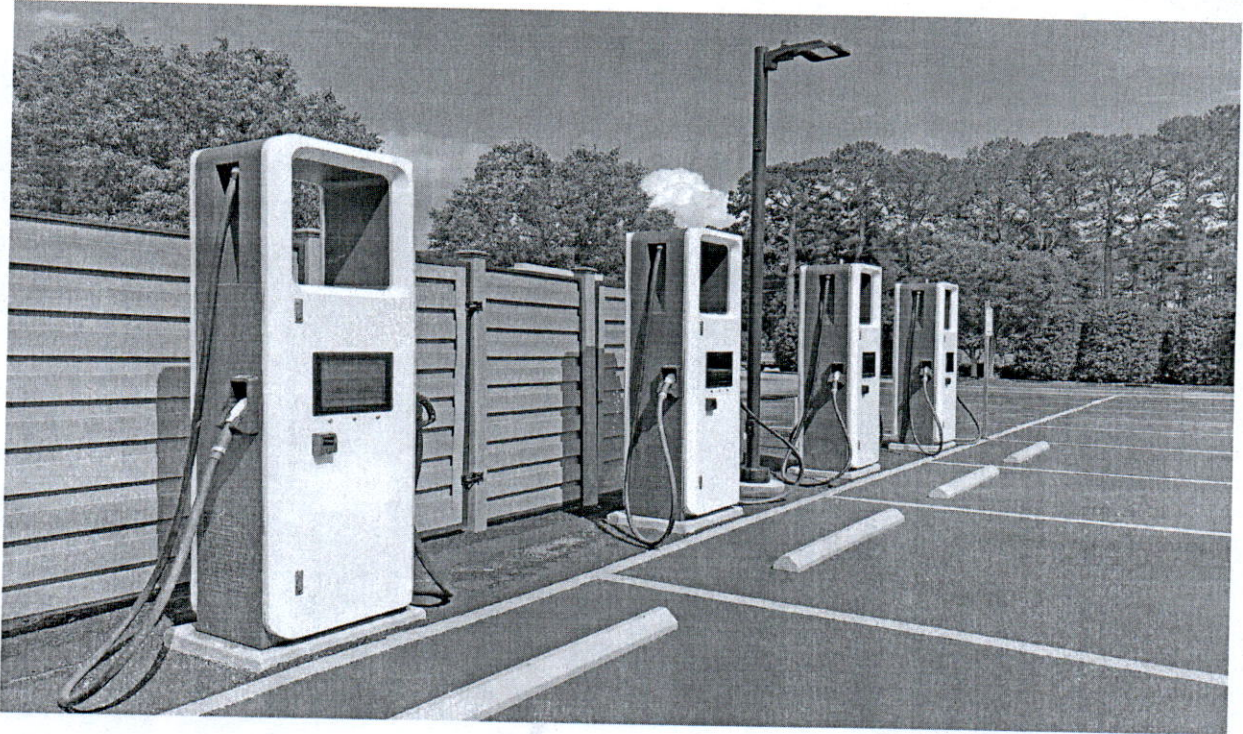


**DEVELOPMENT OF 100 EVC STATION AT VARIOUS PLACES IN
DIFFERENT MUNICIPAL CORPORATION CITIES OF RAJASTHAN**



EVC STATION

**PUBLIC PRIVATE PARTNERSHIP
ON
DESIGN BUILD FINANCE OPERATE & TRANSFER
(DBFOT) BASIS**

DRAFT CONCESSION AGREEMENT

Issued by:
DIRECTOR LOCAL BODIES, RAJASTHAN

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ARTICLE 1: DEFINITIONS AND INTERPRETATION

1.1 Definitions:

In this Agreement, unless the subject or context otherwise requires, the following words and expressions shall have the following meanings:

- a) **"Agreement"** shall mean this agreement and attached annexure/ schedule(s) and all terms and conditions thereof together with any subsequent modifications thereto;
- b) **"Applicable Law"** means all laws in force in the Republic of India, rules, regulations, orders, directives, notifications, ordinances, bye-laws, statutes, rules of common law, orders, protocols, government approvals, treaties, codes, guidelines, policies, notices, directions, tax directions and tax treaties, judgments, decrees, official directives, requirement or other governmental restriction, or any similar form of decision, or determination by, or any policy or administration, having the force of law, of any authority having jurisdiction over the matter in question;
- c) **"Approvals"** shall mean all clearances, licenses, permits, no objections, consents and approvals to be obtained or procured by the Concessionaire under Applicable Law, in connection with the construction, operation and maintenance of the Project during the period of subsistence of this Agreement.
- d) **"Concession"** shall have the meaning ascribed in Article 2
- e) **"Concession period"** shall commence from the Compliance Date and shall extend for a period of 20 years from such date or the earlier Termination or any extension of the Agreement in terms hereof. The Concession period shall include the Construction period.
- f) **"Concessionaire"** shall mean the party entering into this Agreement to implement the Project and includes its affiliates, successors in interest by operation of law and assigns.
- g) **"EVC"** shall mean the charging facilities for electric vehicles as mentioned in the Ministry of Power, Government of India guidelines for Electric Vehicle Charging Infrastructure.
- h) **"Encumbrance"** shall mean a legal right or interest in land that affects a good or clear title and diminishes the land value. It can be of numerous forms such as zoning, ordinances, easement rights, claims, mortgage, charges, pledge, lien, hypothecations, security interest or other obligations and shall also include physical encumbrances, including utilities both under and above the ground and encroachments on the Project Sites.
- i) **"Force Majeure Event"** shall mean an act, event, condition or occurrence as provided in Clause 8.1.
- j) **"Parties"** shall mean the parties to this Agreement and **"Party"** shall mean either of them, as the context may admit or require.

- k) **"Passenger Amenities"** shall mean parking facilities and other necessary infrastructure.
- l) **"Project"** means, subject to the provisions of this Agreement, the development, financing, design, construction, operation and maintenance of the EVC Station infrastructure at the Project Site(s).
- m) **"Project Facilities"** shall mean the EVC infrastructure and all other related facilities setup at the Project Site(s).
- n) **"Project Site"** means the land identified and handed over to the Concessionaire by Concerned Nigam at (details as provided in Annexure) for the purpose of developing, financing, designing, constructing, operating and maintaining the EVC Station infrastructure.
- o) **"Tax"** shall mean and includes all taxes, fees, cess, duties & levies that may be payable by either Party under Applicable Law.
- p) **"Term"** shall have the meaning as set forth in Clause 3.1.
- q) **"Effective Date"** shall mean the date of signing of this Agreement by both the Parties;
- r) **"Fortnight"** means 1st of the month 06:00 hours to 16th 06:00 hours and from 16th 06:00 hours to 1st of the next month 06:00 hours.
- s) **"Material Adverse Effect"** shall mean a material adverse effect on the ability of the Concessionaire to utilise the Project Site(s) for the Project including to exercise any of its right to perform/ discharge any of its obligations under and in accordance with the provisions of this Agreement and/ or the legality validity, binding and enforceability of this Agreement.
- t) **"Quarter"** means the Financial Quarter in a Financial Year as per standard accounting norms in India.
- u) **"Reasonable and Prudent Operator"** shall mean normal and a prudent person who is expected to exercise a degree of reasonable care in similar circumstances.

1.2 Interpretation

- a) Unless the context otherwise requires, a reference to a singular shall include a reference to plural thereof and vice-versa; and a reference to any gender shall include a reference to the other gender.
- b) Reference to any law includes a reference to that law as from time to time amended, modified, supplemented, extended or re-enacted.
- c) Reference to this Agreement shall include a reference to this Agreement as may be amended, modified, supplemented, and extended from time to time.

- d) The headings and the side-headings/notes of the Clauses, Appendices, Schedules, Attachments and Annexures in this Agreement are inserted for convenience of reference only and shall not affect the meaning or interpretation of this Agreement.
- e) "Person" shall include natural persons, companies, bodies corporate and associations, whether incorporated or not.

1.3 Priority of agreements, clauses and schedules

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

- a) this Agreement;
- b) the Bid documents as produced based on NIT

ARTICLE 2: GRANT OF CONCESSION

2.1 Subject to and in accordance with the terms and conditions as set out in this Agreement, Concerned Nigam hereby irrevocably grants to the Concessionaire and the Concessionaire hereby accepts exclusive right and authority during the Term of this Agreement to develop, finance, design, construct, operate and maintain a EVC Station at the Project Site.

2.2 Rights Associated with the Grant of Concession

Without prejudice to the generality of foregoing, the Concession hereby granted to the Concessionaire shall include without being limited to, and shall entitle Concessionaire, without requiring any further authorization or authority from concerned Nigam, to enjoy, the following rights, privileges and benefits in accordance with the provisions of this Agreement and Applicable Laws:

- a) to design, finance, procure, construct, install, commission, operate and maintain each of the Project Facilities either itself or through such Person as may be engaged by it;
- b) to procure all the applicable Approvals in the name of the Concessionaire from the concerned authorities for commissioning the Project Facilities;
- c) to borrow or raise money or funding required for the due implementation of the Project;
- d) upon commissioning of a Project Facility to manage, operate and maintain the same either itself or through such Person as may be engaged by it;
- e) to obtain the utilities required for enabling the construction of the Project Facilities, without any additional cost or charges, other than the applicable user charges for the utilities;
- f) Hold, possess, control the Project Sites but not own the project site, in accordance with the terms of this Agreement solely for the purpose of the development of the Project;
- g) to determine the selling price Electricity as per Applicable Law and guidelines issued by the Ministry of Power, Government of India.

2.3 Conditions Precedent

Save and except as may otherwise be expressly provided herein, the obligations of a Party under this Agreement shall be subject to the satisfaction in full of the condition's precedent relating to the other Party (the "Conditions Precedent").

2.3.1 Conditions Precedent of Concerned Nigam

The obligations of the Concessionaire hereunder are subject to the satisfaction in full of the following Conditions Precedent of concerned Nigam. The Concerned Nigam shall have

- Handed over to the Concessionaire the Possession of the Project Site through leave and license in accordance with the terms of this Agreement

2.3.2 Conditions Precedent for Concessionaire

The obligations of concerned Nigam hereunder are subject to the satisfaction in full of the following Conditions Precedent of the Concessionaire. The Concessionaire shall have:

- Achieved Financial Closure and provided to concerned Nigam notarized true copies of the Financing Documents along with soft copies;
- All the representations and warranties of the Concessionaire as set forth in its Bid (by Selected Bidder) and this Agreement are true and correct as on the date of execution of this Agreement and as on the Compliance Date;

2.3.3 Obligations Timeline schedule:-

S.No.	Actions	Time period
1	Issuing of LoA to successful bidder/H1 by DLB office.	T ₀ (Date of award)
2	Signing of concession agreement between concerned Nigam office and successful bidder/firm. (T ₁)	(T ₀ + 30 days)
3	Finalization/handing over of sites. (T ₂)	(T ₁ + 30 days)
4	Award of NTP (Notice to Proceed) (T ₃)	(T ₂ + 7 days)
5	Commissioning of charging stations, all approvals, acquiring of NoCs, discom meter connection, submission of completed project DPR and its subsequent acceptance of DPR by concerned Nigam. (T ₄)	(T ₃ + 6 Months)
Work starts and collection of monthly licence fees begins.		

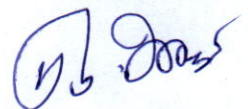
2.3.4 Non-Fulfilment of Conditions Precedent

- In the event the Conditions Precedent for a Party have not been satisfied within the stipulated time and concerned Nigam has not waived, fully or partially, such conditions relating to the Concessionaire, this Agreement shall cease to have any effect as of that date and shall be deemed to have been terminated by the mutual agreement of the Parties and no Party shall subsequently have any rights or obligations under this Agreement and concerned Nigam shall not be liable in any manner whatsoever to the Concessionaire or Persons claiming through or under it.

- In the event this Agreement is terminated due to non-fulfilment of the Concessionaire's Conditions Precedent and the same is not due to concerned Nigam default or due to Force Majeure event, concerned Nigam shall forfeit Performance Security as damages on request of concerned Nigam.

ARTICLE 3: TERM OF THE AGREEMENT

- 3.1 The Agreement shall become operative from the Effective Date of this Agreement and shall continue for a period of twenty (20) years ("**Term**") including the period of development/construction, unless terminated by either Party hereto in accordance with the provisions of this Agreement hereof.
- 3.2 DLB may on request of concerned Nigam agree to renew or extend the Concession after the expiry of the Term, for another period of 5 (five) years or such other period as may be mutually agreed to and on such terms and conditions as mutually agreed upon on request of concerned Nigam.



ARTICLE 4: PROJECT SITE

4.1 Handover of Site

- a) Concerned Nigam shall handover to the Concessionaire within thirty (30) days from the date of signing of this Agreement, on as-is where-is basis, vacant and peaceful physical possession of the Sites free from Encumbrance, for the purpose of implementation of the Project.
- b) Upon the Site being handed over pursuant to the preceding sub-Clause (a), the Concessionaire shall have the right to enter upon, occupy and use the same and to make at its costs, charges and expenses such development and improvements in the Site(s) as may be necessary or appropriate to implement the Project.

4.2 Rights, Title and Use of the Site

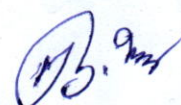
- a) The Concessionaire shall have the right to the use of the Project Site(s) in accordance with the provisions of this Agreement and for this purpose, it may regulate the entry into and use of the same by third parties.
- b) The Concessionaire shall not part with or create any encumbrance on the whole or any part of the Project Facilities, including the Site save and except with the written consent of concerned Nigam.
- c) The Concessionaire shall, with the prior written approval and conditions of the concerned Nigam / DLB, be entitled to use the Project Facilities for any ancillary, commercial and promotional purposes incidental to the Project, including but not limited to installation and operation of advertisement hoardings, branding and promotional displays, canopies, kiosks, food stalls, cafés, refreshment counters, vending and retail kiosks, seating and waiting areas, signages and digital display boards, event and promotional spaces, ATM /service kiosks, parking and parking-related facilities, and such other temporary or permanent facilities as may be necessary or desirable for the efficient operation, commercial utilisation and enhancement of the Project.
- d) The Concessionaire shall allow access to and use of the Site for laying /installing / maintaining telegraph lines, electric lines or for such other public purposes as concerned Nigam may specify.

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.

4.3 Peaceful Possession

Concerned Nigam hereby warrants that:

- a) The Site(s) together with the necessary right of way through the due process of law, belongs to and is vested in concerned Nigam and that concerned Nigam 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 Site,



have no liability regarding any compensation payment on account of land acquisition or rehabilitation/ resettlement 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 whole Site during the subsistence of this Agreement.
- c) In the event, the Concessionaire is obstructed by any Person claiming any right, title or interest in or over the Site(s) 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 Site or any part thereof, concerned Nigam shall, as called upon by the Concessionaire, defend such claims and proceedings at its costs 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.

ARTICLE 5: CONCESSIONAIRE'S OBLIGATIONS: SCOPE OF WORK

The Concessionaire shall have the following obligations:

5.1 Technical Specifications

- a) The Concessionaire shall comply with the guidelines issued by the Ministry of Power, Government of India, "Charging Infrastructure for Electric Vehicles (EV) - the revised consolidated Guidelines and Standards" and "Guidelines for Installation and Operation of Electric Vehicle Charging Infrastructure-2024" dated 17.09.2024. (**Annexure A**)

5.2 Project implementation: Construction works

- a) The Concessionaire shall submit its implementation and work plan for the construction phase of the Project highlighting the milestones to be achieved. All civil work such as foundations (stations and equipment), electrical rooms, saleroom, signage, hi-mast, canopy, monolith, EV Charging/Charging infrastructure shall be undertaken by the Concessionaire.
- b) The Concessionaire shall be free to design the EV infrastructure facilities as per its sole discretion and without any interference from concerned Municipal corporation as per BIS Standards and Safety Requirements described in the "Guidelines for Installation and Operation of Electric Vehicle Charging Infrastructure-2024" dated 17.09.2024 issued by Ministry of Power, Government of India.
- c) The Concessionaire may undertake construction works by itself or through a Contractor possessing requisite expertise/ capability at its costs and expense.
- d) The Concessionaire shall develop and construct the Project Facilities after having procured the Approvals and in compliance with the Applicable Law. The Approvals shall be obtained in the name of the Concessionaire.
- e) Subject to the permissions being granted by the concerned authorities, the Concessionaire shall endeavour to complete the construction of the EVC Station within 6 months and commission the said facilities within.

5.3 Project Implementation: Operation and Maintenance

- a) The Concessionaire shall undertake operations and maintenance of the Project Facilities by itself or through a Contractor engaged by it.
- b) In undertaking operations of the Project Facilities, the Concessionaire shall act as a Reasonable and Prudent Operator.
- c) The Concessionaire shall have the right, at its sole discretion and without any additional cost to DLB and concerned municipal corporations, to display its own advertisements within the Project Sites.
- d) The Concessionaire shall be responsible for maintaining the equipment installed in the EVC Station.

- e) The Concessionaire shall have the liberty to install CCTVs' at the Project Site(s) to ensure safety and security.
- f) The Concessionaire may provide User Convenience facilities like Online Booking, Real time information, flexible payment options etc. as mentioned in the Guidelines issued by Ministry of Power, Government of India.

5.4 Selling of EV Charging/Power

The Concessionaire shall sell the Electricity in its name and shall maintain all records related to sales both in terms of value and quantity of electricity.

5.5 Insurance

The Concessionaire shall at its cost and expense, maintain insurance coverage of the Project Facilities as per Applicable Laws.

5.6 Land Use

The Concessionaire shall ensure utilization of the Project Site(s) for the development of the Project Facilities and shall not undertake any activity which has not been permitted under this Agreement over the Project Sites.

ARTICLE 6: Concerned Nigam OBLIGATIONS

6.1 Concerned Nigam the following obligations:

- a) Concerned Nigam shall handover the Project Sites without any Encumbrances to the Concessionaire for development of the Project;
- b) Concerned Nigam shall extend full support and cooperation and grant in a timely manner all such approvals, permissions and authorisations which the Concessionaire may require or is obliged to seek from Concerned Nigam under this Agreement, in connection with implementation of the Project and the performance of its obligations under this Agreement.
- c) Concerned Nigam shall where appropriate, provide necessary assistance to the Concessionaire in securing applicable Approvals from concerned authorities;
- d) Observe and comply with all its obligations as set forth in this Agreement.

ARTICLE 7: TITLE AND OWNERSHIP

- 7.1 Without prejudice to Article 9 of the Agreement, the Project Facilities shall be the absolute property of the Concessionaire, and Concerned Nigam shall not claim any right, title, interest, ownership or lien on the Project Facilities. However, any attempt to transfer the land by any mode shall be treated as malfeasance and in that event the Concession Agreement shall be terminated forthwith without any notice and Concerned Nigam shall resume the land together with all structures and forfeit the Bid Security/Upfront Amount/Performance Guarantee without prejudice to any action admissible under the law.
- 7.2 The Concessionaire shall not be entitled to any title or interest in the Project Site(s). The Concessionaire shall also not challenge in any court of law claiming title rights over the project site.



ARTICLE 8: FORCE MAJEURE

8.1 Force Majeure Event

No failure, delay or omission by either Party to fulfil any of its obligations under this Agreement shall give rise to any claim against such Party or be deemed to be a breach of this Agreement if and to the extent such failure, delay or omission arises from, or continues as a consequence of, any of the following events, or any combination thereof (each an event of "**Force Majeure Event**"), which includes:

- a) earthquake, flood, landslide; pandemic, epidemic or act of God;
- b) storm, hurricane, cyclone, lightning, thunder;
- 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, war, insurrections;
- 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) any order/ directives issued by the State Government or any other authority.

8.2 Notice claiming Force Majeure event

- a) Promptly upon the occurrence of an event that a Party considers may subsequently lead it to claim Force Majeure relief under this Agreement, such Party shall give notice to such effect to the other Party, describing such event, and the obligations and the performance of which could be delayed or prevented thereby.
- b) A Party claiming relief on account of Force Majeure shall also give notice informing to the other Party of the cessation of such Force Majeure Event so as to enable such other Party with the opportunity to mitigate any consequence of such event of Force Majeure, provided that any failure to give such notice of cessation shall not deny the Party claiming Force Majeure relief from such Force Majeure pursuant to the terms of this Agreement.

- 8.3 During the subsistence of a Force Majeure Event, both the Parties shall in good faith make efforts to mutually mitigate any consequence of such event of Force Majeure or may mutually agree in writing to suspend the obligations as contained in this Agreement.

ARTICLE 9: EVENTS OF DEFAULT AND TERMINATION

9.1. Events of Default

Event of Default shall mean either Concessionaire Event of Default or Concerned Nigam Event of Default or both as the context may admit or require.

9.2. Concessionaire Event of Default

Any of the following event shall constitute an Event of Default by the Concessionaire unless such event has occurred due to a Force Majeure Event:

- a) The Concessionaire has failed to make any payments under this Agreement due to Concerned Nigam and more than three (3) months have elapsed since such payment default;
- b) Any representation made or warranty given by the Concessionaire under this Agreement is found to be false;
- c) A resolution for winding up has been passed by the shareholders of the Concessionaire;
- d) The Concessionaire has abandoned the Project Facilities.

9.3. Concerned Nigam Event of Default

Any of the following event shall constitute an Event of Default by Concerned Nigam unless such event has occurred due to a Force Majeure Event:

- a) The Project Site(s) have not been handed over free from any Encumbrances to the Concessionaire;
- b) Concerned Nigam has unlawfully repudiated this Agreement or otherwise expressed its intention not to be bound by this Agreement;
- c) Concerned Nigam has unreasonably withheld or delayed grant of any approval or permission, and thereby caused or likely to cause Material Adverse Effect;
- d) Any representations made or warranties given by Concerned Nigam under this Agreement have been found to be false.

9.4. Termination due to Event of Default

a) Termination for Concessionaire Event of Default

- (i) Without prejudice to any other right or remedy which Concerned Nigam may have in respect thereof under this Agreement, upon the occurrence of a Concessionaire Event of Default, DLB on request of Concerned Nigam shall be entitled to terminate this Agreement in the manner as set out in Clause 9.4(a)(ii).
- (ii) If DLB decides to terminate this Agreement pursuant to preceding Clause (i), it shall in the first instance issue preliminary notice to the Concessionaire. Within sixty (60) days of receipt of the preliminary notice, the Concessionaire shall

submit to DLB in sufficient detail and if applicable the manner in which *interalia* it proposes to cure the underlying Event of Default.

- (iii) In case the Concessionaire has made a proposal to rectify, then the Concessionaire shall have a further period of 90 (ninety) days to remedy/ cure the underlying event of default. In case if the Concessionaire fails to remedy such Event of Default within the cure period, then DLB on request of Concerned Nigam shall have the right to terminate this Agreement by issuing a termination notice and shall take in possession the Project site in its then existing state. .

b) Termination for concerned Nigam Event of Default

- (i) Without prejudice to any other right or remedy which Concessionaire may have in respect thereof under this Agreement, upon the occurrence of a Concerned Nigam Event of Default, Concessionaire shall be entitled to terminate this Agreement in the manner as set out in Clause 9.4(b)(ii).
- (ii) If Concessionaire decides to terminate this Agreement pursuant to preceding Clause (i), it shall in the first instance issue preliminary notice to Concerned Nigam. Within sixty (60) days of receipt of the preliminary notice, Concerned Nigam shall submit to the Concessionaire in sufficient detail and if applicable, the manner in which *interalia* it proposes to cure the underlying Event of Default.
- (iii) In case DLB has made a proposal to rectify, then Concerned Nigam shall have a further period of 90 (ninety) days to remedy/ cure the underlying event of default. In case if Concerned Nigam fails to remedy such an Event of Default within the cure period, then the Concessionaire shall have the right to terminate this Agreement by issuing a termination notice.

9.5. Termination for convenience

Notwithstanding anything contained in this Clause or in this Agreement, the Concessionaire may, for any reason, choose to surrender one or more Project Site(s) or terminate this Agreement in its entirety at any time during the Term, by providing Concerned Nigam, an advance written notice of 1 year expressing its intention in that behalf to do so. In such a scenario, the Concessionaire shall hand over the Project Site to Concerned Nigam after removing all infrastructure and equipment installed as part of the Project Facilities, subject to there being normal wear and tear to the Site. In case of termination, site development works which shall not be removed shall be agreed upon mutually by the Concessionaire and Concerned Nigam. Upon termination, the rights and obligations of the Parties herein contained shall cease immediately upon the expiration of the period of such notice.

9.1.Termination due to Expiry of Concession Period

- This Agreement shall automatically terminate upon the expiry of the Concession Period, unless extended in accordance with the provisions herein.
- Upon such termination, the Concessionaire shall peacefully and promptly transfer and hand over to the Authority:

- a. the physical possession of the Project Site, including all immovable and permanent structures and facilities
 - b. all rights, titles, and interests in or relating to the Project Assets, except for those excluded assets (if any) as may be mutually agreed.
- The Concessionaire shall ensure that all dues and obligations, including payment of taxes, utility charges, salaries, and other statutory compliances, are fully settled prior to the transfer.
 - The Authority shall have the right to conduct a joint inspection and prepare a Termination Inventory and Handover Report in consultation with the Concessionaire, documenting the status of the Project Assets and confirming compliance with the transfer requirements.
 - The Concessionaire shall provide all necessary assistance to ensure smooth transition and continuity of services, if applicable, for a minimum period of [30–90] days from the date of expiry.
 - The expiry of this Agreement shall not affect any rights, obligations, or liabilities accrued prior to such expiry, which shall survive and be enforceable notwithstanding such termination.

ARTICLE 10: REPRESENTATIONS AND WARRANTIES

10.1. Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to Concerned Nigam that:

- a) it is duly organised and validly existing under the Laws of India.
- b) it has full power and authority to execute, deliver and carry out its obligations under this Agreement;
- 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) this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- e) the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under 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;
- f) there are no actions, suits or proceedings pending or to the Concessionaire's knowledge threatened against it at law 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;
- g) no representation or warranty by the Concessionaire contained herein contains 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;
- h) 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.

10.2. Representations and Warranties of DLB/Concerned Nigam

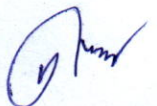
Concerned Nigam represents and warrants to the Concessionaire that:

- a) DLB/Concerned Nigam has full power and authority to grant the Concession;
- b) Concerned Nigam is the absolute owner of the Project Site(s) and the usage of the Sites are permitted for commercial purpose;
- c) Concerned Nigam has taken all necessary action to authorise the execution, delivery and performance of this Agreement;
- d) There are no suits or other legal proceedings pending or threatened against Concerned Nigam in respect of the Project Site(s) or the Project;

10.3. Obligations 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.



ARTICLE 11: FINANCIAL COVENANTS

11.1. Audit and Account

a) Maintenance of Accounts

The Concessionaire shall, during the subsistence of this Agreement, maintain books of account recording all its receipts from all sources derived or on account of the Project, income, expenditure, and payments; and assets and liabilities, in accordance with this Agreement, the Applicable Laws and Good Industry Practice. The Concessionaire shall provide to Concerned Nigam 2 (two) copies of its audited balance sheet and profit and loss account along with a report thereon by its statutory auditors, within 120 (one hundred and twenty) days of the close of the Financial Year to which they pertain.

The Concessionaire shall establish and maintain a daily and monthly reporting system to provide storage and ready retrieval of data related to the construction and operation of Project Facilities, including all such information which is necessary to verify costs and expenses incurred or revenues earned and to confirm that the Concessionaire is in compliance with its obligations under this Agreement. The Concessionaire shall provide copies of such reports to the Concerned Nigam within five days of the end of each month.

11.2. Payment to Concerned Nigam

a) Monthly License Fee

The Monthly License Fee, for the total electricity used for charging in the charging station in the period, which shall be the arithmetic sum of the base floor price of Rs.1/KWh and Additional Price of Rs ____/KWh as quoted by the Concessionaire, shall be Rs. ____.

The Concessionaire shall pay monthly to the concerned Nigam the License Fee, which shall be the arithmetic sum of the base floor price of Rs.1/KWh and Additional Price of Rs. /KWh for the total electricity used for charging in the charging station as quoted by the Concessionaire as the bid parameter and as accepted by the DLB, through a demand draft drawn in favour of in favour of concerned "Commissioner Nagar Nigam -----" on a scheduled bank payable at concerned Nigam city, Rajasthan.

The License Fee amounting to Rs. /KWh lakhs for the total electricity shall be paid by the Concessionaire on a monthly basis starting from 6 months from the Compliance Date. Provided that for the first payment of the License Fee payable by the Concessionaire to the Concerned Nigam, the amount shall be adjusted on a pro-rata basis for the balance period commencing from 6th month till succeeding 31st March of the Year. Provided that for the year of Termination of the Agreement, the License Fee shall be adjusted on a prorata basis for the balance period. License Fee payable by the Concessionaire to Concerned Nigam shall be escalated by 5% (Five percent) on compounding basis every three years. For avoidance of doubt, it is clarified that the first escalation factor of 5% (five percent) shall become applicable on completion of 42 (forty two) months from Compliance Date irrespective of the actual Construction Completion date.

The License Fee for each Year shall be payable in advance for that month within 7 (seven) days of the commencement of the respective quarter.

In the event of delay in payment of Total monthly License Fee by the Concessionaire to concerned Nigam beyond the due date provided herein, as certified by concerned Nigam, the Concessionaire shall, for delays up to 30 (thirty) days, pay penalty of Rs 500 per day to concerned Nigam. Any delay beyond shall constitute a Concessionaire Event of Default that shall entitle concerned Nigam to terminate this Agreement.

11.3. Conditional Revenue sharing

- (i) The Concessionaire shall give a discount of ____ Electricity being provided to duly authorized Nagar Nigam vehicles at the EVC Stations set up at the Project Site which shall be mutually decided between the Concessionaire and Authority.

ARTICLE 12: MISCELLANEOUS

12.1. 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 Concerned Nigam. However, the Concessionaire shall be free to assign this Agreement to its affiliate, associate, subsidiary companies or any successor entity in interest created by virtue of operation of law such as merger etc.
- b) The Concessionaire shall not create nor permit to subsist any Encumbrance over the Project Facilities except with prior consent in writing of Concerned Nigam.
- c) Restraint set forth in Clauses (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/stocks/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 to or in favour of the lenders as security for financial assistance provided by them.

12.2. Governing Law and Jurisdiction

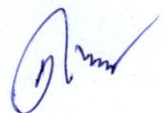
This Agreement shall be governed by the Laws of India. The Courts at Concerned Nigam only shall have jurisdiction over all matters arising out of or relating to this Agreement.

12.3. 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 authorised 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.

12.4. Survival

The early termination of this Agreement:



- a) shall not relieve the Concessionaire or Concerned Nigam 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 obligation or liabilities for loss or damage to the other Party arising out of acts or omissions of such Party prior to the effectiveness of such termination.

12.5. Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on this subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

12.6. 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, and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Concerned Nigam:

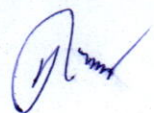
If to Concessionaire:

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

12.7. 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 practicable.

12.8. No Partnership



Nothing contained in this Agreement shall be construed or interpreted as constituting a relationship of partnership, joint venture, or agency between the Parties. Neither Party shall have any authority to bind the other Party in any manner whatsoever.

12.9. 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 and true translation into English language if Hindi is used at user's costs and expenses.

12.10. 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 as well as the representation by any Party not contained in a binding legal agreement executed by the Parties.

12.11. 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.

13 DISPUTE RESOLUTION

13.1 (a) Any dispute, difference, or controversy of whatsoever nature arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the "Dispute"), shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 14 below.

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

14 Conciliation

14.1 (a) Save where expressly stated otherwise in this Agreement, any dispute, difference or controversy of whatever nature howsoever arising under, out of or in relation to this agreement between the Parties and so notified in writing by either Party to the other (the "Dispute") in the first instance shall be attempted to be resolved amicably by the Parties, in accordance with the procedure set forth in sub-article (b) below.

14.1 (b) Either Party may require the Dispute to be referred to the Director, Local Bodies, Jaipur for amicable settlement. Upon such reference, both the Parties and the Director or his nominee (who may or may not be an employee of DLB shall meet at the earliest mutual convenience and in any event within 15 (fifteen) days of such reference to discuss and attempt to amicably resolve the Dispute.

14.2 In the event the dispute or difference or claim, as the case may be, is not resolved, as evidenced by the signing of the written terms of settlement by the Parties, within 30 (thirty) days of reference for amicable settlement, the same shall be brought to the notice of Principal Secretary/ Secretary Local Self Government, Government of Rajasthan whose decision in this regard shall be final and binding on both the Parties

