भारतीय गैर न्यायिक

एक सौ रुपये

Rs. 100

रु. 100

ONE HUNDRED RUPEES

सत्यमेव जयते

भारत INDIA

INDIA NON JUDICIAL

পশ্চিমবঙ্গ पश्चिम बंगाल WEST BENGAL

B 407570

This Memorandum of Understanding made on this 30th day of January, two thousand and seven between:

PHOENIX SOFTWARE LIMITED, a company incorporated in India, under the Companies Act, 1956 and having its registered office at present situated at 4/1, Red Cross Place, Kolkata – 700001 (hereinafter referred to as **"LESSOR"** which expression shall unless repugnant to the context or meaning thereof shall mean and include its successors in business and permitted assigns) of the **FIRST PART;**

AND

Apeejay Finance Group Limited a company incorporated under the Companies Act, 1956 and having its registered office at present situated at 'Apeejay House', 8th Floor, C Block, 15, Park Street, Kolkata – 700016, (hereinafter referred to as **"LESSEE"** which expression shall unless repugnant to the context or meaning thereof shall mean and include its successors in business and assign/s) of the **SECOND PART;**

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

NV [signature]

Authorised Signatory

WHEREAS:

I. The Lessor is the sole and lawful owner of, and is absolutely seized and possessed of and is or otherwise well and sufficiently entitled to the building known as " TECHNOPOLIS" situated at Plot No BP 4, Sector V, Post Office – Sector V, Police Station - Bidhannagar, Salt Lake, Kolkata – 700091 (hereinafter referred to as the 'said Building') and morefully and particularly described in the first schedule herein under written ;

II. The Lessor is in the stages of designing and developing an IT Park at Plot No BP 4, Sector V, Salt Lake, Kolkata namely 'TECHNOPOLIS'.

III. The Lessee has been in active discussions with the Lessor for establishing its business at the proposed IT Park wherein the Lessee is willing to take on Lease office space in the 'said building' hereinafter referred to as 'the Demised Premises' morefully and particularly described in the second schedule hereinafter written and the Lessor is fully competent to lease out the same in the proposed development.

IV. The Lessor is competent to Lease out the Demised Premises to IT and ITes sector companies and also has relevant documents in its support.

V. The Lessor and the Lessee have agreed on the broad commercial terms envisaging the arrangement amongst them as below:

TERM SHEET

1 Lessee : Apeejay Finance Group Limited

2 Lessor : Phoenix Software Limited

3 Type of Agreement : Lease Agreement

4 Premises :

Floor (No.)	Chargeable Area (Sq. ft)	Useable Area (Sq. ft)
7th	24,816.00	19,357.00

APEEJAY FINANCE GROUP LIMITED

NY Iwamoto

Authorised Signatory

Total :

Wing A	**24,816.00**	**19,357.00**

The useable area as mentioned above shall be subject to physical measurement by the Lessee. While measuring the useable area, all wall and columns shall be included. The Lessor guarantees a chargeable to useable ratio of 100:78. The chargeable area of the premises shall be calculated by dividing the useable area by 0.78. The floor plan of the Demised Premises is attached here as **Annexure I**.

5 Lease :

i) **Commencement:** The Lease shall commence from the date of final handover of the Demised Premises for occupation by the Lessor, i.e. 1st April, 2007 or start of business operations by the Lessee, whichever is earlier as per the conditions specified in clause 6 herein with.

ii) **Period of lease:** The lease shall be for a initial period of 3 years, further renewable by another two terms of 3 years each. The lessee has the sole option to renew the lease. The notice period to renew the lease is 3 months prior to expiry of each lease term. The total term of lease shall be 9 (Nine) Years.

iii) **Lock in period:** The lock-in period for lessee is 18 months.

iv) **Extension of lease:** The Lessor and the Lessee reserve the right to mutually extend the Lease period beyond nine (9) years subject to mutual agreement on terms and conditions and provided

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

NV Jwaminathan

Authorised Signatory

such agreement takes place at least six (6) months prior to expiry of the nine year Lease period.

v) **Termination of lease:** Each party can terminate the lease any time during the lease tenure by giving a notice in advance of at least three (3) months (after completion of lock-in period).

In the event that the Demised Premises or any part thereof shall, at any time during the Lease term be acquired by the Government or requisitioned by any authority or is damaged or destroyed by any natural calamity, then this Lease shall come to an end with immediate effect thereof.

6 Consideration for Lease :

i) **Commencement:** The consideration for Lease shall become payable by the Lessee from the date of commencement of Lease period.

ii) **Rent:** The Lessee agrees to pay to the Lessor a monthly rent, inclusive of property tax. @ Rs. 44.00/- (Rupees Forty Four only) per sq. ft. of the chargeable area amounting to Rs. 10,91,904.00/-(Rupees Ten Lakh Ninety One Thousand Nine Hundred and Four Only) per month.

All future taxes are to be on Lessor's account. The Lessor assures the Lessee a rent free period of 60 (sixty) days from the date of handing over possession to the Lessee i.e. from 1st February, 2007 to 1st April, 2007, for carrying out the fit-out works. The rent shall commence from 2nd April,

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

2007.

Air-conditioning and Common Area Maintenance (CAM) Charges: Lessee agrees to pay Rs. 10.50/- per sq ft of chargeable area to the lessor for providing air-conditioning facilities and common area maintenance (CAM) amounting to Rs. 2,60,568.00/- (Rupees Two Lakh Sixty Thousand Five Hundred and Sixty Eight Only). The services included in Common Area Maintenance are included here as Annexure II. The above rate of Rs. 10.50p will be charged by the Lessor in respect of facilities provided to the Lessee for a normal 44 (forty four) hours per week 5 ½ days per week basis. Beyond 44 (forty four) hours, the Lessor will charge the Lessee for its additional requirement for air-conditioning facilities @ 0.75p (Seventy five paise) per sq. ft for every additional hour per month. The air-conditioning charges as mentioned above will be revised on prorata basis as and when the electricity tariff or the cost of diesel is revised. For the purpose of calculations, it will be assumed that the running hours of the central AC plant on DG sets is 20% of the total running hours, i.e. (i) incase of a revision in the WBSEB Tariff, the increase will be computed with a weighted average of 80% and (ii) as and when the cost of Diesel is increased or decreased, the charges will be computed on a pro-rata basis.

The common area maintenance (CAM) shall commence from the date of commencement of the Lease.

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

NV Swaminath

Authorised Signatory

iii) **Car Parking Charges:** Lessor has agreed to provide parking space for 25 number of cars (i.e parking space of 1 car is equivalent to parking for 4 [four] two wheelers for the Lessee @ Rs. 3,000/- per car park per month amounting to Rs. 75,000/- (Rupees Seventy Five Thousand) only per month.

7 Escalation : The Lessee agrees to pay to the Lessor an escalation @ 15% on all monthly outgoings including the then monthly rent, taxes, car parking charges on account of the above after the expiry of every 36 (thirty six) months from the commencement date. The current maintenance charges of Rs.10.50 is broken up as Rs. 5.50 for maintenance and Rs. 5.00 for Air Conditioning charges per sq ft respectively. The Lessee agrees to pay the lessor an escalation of 15% on the then monthly charges towards maintenance only and the Air conditioning charges are to be escalated upon the increase in the electricity tariff on a prorated basis.

8 Deposits : i) **Amount of Deposits:** The lessee agrees to make the following refundable and interest free deposit of Rs.76,83,128.00/- (Rupees Seventy Six Lakh Eighty Three Thousand One Hundred and Twenty Eight Only) in favour of the lessor as per the following details:

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

a) Rs. 65,51,424.00/- (Rupees Sixty Five Lakh Fifty One Thousand Four Hundred and Twenty Four Only) equivalent to 6 (six) months rent and property taxes.

b) Rs. 7,81,704.00/- (Rupees Seven Lakh Eighty One Thousand Seven Hundred And Four Only) equivalent to (3) three months common area maintenance charges (CAM).

c) The Lessor has agreed to provide electric load of approx. 100 KVA only against interest free deposit Rs. 3,50,000.00/- (Rupees Three Lakh Fifty Thousand Only) calculated @ Rs. 3500/- (Rupees Three Thousand Five Hundred Only) per KVA and the same shall be refundable to the Lessee upon vacating the premises. In case of any future requirement of power by the Lessee, the same shall be provided by Lessor against the additional deposit.

ii) **Time of payment of Deposits:** The Lessee agrees to make payment of above deposits to the Lessor as mentioned hereunder:

a) 50% of the total deposits of Rs. 76,83,128.00/- amounting to Rs. 38,41,564.00/- (Rupees Thirty Eight Lakh Forty One Thousand Five Hundred and Sixty Four Only) at or before signing of this Memorandum of Understanding.

b) Balance 50% of the total deposits of Rs. 76,83,128.00/- amounting to Rs. 38,41,564.00/-

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

(Rupees Thirty Eight Lakhs Forty One Thousand Five Hundred And Sixty Four Only) at the time of handing over the possession for fit-outs.

c) **Period of Deposits:** All the deposits will be retained by the Lessor till the period of the Lease or its earlier termination and will be refunded to the Lessee on handing over vacant possession of the Leased premises to the Lessor or its nominee after deducting the outstanding charges if any.

9 Obligations of the Lessor and the Lessee

i) **Air-conditioning facilities:** The Lessor agrees to provide central air - conditioning facilities to the Lessee ensuring to maintain indoor air conditions of 23±2°C with an RH below 60 % inside the premises occupied by the Lessee.

ii) **Fit-out:** The Lessor shall hand over possession of the premises to the Lessee as agreed herein above. Lessee shall have the right to improve the premises and make non-structural alterations subject to local building regulations and Lessor's approval, which approval shall not be unreasonably withheld or delayed beyond seven days. The Lessee have the right to bring in , install, maintain, replace, remove and/or dismantle from time to time in and upon the Demises Premises all necessary infrastructure and facilities (collectively the 'Infrastructure'), including without limitation communication facilities such as telephone, fax, servers, office

PHOENIX SOFTWARE LTD.
Kolkata-1

APEEJAY FINANCE GROUP LIMITED

N V Swaminath

Authorised Signatory

equipments such as copiers, computer systems and other installations, furniture & fixtures such as panels, shelves, racks, sun blinds, tables, chairs, desks, partitions, screen sanitary fittings & fixtures, appliances, lights, water coolers, cooking range etc. with a prior intimation to the Lessor for security reasons. The Infrastructure shall always remain the exclusive property of the Lessee. The Lessee shall also have the right to carry out interior works, repairs, renovations and alterations in and to the Demised Premises and the Infrastructure as per their requirements in the Demised Premises. The Lessee further has the right to bring in, install, maintain, dismantle, replace and/or remove V-sat/Dish antennas or other similar facilities on the terrace of the said Building with a prior intimation to the Lessor for security reasons and the Lessor undertakes to render all co-operation and assistance as may be necessary in order for the Lessee to achieve all or any of the aforesaid and additional cost in this regard shall be borne by the Lessee. The Lessor agrees to fully co-operate with the Lessee in matters relating to statutory approvals that need to be obtained from the Municipal Authorities & any other Government/Semi Government local body in connection with obtaining of trade license or any other licenses/permissions.

iii) **Access:** Lessee shall have unlimited access to the

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

Premises seven (7) days per week, 24 hours per day, 365 days a year. Lessor's access to Lessee's premise is subject to prior notice of 48 hours only for the purpose of inspection, attendance to structural wear & tear. Lessor assures and confirms to comply with Lessee's Security rules and regulations pertaining to premises at all times.

iv) **Improvements:** No later than the expiration or earlier termination of the Lease Agreement, Lessee shall return the Premises to Lessor in a broom clean condition, normal wear and tear and loss or damage resulting from rains, accidents, irresistible force or act of God excepted.
Lessee shall have the exclusive right to retain ownership of any and all improvements installed by Lessee at the premises.

v) **Power Back up:** The Lessor agrees to provide 100% power backup to the lessee at the unit charges presently @ Rs. 9/- per unit. The unit rates for such services will be revised with any increase in the costs of fuel on pro rata basis.

vi) **Water Supply:** The Lessor shall ensure the Lessee receives continuous supply of water, to the premises, as per building management rules and regulations to meet the reasonable needs of the office including toilet and pantry facilities.

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

vii) **Integrated Building Management Systems:** Lessor will maintain and keep the building premise always in good condition and appoint facilities management services company to maintain the building. Lessor assures to upgrade the building management system time to time as required and always maintains the standards. The Lessor shall attend to any external repair to keep the Demised Premises useable and in good condition.

viii) **Lessee's costs:** The Lessee will be responsible for all electricity & telecommunication costs and other utilities consumed by it in the premises based on metered readings by the concerned statutory authority, during the term of the lease Agreement and any renewal thereof. The Lessor shall provide a separate sub - meter to the Lessee for their exclusive usage. The Lessee shall pay the electricity charges at the electricity rate availed by the Lessor (as applicable) plus 7.5% proportionate share of transmission and distribution losses. The Lessee agrees to make payment of monthly electricity bill by 7th of every month without any abatement and deduction whatsoever, howsoever.

ix) **Stamp Duty, Registration Charges and other legal expenses of Lease Agreement for Lessee:** The Lessee agrees to bear the same at its own

PHOENIX SOFTWARE LTD. Kolkata

APEEJAY FINANCE GROUP LIMITED

N V Swaminath

Authorised Signatory

cost including legal charges.

x) **Insurance :** Lessor shall insure the entire building at its own costs and expenses. Lessee shall insure its articles, goods and chattels within the said Demised Premises.

xi) **Permissions :** Lessor agrees to obtain/ provide all support to obtain all the Government, Semi Government authorities permissions required to run the operation of the Lessee including permissions from local Municipal Corporation, Fire fighting department, Power department etc. Lessor agrees to provide the building Completion Certificate by the final handover date of the facility to the Lessee.

xii) **Arbitration:** Any disputes and differences whatsoever arising under or in connection with this MOU which could not be settled by Parties through negotiations, after the period of thirty (30) business days from the service of the Notice of Dispute, shall be finally settled by arbitration by a sole arbitrator to be appointed by the Lessee in accordance with the Arbitration and Conciliation Act, 1996. All proceedings shall be conducted in English and a daily transcript in English shall be prepared. The venue of arbitration shall be in Kolkata, India. The order of such Arbitrator shall be final and binding on both parties. Kolkata alone will be the place of

PHOENIX SOFTWARE LTD. KOLKATA

APEEJAY FINANCE GROUP LIMITED

N V Swaminathan

Authorised Signatory

jurisdiction.

xiii) **Subletting of Premises:** The Demised Premises shall be used by LESSEE or any of its associate or group companies with prior intimation to the Lessor and the Lessee shall not be allowed to assign, transfer, mortgage, sublet or underlet or grant leave & license or transfer or part with or share possession in any manner whatsoever, of any portion of the said Premises to any other company except its associate or group companies. The Lessor shall be entitled at all times to lease and / or sublet and / or sell the above mentioned premises to any individual or company without any prior intimation in writing or verbally to the Lessee after safeguarding the terms and conditions mentioned in the said Lease Agreement or MoU (i.e. the terms & conditions of the said Lease agreement shall be binding on prospective buyers).

In the event, LESSEE merges / amalgamates / consolidates or transfer its assets with/to any entity on account of any merger/amalgamation/consolidation, then a fresh Lease Deed shall be executed between Lessor and the new entity and all costs, charges, expenses including penalties, payable on or in respect of execution and registration of the fresh Lease Deed and on all other instruments and deeds to be executed pursuant to the fresh Lease

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

Deed, shall be borne and paid solely by new entity/transferee who shall be responsible for compliance of the provisions of Indian Stamp Act, 1899.

However, at all times, including when the said Premises are sub-let by the LESSEE in accordance with the above stated, LESSEE alone shall be responsible for enforcement / compliance of the terms and conditions of the Lease Deed to be executed.

10. Lessor and Lessee further agree as under:

i) Notwithstanding any other term or condition herein contained, this memorandum of understanding shall be deemed to be legally binding and/or enforceable by either party against the other party.

ii) Any inclusion or omission from this memorandum of understanding of any term of reference whether commercial or otherwise principally agreed between the parties shall be capable of being ratified with the consent of both the parties and the same shall also be binding on both the parties.

iii) This memorandum of understanding is subject to the execution of a formal lease agreement between the parties and

iv) Subsequent to signing this memorandum of understanding and prior to the mutual execution of the lease agreement, neither party shall have the right to withdraw from this memorandum of understanding

PHOENIX SOFTWARE LTD. Kolkata

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory

SIGNED AND DELIVERED by the Lessor **Phoenix Software Limited**

SIGNED AND DELIVERED by the Lessee **Apeejay Finance Group Limited**

Signature For Phoenix Software Ltd.

Name AJEET RAJ MEHTA

Director

Designation

Signature APEEJAY FINANCE GROUP LIMITED

NVSwaminath

Authorised Signatory

Name N.V.SWAMINATHAN

Designation CHIEF EXECUTIVE OFFICER

THE FIRST SCHEDULE ABOVE REFERRED TO

(Description of the said building)

ALL THAT the said building situated and lying at Plot No BP 4, Sector V, Post Office – Sector V, Police Station – Bidhan Nagar, Salt Lake, Kolkata – 700091 known as 'TECHNOPOLIS', constructed upon the land therein measuring about 121.0414 cottahs together with the basement plus 14 storied building with driveway, car parking area, garden, passage etc butted and bounded by :

ON THE NORTH : Weigh Matio India (P) Ltd

ON THE SOUTH : Vacant Land;

ON THE EAST : Type IV Spl. Road;

ON THE WEST : Land for Peico

THE SECOND SCHEDULE ABOVE REFERRED TO

(Description of the Demised Premises)

A) ALL THAT office space measuring about 24816 sq.ft chargeable area situated on the 7th Floor Wing 'A' in the building known as 'TECHNOPOLIS' situated at Plot No BP 4, Sector V, Post Office -- Sector V, Police Station – Bidhan Nagar, Salt Lake, Kolkata – 7000091 butted and bounded by:

NORTH : Weigh Matio India (P) Ltd.

SOUTH : Vacant Land;

EAST : Type IV Spl. Road;

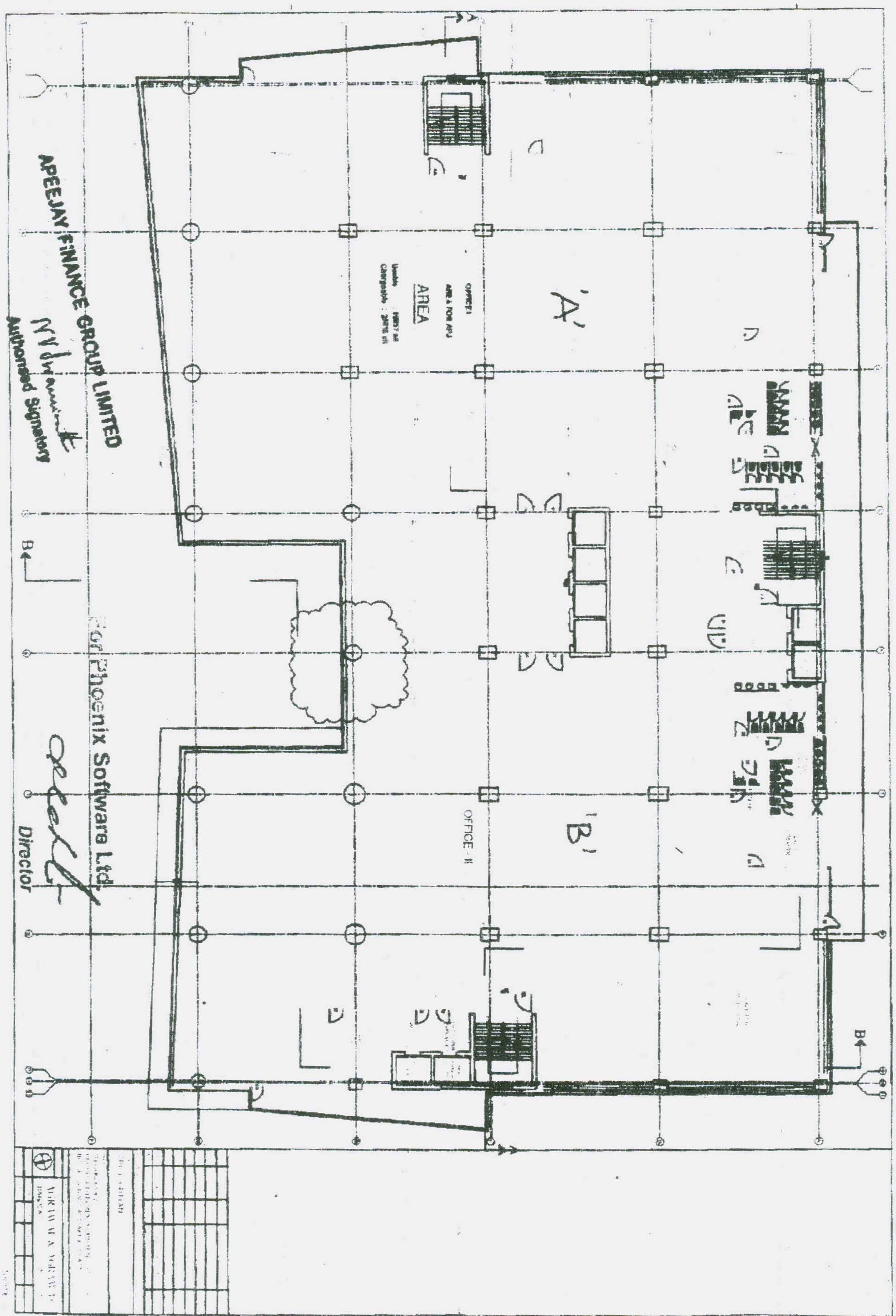
WEST : Land for Peico

B) 25 Car Parking spaces in the compound of the said building described in the First Schedule hereto.

PHOENIX SOFTWARE LTD. Kolkata

APEEJAY FINANCE GROUP LIMITED

Authorised Signatory


APEEJAY FINANCE GROUP LIMITED
Authorised Signatory
For Phoenix Software Ltd.
Director
'A'
AREA
'B'
OFFICE - II

List of Annexures

Annexure I – a) Floor Plan (Enclosed)

b) Agreement with the Government of West Bengal for the Leased Premises as per First schedule.

Annexure II – Services included in Common Area Maintenance

- Campus & perimeter security services
- Housekeeping in the common areas of the campus
- Façade cleaning services, landscaping, pest control etc.
- Operation and maintenance of all electro mechanical equipments like central AC plant, DG sets, electrical installations etc.
- Operation and maintenance of STP including disposal of garbage etc.
- Electricity consumptions in the common areas of the campus
- Insurance costs (excluding the installations of the tenant)
- Providing services like access control, mail handling, fire drills etc.
- Tenant billing services for utility consumptions etc.
- Central Air-conditioning services including the electricity consumption for the same on the following conditions:
    - 8 hrs of air-condition services on 5 ½ days / week basis equivalent to 44 hours a week.
    - Maintaining an indoor temperature conditions of 23 deg Celsius +/- 2 deg Celsius and an RH below 60

PHOENIX SOFTWARE LTD. Kolkata-1

APEEJAY FINANCE GROUP LIMITED

N Y Swaminath

Authorised Signatory